

**MINUTES
TOWN PLANNING AND ZONING COMMISSION
JUNE 11, 2024
7:00 P.M. HYBRID MEETING
275 BROAD STREET, WINDSOR, CT**

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

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

Commissioner Mips congratulated Town Planner Eric Barz on his retirement and congratulated Assistant Town Planner Todd on his appointment as the new Town Planner. Everyone shared their congratulations.

C. Zoning Enforcement Officer’s Report – None

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

E. Pre-Application Scrutiny

Commissioner Mips asked to add an item to the agenda.

Motion: Commissioner Levine moved approval to add a pre-application scrutiny item to the agenda for a zone change or text amendment at 825 Prospect Hill Road.

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

1. Zone Change or Text Amendment – 825 Prospect Hill Road – townhouse development to build 138 townhomes, AA Zone, 11.51 acres, AR Building Co.

Mr. Sealy addressed the Commission and outlined the pre-application scrutiny guidelines.

President of A.R. Building Company Jason Kambitsis and Emily Mitchell of A.R. Building Company were present. Mr. Kambitsis reviewed the history of A.R. Building Company, typical finishes on buildings and interiors, location of site, previous uses, Plan of Conservation and Development (POCD) and how their proposal fits in, conceptual plan, acreage and zone. He said there would be 138 three-story rental townhomes, some fronting on Day Hill and Prospect Hill Roads, will have garages and brick and

clapboard exteriors.

Commissioner Mips said she would prefer not to have an access off of Day Hill Road. Mr. Kambitsis replied okay.

Commissioner Mips noted that it was a positive to have the buildings to the east facing residential.

Commissioner Levine asked what would be the square footage for each unit. Mr. Kambitsis said they would be about 1,800 square feet.

Commissioner Levine asked if it would have any amenities. Mr. Kambitsis said there are no amenities and that the townhouse communities are a little different than apartments.

Commissioner Hallowell said she liked having an entrance on Day Hill Road because they would not be forcing everything up and around the corner, adding that if it is only one-way traffic, there would not be traffic stopped going in.

Commissioner Mips said maybe if it was one-way going in that it would be okay but that she did not want to see people coming out onto Day Hill Road. She thought that would make more sense.

Commissioner Hallowell replied that they would already be in that lane and could go right there.

Commissioner Levine said she realized that the drawing was a conceptual drawing but that she did not see any dumpsters on the plan. Mr. Kambitsis said that they would work on that.

Commissioner Jepsen asked if the townhomes would be rentals or to purchase. Mr. Kambitsis said they are rental townhomes. Commissioner Jepsen commented that they might need two entrances for fire protection. Mr. Kambitsis was not sure but he said he could see the benefit of having two entrances. He said they were happy to look different options.

Commissioner Levine said the entrance on Day Hill Road troubled her because right up to the corner on Prospect Hill Road is where the turn off is for the Amazon warehouse and there is a lot of traffic. She said she lives in that area and there are a lot of trucks and to have someone stopped to make a right turn from Day Hill Road into this complex could be dangerous.

Commissioner Jaggon asked if Mr. Kambitsis could give an update on the Pennsylvania litigation. Mr. Kambitsis said they are still working with them and said that it is a long process. Commissioner Jaggon asked about their safety record for construction. Mr. Kambitsis said they have no OSHA violations or anything outstanding.

Commissioner Hallowell asked what is north of the site. Commissioner Mips replied that it is all residential and that only the corner on the west-side is business.

F. Re-Approvals/Revisions/Extensions – None

G. Site Plans – None

H. Minutes

1. Special Meeting May 1, 2024

Motion: Commissioner Levine moved to approve the draft special meeting minutes of May 1, 2024 as amended.

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

2. May 21, 2024

Motion: Commissioner Levine moved to approve the draft minutes of May 21, 2024 as amended.

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

II. MISCELLANEOUS – None

III. PLANNER’S REPORT

A. Update on recent development

Mr. Sealy reported that walls are going up at 205 Baker Hollow Road, which is a flex industrial building similar to the one at 105 Baker Hollow Road and that Baker Hollow Road is nearing completion. The Noble gas station and convenience store is going up on Day Hill Road in the Great Pond District. He also noted that construction has started to go vertical at Founder’s Square in the town’s center and that earth moving has begun at Wilson Park and that we anticipate some additional site work to get underway.

