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**PLANNING AND ZONING COMMISSION
Town of Wallingford**

**REGULAR MEETING
Monday, August 10, 2009
MINUTES**

The Regular Meeting of the Wallingford Planning and Zoning Commission was held on Monday, August 10, 2009, at 7:00 p.m. in the Robert Earley Auditorium of the Town Hall Municipal Building, 45 South Main Street, Wallingford, Connecticut.

In attendance were Commissioners Mr. James Fitzsimmons (Chairman), Ms. Marci Baxter (Vice Chairperson), Mr. Patrick Birney, Mr. James Seichter, Ms. Stacey Voss (Acting Secretary - alternate).

Absent were Mr. David Fritz (Secretary), Mr. Chris Smith (alternate), and Mr. Jon-Paul Venoit (alternate)

The Town staff persons attending were Town Planner Ms. Linda Bush, Assistant Town Planner Ms. Kacie Costello, and Recording Secretary Sonja Vining.

Chairman Fitzsimmons called the meeting to order at 7:13 p.m. The Pledge of Allegiance was given to the Flag. Chairman Fitzsimmons introduced the Commissioners and the Town staff persons to the audience of approximately 15 people.

APPROVAL OF MINUTES:

July 13, 2009 - Regular Meeting – Action Minutes

Ms. Baxter made a motion to approve the Action Minutes from the Regular Meeting of July 13, 2009. The motion was seconded by Mr. Seichter and passed. Mr. Birney abstained from voting.

July 13, 2009 – Regular Meeting – Minutes

Ms. Baxter made a motion to approve the Minutes of the Regular Meeting of July 13, 2009. The motion was seconded by Mr. Seichter and passed. Mr. Birney abstained from voting.

Election of Officers – not taken up at this meeting

Voting on the following applications would be: Ms. Baxter, Ms. Voss (alternate – voting in place of Mr. Fritz), Mr. Seichter, Mr. Fitzsimmons and Mr. Birney. All votes taken were roll call unless noted otherwise.

Chairman Fitzsimmons asked the Applicants for the 7:00 p.m. public hearing if he minded if the accessory apartment items were addressed first. The Applicants indicated that would be fine.

RECEIPT AND ACTION REQUESTED:

**6. Site Plan (Accessory Apartment) / Ferretti / 63 Simpson Avenue
#213-09**

Ms. Voss, Acting Secretary, indicated that the only correspondence for this item was the application submitted.

Presenting the application was Adrian Ferretti.

The proposal is for a 606 sq. ft. accessory apartment. The driveway comes to the rear of the house and the garage is under the house. The occupant of the apartment only has one vehicle. Ms. Ferretti usually parks in the street in front of the house. Construction has not begun yet. Ms. Ferretti agreed to a condition of approval that the property would be inspected by the Town Zoning Enforcement Officer

**MS. BAXTER: MOTION TO APPROVE A 606 SQ.FT. ACCESSORY APARTMENT
FOR FERRETTI AT 63 SIMPSON AVENUE, SUBJECT TO FINAL
INSPECTION BY THE ZONING ENFORCEMENT OFFICER.**

**THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY
A VOICE VOTE.**

**7. Site Plan (Accessory Apartment) / Harwood / 14 Taylor Lane
#214- 09**

Ms. Voss, Acting Secretary, indicated that the only correspondence for this item was the application submitted.

Presenting the application was Andrew Harwood representing the Applicants Mr. & Mrs. Harwood.

The proposal is for a 473 sq.ft. accessory apartment. Construction has not begun yet.

**MS. BAXTER: MOTION TO APPROVE A 473 SQ.FT. ACCESSORY APARTMENT
FOR HARWOOD AT 14 TAYLOR LANE, SUBJECT TO FINAL
INSPECTION BY THE ZONING ENFORCEMENT OFFICER.**

**THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY
A VOICE VOTE.**

PUBLIC HEARING:

7:00 p.m.

1. Special Permit (Outdoor Recreation) / Tyrrell / North Colony Road #406-09

Ms. Voss, Acting Secretary, read the 7:00 p.m. public hearing legal notice. She acknowledged the correspondence received for the record from: Linda Bush, Town Planner to Chris Tyrrell dated July 31, 2009 (Att. 1A); John Thompson, Town Engineer to The Tyrrell Family dated August 5, 2009 (Att. 1B); Vincent Mascia, Senior Engineer, Inter-Departmental Referral received July 27, 2009 (Att. 1C); Joseph Micalizzi, Fire Marshal, Inter-Departmental Referral received July 16, 2009 (Att. 1D).

