

**MINUTES  
TOWN PLANNING AND ZONING COMMISSION  
MAY 21, 2024  
7:00 P.M. HYBRID MEETING  
275 BROAD STREET, WINDSOR, CT**

**Present: Commissioners Mips, Levine, Harvey (seated for former Commissioner Kuintzle), Jaggon, Jepsen and Alternate Commissioner Hallowell**

**Absent: None**

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

**I. NEW BUSINESS**

Commissioner Mips opened the meeting at 7 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. C.G.S. §8-24 Referral Requests – None**
- E. Pre-Application Scrutiny – None**
- F. Re-Approvals/Revisions/Extensions**
  - 1. 3.9 Site Plan – 1215 Kennedy Road, Parking and signage revisions, I Zone, Amazon/CESO**
  - 2. 3.9 Site Plan – 500 Groton Road, Propane cages and cylinders, I Zone, Amerigas/Target**

Assistant Town Planner Todd Sealy reviewed the approved applications.

- G. Site Plans – None**
- H. Minutes**
  - 1. April 9, 2024**

**Motion: Commissioner Levine moved to approve the draft minutes of April 9, 2024 as amended.**  
**Commissioner Jepsen seconded the motion and it passed 5-0-0.**

**II. MISCELLANEOUS**

- A. Connecticut Federation of Planning and Zoning Agencies (CFPZA) – Spring 2024**

The Commission discussed with Town Planner Eric Barz the highlights of the newsletter, including special use permits and short-term rentals.

### III. PLANNER'S REPORT

#### A. Update on recent development

Mr. Barz reported that they broke ground on the Wilson Gateway Park today with the Governor and local representatives in attendance. He also stated that 415 & 425 Day Hill Road was very close to getting their certificate of occupancy and that they would be breaking ground very soon at Bowfield Green, where Ardery Chevrolet was located.

Commissioner Levine commented that she was very happy with the height of the berm along Day Hill Road in front of 415 & 425 Day Hill Road, as it did provide some shielding for the residential properties across the street.

### IV. BUSINESS MEETING

#### A. Application Acceptance

1. **Special Use – 578 (494) Windsor Avenue**, Section 5.2.6D(2), Full-service restaurant, B2 Zone, Singh
2. **Design Development Detail Plan – 450 & 462 Bloomfield Avenue and 60 & 80 Dunfey Lane**, Multi-family residential development, 201 dwelling units, B2 Zone, 11.61 acres, A.R. Building Co.
3. **Text Amendment – Sections 3.3.5(E)(7), 7.6.4 & 14.2.3(A)(1)(b)**, Tennis/Pickleball Clubs, 20 Day Hill Road, LLC
4. **Special Use – 175 & 176 Addison Road, Sections 8.4D(2)(b)**, Warehousing, wholesaling and/or distribution facilities, I Zone, 39.47 acres & 37.41 acres, Addison Property Owner, LLC (July agenda)
5. **Special Use – 836 Palisado Avenue, Section 10.5.12**, Sale of nursery stock and related products, AG Zone, 19.27 acres, Four Seasons Landscaping, Inc.
6. **Special Use – 37 Maple Avenue, Section 4.5.1**, Conversion of existing buildings, R8 Zone, .2 acres, Delany
7. **Special Use – 33 Tunxis Street, Section 15.2.3**, Horticultural nurseries and landscape contractor's yards, B2 Zone, 1.9 acres, Philips Lawn Care

#### B. Old Business – None

### V. PUBLIC HEARINGS

Commissioner Levine read the legal notice into the record.

#### A. Design Development Detail Plan – 1100-1900 Old Yankee Drive

192 apartment units, PVD Zone, 11.922 acres, Poquonock Commons, LLC – *continued from 4/9/24*

Mark Ferraina of 126 West Street, Licensed Engineer and Land Surveyor, TJ Barresi, and Associate Principal Ryan Schicker of EDM studios were present. Mr. Barresi gave a brief review of the project, which

had been fully presented at the last meeting, and discussed the Inland Wetlands and Watercourses Commission's (IWWC) approval and the revisions made on the plans as a result of staff comments.