Mr. Sealy took a moment to thank Mr. Barz and his wife, Jean, for their years of service to the Town. He stated that it has been a pleasure working with Mr. Barz and having him as a mentor. He noted Mr. Barz’s integrity, professionalism and passion for public service and that it is something to be emulated and has set a high bar for all who follow him. He said he would do his best to uphold the high standards set by the Commission and Town Planners who came before him and always with the goal of facilitating public discourse and guiding the community and the Commission towards the best possible outcome.

Commissioner Levine asked what was going on just past the new Noble gas construction site and asked what is going in there. Mr. Barz said there are multiple things going on at the Noble site. He said there are fueling islands, a car wash and other amenities.

Commissioner Levine thought that maybe it was for the car wash.

Commissioner Jaggon asked the Town Planner to review the regulations with the Commission on motor homes and RV’s when parked in residential areas. Mr. Sealy stated that we do have regulations on where they can be stored on a property and generally it is to keep them out of driveways and front yards. Mr. Barz added that there is also a 25’ length limit.

Commissioner Levine asked if we now have a Zoning Enforcement Officer. Mr. Barz replied yes and that he is part-time.

IV. BUSINESS MEETING

TP&ZC

May 21, 2024

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A. Application Acceptance

1. **Special Use Renewal – 564 Park Avenue**, Section 4.5.7D, Religious Institutions, AG Zone, .7 acres, Singh
2. **Special Use – 851 Marshall Phelps Road**, Section 15.2.16, Group Daycare Home and Child/Adult Daycare Centers, I Zone, 2.43 acres, Creative Hearts Learning Center
3. **Amendment to Plan of Conservation and Development (POCD) – 114 Upper Broad Street**, Update map to include address in Windsor Center Design Development Area, R10 Zone, .21 acres, Vaca (September 10 agenda)

B. Old Business – None**V. PUBLIC HEARINGS**

Commissioner Levine read the legal notice into the record.

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

The applicant was not present. Mr. Barz addressed the Commission and stated that the continuation was just a matter of waiting for the Town Council’s report and since there were no findings, the Commission can close the public hearing and make a decision.

Public Comment: None

Motion: Commissioner Levine moved approval of the amendment to the Plan of Conservation and Development (POCD) at 5T and 105 Birchwood Road. Commissioner Jepsen seconded the motion and it passed 5-0-0.

B. Special Use – 578 (494) Windsor Avenue, Section 5.2.6D(2), Full-service restaurant, B2 Zone, Singh Owner of Giovannis Restaurant, Palwinder Singh, was present via Zoom and stated that they have to move out of their current location and that they are looking to move into the Price Rite plaza on Windsor Avenue.

Mr. Sealy reported that staff received updated plans this morning, which addressed some of the questions outlined in the staff memo.

Commissioner Mips said that they did not come in until this morning. Mr. Sealy said yes.

Commissioner Mips asked if he had time to look over them. Mr. Sealy said he had reviewed the plans to see if it conforms to the 15% bar area requirement and that it did seem close to it. He said if the Commission is inclined, that he would recommend final staff review and approval of the restaurant floor plan for the bar area. He said it does seem very close but that he wanted to confirm with their architect.

Commissioner Mips asked if Mr. Sealy thought it was something they might need to recess. Mr. Sealy indicated no.

Commissioner Mips said that it made it difficult for the Commission to review when materials are submitted the day of the hearing.

Public Comment: None

Commissioner Hollowell asked if there was only one dining area measuring 8'x 4'. Mr. Singh said the 8'x 4' area is a pathway to go to the counter and then there is one row of booths and there is another dining area opposite the room where the bar is located.

Commissioner Hollowell asked Mr. Sealy if the seating in the bar area count towards the restaurant side or the bar side. Mr. Sealy asked if she was referring to the area around the bar. Commissioner Hollowell said no, the area where there are tables. Mr. Sealy said the area where the tables are does not count as the bar area and that the bar area only refers to the counter area around the bar and three feet behind the chairs.

Commissioner Levine asked where in the shopping plaza will it be located. Mr. Barz replied that it will replace where the Santander Bank was located, between the Price Rite and the liquor store.

Commissioner Levine asked if the Liquor Control Commission would allow a full-service restaurant next to a package store. Mr. Barz said that there is no prohibition against that.

Commissioner Hollowell stated that her only concern is the seating area for just restaurant versus their current set up is substantially downsized.

Commissioner Levine said that half that space is taken up by the kitchen, the restrooms, the utilities and storage.

Mr. Barz said he had checked the Liquor Control regulations and thought there was a rule about separating the barroom from the restaurant where one can sit and eat and there is not.