Presenting the application was Mr. Chris Tyrrell and Mr. Marty Tyrrell.

The indoor karting track is approximately 1,700 feet long. The Applicants are proposing to have a small outdoor section of track to be used when weather permits. The outdoor section of track would be approximately 200-300 feet long. The track would be used at night taking advantage of the existing lighting in the parking lot. The business hours of the track are noon – 10 p.m. during the summer Tuesday through Thursday. On Friday and Saturday they are open until midnight and on Sunday they close at 8 p.m. There is no new lighting being proposed. The track would only be used when weather permits. The track must be completely dry to be used.

Mr. Seichter pointed out that the interconnection comes out just about where the track is being proposed. Mr. Tyrrell indicated that there would be a tire barrier around the track along with a chain link fence and sidewalk. The Applicants intend on installing an island in that area. Mr. Tyrrell indicated that the property is used as a cut through where people drive rather quickly. He is proposing an island where people would have to actually turn left rather than race right through. Mr. Tyrrell assured the Commission that the lane that would remain would be plenty big for car traffic as well as tractor-trailers. The Applicants are planning to install curbing. At the point of the interconnect when coming from the south into the Applicants parking lot if necessary they would install directional arrows or whatever the Commission feels necessary to ensure traffic safety. Mr. Seichter would like to see some sort of landscaping to “soften” the look of the area where the fence will be. The Applicants stated that there are many things that they can do. They agreed that the exterior of the building is not very attractive. They indicated that they are open to suggestions regarding improving the appearance of the exterior of the building. Mr. Tyrrell explained that they are trying to keep as many parking spots open, knowing that they lost some spaces by installing the track. He indicated that he would be willing to install islands to “soften” the esthetic but the Commission would have to agree to have a few less parking spaces available. Mr. Tyrrell clarified that they do not own the property so everything being discussed would have to be agreeable to the landlord.

Mr. Birney liked the idea of installing islands and lessening the parking. The Commission would want to be sure that the landscaping be actually incorporated into the design. Chairman Fitzsimmons pointed out that this application is for a Special Permit so the Commission could attach conditions.

Ms. Baxter is concerned about controlling people who are standing outside watching the racing. Mr. Tyrell stated that they don't anticipate a great deal of spectators because this is not a spectator sport. They believe that when someone comes to their facility they watch for a while before they decide to race. The sidewalk around the new track allows people to watch safely. The Applicant feels people might view outside for a short period of time and then they will move into the building.

Chairman Fitzsimmons commented on the interconnection. His thought is that the curbing should be moved a little to the north to give the interconnection a bit more room. He believes that many people use this connection and he is concerned about the change. Chairman Fitzsimmons stated that he does not have any issue with the reduction in the parking requirement. Mr. Tyrell indicated that they are in favor of the interconnection.

Chairman Fitzsimmons pointed out that there was no one present from the Engineering Department to comment on this application. He would support the application as far as the reduction in parking spaces but he would like to see comments from the Engineering Department. Ms. Bush indicated that the Engineering Department did not have any comments and the Applicants did go to the STC and they were told no permit was necessary. Ms. Bush indicated that if the drawing is scaled off the roadway from the cutoff to the curb is 30 feet, which is the width of a normal residential street. She suggested that an additional safety feature that might be appropriate would be a stop sign at that interconnection before you take that left into the parking lot.

Mr. Tyrell is unclear about what the Commission is asking them to do with that curbing that is being proposed. He explained that the curbing was placed where proposed to protect the existing parking spaces. If the Commission felt that the curbing should be pulled back they would do that and eliminate those parking spaces. Mr. Tyrell showed on the map the curbing that he was talking about. Chairman Fitzsimmons feels that the plan needs to be reviewed by the Engineering Department as far as the safety of the interconnection. Mr. Seichter agreed that perhaps there needs to be a stop sign and he indicated that there is a speed bump there that perhaps the Engineering Department might have some ideas on.

Mr. Tyrell explained that what he meant by temporary was that if his business were to ever move out of that location everything could be removed and brought back to the properties original state. Mr. Birney raised the question that if this change is made to reduce the number of parking spaces would that go with the land. Linda Bush, Town Planner, stated that the parking is based on the use of the building. Chairman Fitzsimmons asked Ms. Bush if she knew of any comments from the Engineering Department. She stated that she was unaware that there would be no representation from the Engineering Department.

Chairman Fitzsimmons asked for public comments. There were no public comments.