Mr. Barz reported that revised elevations and photometrics had been emailed today but that there had not been time to review them in detail.

Public Comment:

Eric and Stephanie Shields of 511 Old Village Circle asked if the applicants were required to notify abutters of their concept plan in March of 2022 and for the text amendment in July of 2023. They said residents in the neighborhood felt that they had not been kept in the loop since the beginning and that it was a major concern.

Ed Sawicki of 109 Old Village Circle shared public safety concerns and concerns with traffic and the increased demand for parking. He shared concerns with 50-gallon drums and propane tanks on the property and that there was some dark rings on the ground showing signs of possible leaks. He questioned if an environmental study had been done and shared pictures with the Commission.

Anne Marie and Brad Brimmer of 703 Old Village Circle read a letter where she stated that they bought their home in 2021 and were never informed of the developer's plans to build a high-density apartment complex and shared safety and quality of life concerns. She proposed the developers consider two proposals: one to increase safety measures and one to decrease the number of apartments by 25%, and asked the Commission to delay the vote on the plan. She also asked if the apartment complex would be non-smoking and encouraged them to do so. She also asked to have some reassurances that the developers were in compliance of pre-construction requirements, such as dust control, seeding and erosion and sedimentation controls.

Thomas Carr of 812 Old Village Circle asked who owned the strip of land behind his house and about a large pile of dirt and white cloth and if it had ever been tested for toxins and chemicals. He asked that it be tested and that the results be made public and that he would like the pile to be removed.

Jenaya Roderick and partner Winsome Kitson of 808 Old Village Circle were present. Ms. Roderick stated that they had not been informed of the plans for the apartments and also commented on the large dirt pile, asking that it be removed. She shared concerns about the dirt road behind her house, where she has seen someone transporting materials and equipment, raising privacy concerns. She was concerned that the road would be used more heavily once construction starts and did not want giant tractors and trucks going back and forth all day. She asked for clarification on construction hours of operation and advocated for speed limit signs and speed tables as they have seen delivery trucks speeding in their neighborhood. She also shared concerns about overflow parking and the impact to surrounding wildlife.

Regina Dowling of 56 Old Village Circle shared traffic and parking concerns.

Jim Baryza of 210 Old Village Circle stated that they were informed there would be condominiums built, not apartments and also shared parking concerns.

Aron Kiehne of 603 Bricklayer Road supported mixed-use and sustainable development. He shared that concerns with traffic could be mitigated by increasing walkability and bikeability by adding sidewalks, bike lanes, and bike racks. He also shared environmental concerns and suggested the large areas of lawns adjacent to the parking lots were unnecessary and could be transformed into green areas to provide vegetation, provide a buffer for the river and help prevent runoff to the Farmington River.

Carla Perez, the listing agent representing Poquonock Commons, outlined the steps that were taken to ensure all necessary disclosures were provided during home sales. She stated that she was deeply concerned by the allegations suggesting that she failed to provide disclosures and that the claims were untrue.

Eric Shields of 511 Old Village Circle stated that the public offering statement listed single-level condominiums in their marketing documents and stated that he felt that was misleading to those who purchased in the first phase. He asked the Commission to deem the March 2022 and July 2023 rulings invalid due to the applicant's failure to give notice and believed they were not properly notified, denying their ability to give input.

Mr. Barz stated that he would leave a lot of the questions for the applicant to respond to but noted that a lot of things asked for were out of the Commission's purview. He explained that the roads in Poquonock Village had been accepted by the Town and are now the responsibility of Town Council and not the Commission. He continued that the Commission does not have the power to install traffic signs, speed bumps or any other traffic control measures and that traffic engineers are the ones to evaluate a site to see where a stop sign, stoplight, etc. are warranted. He said that rodent control is another item out of the Commission's jurisdiction and that they have never gotten into that level of detail as a condition of approval. He stated that he thought there was a surplus of parking in the development and that the applicant's surface parking meets or exceeds the requirements. He clarified that pre-construction reviews by the town would be done when they break ground and that in the third phase, staff would make sure that stormwater and erosion controls are in place, water trucks are on site to manage dust, that they are seeding stockpiles of dirt, etc.