Commissioner Jaggon said he thought the Commission should table the application to have more time to review.

Commissioner Mips said she was concerned with the measurements. Mr. Sealy said that he did have an opportunity to review and did not think the measurements were far off.

Mr. Sealy asked the applicant if they intended to have live entertainment. Mr. Singh said they do not do live entertainment and that it is just the jukebox or once a month they have karaoke. He said there are no live bands. He added that there will be a partial wall between the tables and the bar area for families that might come with kids.

Commissioner Mips asked if staff would consider karaoke live entertainment. Mr. Sealy said that he would need to get back to them on that.

Commissioner Levine stated that there were a number of outstanding questions that she would like answers to and said that if this was for a special use for one year that it was a lot of money for the applicant to invest and was concerned if there would be a violation.

Commissioner Jepsen asked if the amount of money the applicant invests was part of their purview. Commissioner Levine said no, it is not but that she cannot help think about it.

Commissioner Mips reviewed the options with the Commission.

Mr. Barz commented that in the worst case scenario, if they are over the bar floor area, they would only have to eliminate one of the stools and shorten the bar, which is insignificant.

Commissioner Mips said that information helps.

Commissioner Jepsen asked if the percentages are part of our code or stem from the alcohol commission. Mr. Barz said that he wrote the code years ago and we began to differentiate between multiple types of restaurants, so we have full-service restaurants, brew pubs, limited-service restaurants, accessory restaurants and so forth. He said they had to limit the amount of bar area so that the tail was not wagging the dog with more bar than restaurant because we are granting restaurant liquor licenses. He said they also limited the entertainment area and the combined bar and entertainment area to 25% of the floor area so that it does not become a night club or something like that.

Commissioner Jepsen asked if their alcohol license is affected by any of those percentages. Mr. Barz said no and that the Liquor Control Commission would not enforce our rules.

Commissioner Jaggon shared concerns with the liquor store that is in the plaza and the liquor license that the applicant would have and was unclear how they would affect each other.

Commissioner Levine asked the applicant if they would be closed on Sundays. Mr. Singh said no, they will be open seven days a week and that they would be open Sundays from 11 a.m. to midnight.

Commissioner Hollowell commented that there were two restrooms dedicated to men and only one to women and thought that he might want to flip that.

Commissioner Jepsen said that a liquor store was located within walking distance of the applicant's current location and it existed that way for many years. Mr. Barz said that we have requirements between liquor stores, so we do not have a concentration of liquor stores. He said it is the Commission's discretion to say that we have too high a concentration of liquor establishments in an area but that he did not see that here. He said they are two different entities where you have people coming in and out of a package store for one thing and they are going to a restaurant for another.

Mr. Singh said they are okay with a one-year approval.

Commissioner Hollowell said she thought it was nice that they are staying in town and thought it was beneficial to the town. She said she did not see anything egregious looking at this.

Commissioner Jepsen agreed with Commissioner Hallowell and said that it is probably one of the most diverse establishments in town and worth keeping.

Mr. Sealy stated that staff recommended a one-year time limit and final staff approval of the floor plans in regards to the bar area.

Motion: Commissioner Levine moved approval of the special use for a full-service restaurant at 578 (494) Windsor Avenue for a period of one year and with the condition that all outstanding issues be addressed with staff and approved.

Commissioner Jepsen seconded the motion and it passed 4-0-1 (Jaggon abstained).

C. 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. Civil Engineer and Project Manager John Schmitz from B.L. Companies was present and reviewed the application. He discussed location, parcel, proposal for four multi-story buildings with 201 units, 302 parking spaces, access points, sidewalks, access for public transportation, fire access route, community spaces, stormwater, elevations, typical floor plans, OSTA's traffic report and staff comments.

Commissioner Mips asked if they had an opportunity to respond to the June 5th staff memo, as well as one from the Engineering Department and the Fire Marshal. Mr. Schmitz said that they did receive the memos and that there were a number of items that could be easily addressed. He reviewed how they would address some of the comments and that they would follow up with staff.

Mr. Barz asked if there was an affordability factor here. Mr. Schmitz said that 10% of the units would be affordable and that those units would be spread out over the site.

Commissioner Levine asked if she heard him say that there would be a shared driveway with the gas station and convenience store. Mr. Schmitz said yes, one of the driveways.

Commissioner Levine asked if they foresaw any traffic issues. Mr. Schmitz said no.

Commissioner Levine stated that the gas station gets pretty busy at certain times of the day.

Commissioner Levine asked what the letters PIT meant on the plans. Mr. Schmitz replied that during construction that the concrete trucks will come in and pour concrete for a foundation or a sidewalk and if there is a little bit left, they will dump it. He said they want to be sure they are not dumping it in the wetlands or somewhere they are not supposed to, so the notation is there so the contractor knows where to put it.

Commissioner Jaggon asked for more information on maintenance and the homeowners association. Mr. Schmitz said there will be no homeowners association and that A.R. Building Company will rent the units out, so they are responsible for long-term maintenance. He said there was a mention of it in staff comments as they were quoting a requirement but that there will be no association.

Commissioner Hallowell asked what side of the building is facing Dunfey Lane. Mr. Barz replied that they are identical on each side. Mr. Schmitz added that there is a good stand of trees along Dunfey and that those would remain and serve as a mature buffer between the buildings and Dunfey Lane.

Public Comment:

Joseph Cicero, III of 109 River Street spoke in favor of the project and stated that they have waited about 30 years to make something happen on that corner.

Robert Mazairz of 26 Sylvia Lane thought it was great that the Ciceros were close to developing the property but he expressed concern with the amount of apartments being built in town without an opportunity for first time homebuyers and for people to stay in Windsor.

Mr. Sealy reviewed the process of the application and said the detail plan was for all intents and purposes a site plan review with a public hearing component. He said at this point, they are finalizing the final details of the plan and stated that staff would recommend approval subject to the memos from the Planning Department dated June 5th and the Town Engineer's memo dated June 10th.

Mr. Sealy addressed Mr. Mazairz's concerns about housing and stated that we do have an affordable housing plan and that Windsor is addressing the issue.

Commissioner Levine asked if we were waiting on the OSTA report. Mr. Sealy replied that will occur after local approvals.

Commissioner Levine said there were a lot of questions on the staff review. Mr. Sealy responded that many of them were minor in nature and that a lot of it related to the architectural details. He said it was nothing of concern.

Motion: Commissioner Levine moved approval of the Design Development Detail Plan for 450 & 462 Bloomfield Avenue and 60 & 80 Dunfey Lane for multi-family residential development with 201 dwelling units in the B2 Zone, pending resolution of the June 5th staff memo, June 10th engineering memo and June 11th Fire Marshal memo.

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

D. 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

Co-owner of 20 Day Hill Road Jeffrey Morneau was present and reviewed the application. He discussed that they submitted an application for the Restricted Commercial Zone to add a special use for a racket sports facility/club with accessory uses to include pre-packaged food from a concession stand/café and the sale of alcoholic beverages from a service bar pursuant to a bowling alley liquor permit.

Commissioner Mips said that the text amendment could be put anywhere in the town. Mr. Sealy said technically it could apply anywhere in town but there are a very limited amount of RC Zones in town. He said they had also asked the applicant to make an amendment to the Day Hill Corridor section as well, as there are specific architectural standards with in the Corridor and also to update the parking ratio standards.

Mr. Barz stated that they were trying to be comprehensive and make sure there were no loop holes. He said this is basically the last vacant RC zoned property.

Commissioner Mips said she was thinking about the proximity to the residential on the east-side of a future facility. Mr. Barz stated that any applicant would still need a special use and a site plan.

Commissioner Mips said they would have to come back in for that if they were to approve the text amendment and Mr. Barz said yes.

Commissioner Hallowell asked why we specify different parking per recreational facility and said that it seemed complex. Mr. Barz replied that every use is different and that they refer to a survey, which was done by the American Planning Association, of small, medium and large cities for various types of uses and try to find a consensus among the various standards for a particular use, such as a racket court or soccer field.

Commissioner Jaggon asked for clarification on the text amendment. Commissioner Hallowell said they are looking to add all the text that is underlined in the regulations.

Commissioner Levine read a CRCOG letter dated May 21, 2024 into the record.

Public Comment: None

Mr. Sealy said that staff had worked with the applicant on several iterations of the text amendment. He stated that Windsor defines five different restaurant types and two allow for beer, wine and liquor sales as part of a restaurant. He said part of the reason for a limited-service restaurant was to avoid the café/bar license, which is a state liquor controlled license type that will allow for full liquor sales with minimal food service. He said there is a permit type for café bowling alleys and also racket clubs, which by the state's definition would allow for beer, wine, cider and spirits but tied to the use of a bowling alley or a racket court. This text amendment would put further restrictions on this by requiring a special use application for the Commission to determine the appropriateness. He stated the staff recommended approval.