Mr. Barz reported that he had received complaints over the years about the pile of dirt and white bags. He said that he would like it to get addressed sooner than later. He clarified that the land in question behind the banks of townhomes is future open space once the development is completed and said that it is up to the developer to determine what they do with it until then. He said that he would like to know what is in the piles before requiring expensive environmental testing and thought that it could simply be piled tobacco netting and that it was unfortunate that it was not taken care of earlier.

Mr. Barz stated that for all intents and purposes the detail plan is an administrative site plan approval. He said the regulations treat it as a public hearing to give the public an opportunity to give input because oftentimes there are variations between the concept and the detail plan and the applicant is free to take their suggestions into consideration.

Commissioner Levine asked Mr. Barz if he wanted to say anything about all the debris that is in the lot where the apartments will go and Mr. Barz said that he would let the applicant address that.

Commissioner Mips asked if Mr. Barz wanted to say anything about the town engineer's report. Mr. Barz replied that there were minor outstanding issues and that any approval would be subject to staff review and approval, including the remaining comments in the engineer's memo, and final review of the architectural elevations of the building.

Mr. Barz said that this is not the time or opportunity to make wholesale changes to what the Commission previously approved in terms of density, mix of units, and other high level decisions that were made. He said unfortunately, for those in attendance tonight, the Commission is not in a position to outright deny this application that meets the spirit of their previous concept approval.

Mr. Barresi said that he would like to remind the Commission that this was a revision to an approved detail plan, that they already have approval to build 192 units, and that the plan before them has the exact same number of units with about an acre less impervious surface because of the text amendment for taller buildings and a reduction in parking. He stated that there was mention of reducing the number of units, that the development was previously approved for 192 units, and they are planning to build 192 units. He continued that the plan meets the parking requirements with an additional 44 spaces beyond what is required. He added that a traffic study was done in 2012 and has been updated twice since then. He reported that all traffic studies do take into account all types of vehicles from tractor trailers to passenger cars to delivery trucks. He agreed that there has been a trend of increased deliveries but these deliveries replaced the traffic of people leaving their homes. He said when a UPS truck comes they usually deliver to everyone on the street, which decreases trips taken, and disagreed with the claim that home deliveries increase traffic.

Mr. Barresi asked applicant Mark Ferraina to address other concerns. Mr. Ferraina agreed with Mr. Barresi that delivery trucks do not increase traffic and perhaps saved some trips. He stated that the piles of debris residents were mentioning was tobacco netting left from Brown's Harvest made of white cotton, which was promised that it would be removed prior to their possession of the property. He said it is Paul Kula's property that is adjacent to the development and stated that they may need some shrubbery or a fence to screen activity but that he was not going to tell him that he could not drive on his property.

Mr. Paul Kula came forward to speak and said that he does drive an ATV occasionally with his dog and that he uses the road to get back and forth to the job site and other times when people have problems they come and take care of things for them. He said as far as heavy equipment going down the road, he cut some firewood because he heats his house with wood or he brings a load of topsoil home.

Mr. Barresi stated that the text amendment in 2023 did not legally require them to notify the abutters. He continued that there are plenty of notes and details on the plans regarding erosion controls during construction and weekly inspection reports will be required either by Mr. Barresi or an independent engineer, which will be submitted to the Town Engineer.

Mr. Ferraina reviewed the history of the project and said that they are here this evening to modify the site plan, instead of 8 two-story buildings they are now proposing four four-story buildings, and a modification to the parking, which he explained. He stated that is also fond of the bald eagles in the area and that they live in his front yard across the river.