Commissioner Mips said the only thing that bothered her was seeing bowling alley liquor permit as it just did not seem to go together. Mr. Barz said every bowling alley has a lounge and they call the license a café bowling license, but when you read the text, it covers racket clubs. He gave an example of a former racket club in town that had a bar.

Motion: Commissioner Levine moved approval of the text amendment for Sections 3.3.5(E)(7), 7.6.4 & 14.2.3(A)(1)(b), Tennis/Pickleball Clubs.

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

E. Special Use Re-approval – 836 Palisado Avenue, Section 10.5.12, Sale of nursery stock and related products, AG Zone, 19.27 acres, Four Seasons Landscaping, Inc.

President Bob St. Jacques of Four Seasons Landscaping was present and reviewed the application and the history of their operation. He requested the Commission grant him an extension to his special use permit.

Public Comment:

Phil Thulen, III of 33 Tunxis Street spoke in favor of the applicant and said the Mr. St. Jacques and his family have done a lot for the community.

Commissioner Levine asked if the maximum length of time for a special use 10 years. Mr. Barz said no and that they could get rid of the time limit.

Commissioner Mips did not think it was necessary to have them come back in to renew.

Mr. Sealy said that staff did not have any comments and to his knowledge there have been no zoning complaints at the property. He said staff would recommend with no time limits.

Commissioner Hallowell shared that she lives up the street from the business and that you would never know there is a business there. She said it is beautifully landscaped and you do not see a lot of trucks coming in and out and that it is well done.

Mr. St. Jacques replied that they love being in Windsor and that it has worked out great for them.

Commissioner Jepsen asked if they were to approve indefinitely, would the special use extend to another business owner should the property be sold. Mr. Barz replied that the special use does not run with the owner and that it runs with the land. He said it cannot be limited to the current owner.

Commissioner Levine asked if they could say until the business ceases to exist. Mr. Barz replied no.

Commissioner Jepsen said the business could be sold.

The Commission decided to keep the 10 year limit.

Motion: Commissioner Levine moved approval of the extension of the special use for Four Seasons Landscaping, Inc. at 836 Palisado Avenue for a period of 10 years. Commissioner Jaggon seconded the motion and it passed 5-0-0.

F. Special Use – 37 Maple Avenue, Section 4.5.1, Conversion of existing buildings, R8 Zone, .2 acres, Delany

Prospective owners, David McCain and Hermine Delany of West Simsbury were present. Mr. McCain discussed their interest and plans for the property. He said they plan to renovate the first floor into single-level living and that the second floor would remain a residential rental.

Commissioner Mips was happy to see it go from a business use to residential and commented that they do not see that very often.

Commissioner Hallowell said that she was not familiar with the property and asked about the parking situation. She thought given that it had been used for business that there should be more than enough. Mr. McCain said yes, there is plenty of parking.

Commissioner Hallowell asked if there were any differences in fire regulations when going from commercial to residential. Mr. Barz said that residential is less restrictive and said that they will have to comply with the building and fire codes.

Public Comment: None

Mr. Sealy said staff had no comments.

Motion: Commissioner Levine moved approval of the special use at 37 Maple Avenue, conversion of an existing building, in the R8 Zone from commercial to residential.

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

G. Special Use Re-approval – 33 Tunxis Street, Section 15.2.3, Horticultural nurseries and landscape contractor’s yards, B2 Zone, 1.9 acres, Philips Lawn Care

Owner Philip Thulen, III of 33 Tunxis Street was present. He stated they have had their special use for nine years now and have made many improvements to the property. He requested a 10 year time limit.

Public Comment:

Bob St. Jacques of 836 Palisado Avenue said that he had known Mr. Thulen for many years and is a great guy with a great business. He was in support of the renewal for 10 years.

Mr. Sealy said that staff did not have any comments.

Motion: Commissioner Levine moved approval of the special use for 33 Tunxis Street for a horticultural nursery and landscape contractor’s yards for a period of 10 years.

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

VI. PUBLIC COMMUNICATIONS AND PETITIONS – None

Mr. Barz spoke to the Commission and said it had been a pleasure working with them over the years. The Commission wished him a long and happy retirement.

VII. ADJOURNMENT

Motion: Commissioner Jaggon moved to adjourn the meeting at 8:35 p.m.

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

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

Jill Levine, Secretary