Mr. Barz asked for confirmation that when the application was originally approved, the developers did not have control of the house on the corner. Mr. Ferraina said they did not have control of the house on the corner until after all of our approvals were in place and said they do have control of the house on the corner on the south side of the entrance as you are leaving the development, however that lot is not a part of this HOA or district or this development. He said they have contemplated making it a part of the development but he could not imagine what it would be like to get that accomplished and did not know if that would ever be the case. He continued that they had wanted to wait and do a sidewalk in front of that house and in front of the vacant lot to the south. He said he did not have any objections to do that sidewalk but that it would likely get broken with the construction traffic and then they would have to do it again. He said they are missing the sidewalk between the end of their development entrance, across the front yard of the blue colonial and another 100 or 150' on the vacant lot south of that, between another piece of existing sidewalk in front of the community church, and we do not have any sidewalk that goes to the north. He said someone mentioned the bus stop and that it is located in front of the house to the north. He said there had been talks back in 2012 to move the bus stop in front of the development and he said they have unsuccessfully petitioned the bus line and does not know how to get that accomplished.

Commissioner Jaggon said that he believed the homeowners have a valid concern about welfare and safety and was troubled by 15 years of garbage on the property with multiple complaints and nothing has been done. He asked if the applicant was aware of the complaints. Mr. Ferraina said no and reiterated that the specific pile of debris in the photos is white tobacco netting and said they will be happy to remove it, as they have removed all of the other piles. He explained that the pile is off the property and did not infringe upon their construction activity, so consequently it just did not get dealt with.

Commissioner Jaggon asked if it would be a better idea to have the Fire Department and the Health Department take a look at this property because they are alleging that you have hazard materials, like propane, oils and all those factors hidden on that property. Mr. Ferraina said there is nothing hidden on the property and that it is in full view. He said there is some construction equipment, construction related materials adjacent to that equipment, and all of that is on the property for the apartments, which they would like to commence construction on and eliminate any of the miscellaneous materials that are on the site right now, essentially left over from the site construction of the development. He said it has been used as a staging area for construction equipment and that it has to go somewhere else. He said in terms of environmental studies, they have had extensive testing done and they have a clean site certificate, which he would be happy to provide.

Commissioner Harvey had a few questions that had not been addressed but wanted to be sure she understood that the pictures showing barrels and other debris that is on the site that will be developed and will be dealt with. Mr. Ferraina said that it is clearly private property, which is the apartment site, subject to this application. He said it is construction equipment, various miscellaneous pieces of metal and debris left over from construction.

Commissioner Harvey said that someone asked about construction days and hours and someone one asked about smoking rules for the apartment. Mr. Ferraina replied that construction time for most construction activity would be from 7 a.m. and until probably 3 p.m. in the afternoon, Monday-Saturday. He said they might go a little longer on a summer evening but did not think they would go much beyond 5 p.m. He added

that there is a town ordinance that says 7 a.m.-8 p.m. but that he had never seen a construction crew last until 8 p.m. He stated that the buildings will be smoke free and the property itself will be smoke free.

Commissioner Levine asked if all of the items listed on the March 28<sup>th</sup> memo from Mr. Sealy to Mr. Ferraina had been resolved. Mr. Sealy said that the only outstanding items were the ones that Mr. Barz mentioned earlier – final review of the photometric plans and architectural details.

Commissioner Harvey asked if there is ever an instance where a lot of time has passed since a traffic study was done where the Commission would ask for an updated traffic study and if so, what would be the conditions. Mr. Ferraina said they did one this past March.

Mr. Barz said even if there had not been one done and the Commission did not like the results, the Commission is in no position to undo the concept plan.

Commissioner Jaggon asked Mr. Barz if he could have the Fire Department and the Health Department go and take a look at the site because he was not convinced that there is no toxic material there based on the alleged photograph that he is looking at with drums, propane, oil and 50 year old dirt piles that nobody knows what is under those piles. Mr. Barz replied that the Fire and Health Department are not in a position to test anything like that. He said all they can do is look at it and give an opinion.

Commissioner Mips said that it was all going to be removed correctly. Mr. Ferraina said sure and that he would be happy to.

Mr. Barz continued that it was all going to be removed.

Commissioner Mips asked if there were any other questions and there were no additional questions.

**Motion: Commissioner Levine moved approval of the design development detail plan for 1100-1900 Old Yankee Drive with the following conditions: review of the newly submitted elevation and lighting plans by the town staff; resolution of the Town Engineer's report of March 26, 2024 & May 21, 2024; removal of all of the tobacco netting, oil drums and metal materials that are on the site; and final sign off for staff review.**

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

**B. Amendment to Plan of Conservation and Development (POCD) – 5T & 105 Birchwood Road, Davis**  
Open space to agricultural & Low density residential to agricultural, 6.95&8.63 acres, AG&AA zones,

Davis  
Property owner and co-founder of Birchwood Farms Mike Davis was present and reviewed the application. He said this is the first step in a process and partnership they hope to undertake with the Town and other entities to preserve Birchwood Farms as a permanent agricultural open space. He said the amendment meets the aspirations and goals of the Plan of Conservation and Development to maintain sufficient natural area and agricultural open space to help preserve the town's rural heritage and maintain the balanced life that its residents expect.

Commissioner Levine asked if they would continue to operate it as a working farm. Mr. Davis said correct.

Public Comment:

Aron Kiehne of 603 Bricklayer Road spoke in support of the application and wondered if there might be some opportunity for public access, like trails as there would be town funds dedicated to it.

Benjamin Fay of 161 Birchwood Road spoke in support of the application and valued this land and its current natural state. He shared concerns if this area were to be developed and spoke about all the wildlife in the area.

Commissioner Levine read the March 22, 2024 CRCOG letter into the record.

Mr. Barz said the applicant is amending the Plan of Conservation and Development (POCD) to move these properties into the category of agricultural for the purposes of designating it as that most desirable future use and for making it a target for agricultural preservation going forward. He said when an applicant is looking for any kind of funding from the State, one of the first things they look for is what does it say about this in the Plan of Conservation and Development and does it have the support of the Town, boards and commissions. He said Mr. Davis is trying to gather support. He stated that the application does not change the zone and that it is simply changing the designation in the POCD. He reported that the Town Council have scheduled a public hearing for June 3<sup>rd</sup> and recommended that the Commission continue the public hearing to the next meeting on June 11 to give the Council the opportunity to give feedback.

Commissioner Mips asked if it should be recessed tonight. Mr. Barz said yes.

Commissioner Mips said she thought it was a good idea and that Brown Harvest had worked out very well.

Mr. Barz reported that he had been trying to come up with an equitable way to transfer development rights for all parties.

Commissioner Mips said this application cannot be approved tonight because it has to be voted on by the Council. Mr. Barz so no, it does not have to be and that he did not want to make their effort moot by approving it before they have had an opportunity.

Commissioner Levine asked what would happen if no one in their family wanted to farm anymore and they move to New York City, how does that affect what we are being asked to do. Mr. Barz replied that they would have to find a farmer to transfer the land who has no intention of adding housing to it.

Commissioner Levine said so it could only be used for farmland in perpetuity. Mr. Barz said that technically you cannot add any more housing than is already there.

Commissioner Mips said it was the same as what they do for Brown's Harvest. Mr. Barz said yes.

Commissioner Harvey said that it was only if the development rights were sold. Mr. Barz said yes, and that what they are doing tonight does not change that and that we are just paving the way for that opportunity.



Commissioner Harvey said that the State wants to see it in our POCD as this future use that is not a development use. She said she was confused how it can happen without changing the zoning. Mr. Barz said we do not have to change the zone and gave an example from Brown's Harvest.

Mr. Davis gave more detail of their plan.

Commissioner Mips said that if somebody in future generations decides they want a big subdivision back there, this will prevent them from doing it.

Mr. Barz clarified that action from the TPZ Commission will help the applicant get to the endpoint.

**Motion: Commissioner Levine moved that the application for the amendment to the Plan of Conservation and Development at 5T& 105 Birchwood Road be continued to next month's meeting. Commissioner Jaggon seconded the motion and it passed 5-0-0.**

**C. Subdivision – 903 & 1001 Day Hill Road and 141 Old Poquonock Road, 2 lots, I Zone, 37 acres, Alford Associates, Inc.**

1. Request for waiver of Subdivision regulations in section 3.8.4F, Design Criteria for New Sidewalks, requiring sidewalks on all proposed streets

Professional Engineer and Land Surveyor Christian Alford of Alford Associates, Inc., was present and reviewed the application. He said that this is the same application that was previously approved in December but that the mylars were not recorded and that the approval had lapsed.

Commissioner Mips asked if he was looking for a waiver for the sidewalk on the Old Poquonock Road. Mr. Alford said that was correct.

Mr. Barz said that these are the same conditions are previously approved but that there is a memo from the Town Engineer stating some outstanding concerns relating to the reconstruction of Baker Hollow Road. He said she has some comments that she would like to see addressed as a condition of approval.

Commissioner Levine asked if it would need wetlands approval. Mr. Barz said no.

Commissioner Mips asked if Mr. Alford had the comments from the Town Engineer. Mr. Alford said yes.

Mr. Alford said that the subdivision also includes the dedication of a small portion of the property to be deeded to the Town to realign Old Poquonock and Baker Hollow Road. He said there will be a plan submitted showing the reconstruction.

Commissioner Mips said that it had not been submitted. Mr. Alford said correct and that he had submitted one previously but that it was going to change a little bit but that it would not affect the land that is going to be deeded to the Town.

Mr. Barz clarified that when the Commission places conditions on a subdivision approval, it is referred to, under the statutes, as a modification of the plan as opposed to a condition of approval.

Commissioner Mips said that she had not been down Old Poquonock Road in a while but she remembered that it is not a good place to put a sidewalk right now. Mr. Barz said that there is no problem with the waiver and was previously approved.

Public Comment: None

**Motion: Commissioner Levine moved approval of the request for modifications of the subdivision at 903 & 1001 Day Hill Road and 141 Old Poquonock Avenue into two lots in the I Zone, subject to resolution of the comments in the Town Engineer’s memo dated May 7, 2024 and approval of the waiver of the sidewalks along the frontage of Old Poquonock Road. Commissioner Jepsen seconded the motion and it passed 5-0-0.**

**D. Re-subdivision – 11 Goodwin Drive**, 2 lots, I zone, 62.47 acres, Blueprint Robotics, Inc. Attorney Evan Seeman of Robinson & Cole and Engineer Isaiah Brown of Langan were present and reviewed the application. Attorney Seeman said they had received several extensions to record the mylars but unfortunately the time period had lapsed as the deal had not yet closed. He said he anticipated to close this summer.

Commissioner Mips asked if there were any changes made to the plan and Mr. Seeman said no.

Commissioner Levine asked if they needed to approve the site plan again and Mr. Barz said no and that the applicant had not filed the subdivision in a timely fashion.

Public Comment: None

**Motion: Commissioner Levine moved approval of the re-subdivision at 11 Goodwin Drive into two lots for the exclusive purpose of filing mylars on a timely basis. Commissioner Jepsen seconded the motion and it passed 5-0-0.**

**VI. PUBLIC COMMUNICATIONS AND PETITIONS – None**

**VII. ADJOURNMENT**

**Motion: Commissioner Levine moved to adjourn the meeting at 9:04 p.m. Commissioner Jaggon seconded the motion and it passed 5-0-0.**

Respectfully submitted, \_\_\_\_\_, Andrea D. Marcavitch, Recording Secretary on May 21, 2024.

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Jill Levine, Secretary