Chairman Fitzsimmons stated that he would have liked to have comments from the Engineering Department. Mr. Tyrell stated that he did receive a letter from Mr. John Thompson stating that he needed to contact the State Traffic Commission to determine if the certificate with them permits the proposed activity. Mr. Tyrell indicated that there were no other comments or conditions included in Mr. Thompson's letter. Mr. Tyrell stated that he would comply with the requirements of the Engineering Department for maintaining the interconnection. Chairman Fitzsimmons indicated that

he would support the application with a few conditions of approval. The first condition would be formal review by the Engineering Department with comments and agreement. Ms. Bush suggested that the Applicant be allowed to use pots for landscaping rather than having to dig in the parking lot for something permanent. The Applicant could submit a plan for the pots to the Town Planner for approval. Regarding the parking Ms. Bush acknowledged that the parking standard for this site is 1/500 sq.ft.

MS. BAXTER: MOTION THAT THE PUBLIC HEARING BE CLOSED.

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

MS. BAXTER: MOTION TO APPROVE A SPECIAL PERMIT FOR TYRRELL TO PERMIT AN OUTDOOR KARTING TRACK, AND THE REDUCTION OF PARKING REQUIREMENTS FOR ON TRACK KARTING, 984 NORTH COLONY ROAD, SUBJECT TO:

- 1. THE CONDITIONS SET FORTH IN THE AUGUST 5, 2009 LETTER FROM JOHN THOMPSON, SENIOR ENGINEER TO THE APPLICANT.**
- 2. THE APPLICANT WILL WORK WITH THE ENGINEERING DEPARTMENT REGARDING MAINTENANCE OF THE SAFETY REQUIREMENTS OF THE INTERCONNECTION.**
- 3. THE APPLICANT WILL WORK WITH THE TOWN PLANNER TO DEVELOP APPROPRIATE POTTED LANDSCAPING.**
- 4. THIS WOULD CHANGE THE PARKING REQUIREMENTS FOR A KARTING BUSINESS AT THIS LOCATION TO ONE SPACE PER 500 SQ.FT. RATHER THEN ONE SPACE PER 250 SQ.FT.**

THE MOTION WAS SECONDED BY MR. SEICHTER AND APPROVED UNANIMOUSLY BY A ROLL CALL VOTE.

7:30 p.m.

- 2. Special Permit / 890 North Colony Road, LLC / North Colony Road #405-09**

Ms. Voss, Acting Secretary, read the 7:30 p.m. public hearing legal notice. She acknowledged the correspondence received for the record from: Vincent Mascia, Senior Engineer, to Linda Bush, Town Planner, dated July 27, 2009 (Att. 2A); Erin O'Hare, Environmental Planner to Linda Bush, Town Planner, dated August 10, 2009 (Att. 2B); Langan Engineering, Parking Utilization Study dated August 6, 2009 (Att. 2C)

Presenting the application were Attorney Dennis Ceneviva, Tim Onderko, and Kevin Sully from Langan Engineering.

Attorney Ceneviva indicated that this application is a modification to an approval of a Special Permit that was granted by this Commission back in 2007. At that time they received approval for a 47,592 sq.ft. medical office building. They are in front of the Commission to request approval to expand the building. The proposal is for approximately 15,000 sq.ft. more of office space. It would be a 5,000 sq.ft. footprint, three stories high. The addition would attach to the existing building along the easterly side. They are also asking permission to construct additional parking spaces along the southwesterly corner of the site. The area where the parking is being proposed is the location that was approved for a storm water detention basin. Their request is to put the detention underground and put the parking on top of it to meet the parking requirements. The application went before the IWWC and received approval last Wednesday. Attorney Ceneviva explained briefly what changes were made to satisfy the IWWC.

Attorney Ceneviva indicated that they have taken the past month to review the issue of parking. He gave a quick overview of the Parking Utilization Study. He indicated that the application complies with the general zoning requirements for parking. Besides using data that is included in the report submitted they looked at the ITE standard for parking. Under the ITE standards this site is approximately 45 spaces in excess of what is required. These standards are one space for every 256 sq.ft. of building.

Attorney Ceneviva explained that there is a significant need that has been addressed by Midstate for a surgery center. The surgical center would be taking approximately 15,000 sq. ft. with the approval of this Commission. The Wallingford parking regulations have a less intense parking requirement for surgery centers. The Applicant has still complied with the 1/200 requirement even though the standards are less for a surgery center. There are an additional 15 spaces above what the Commission's regulations would require for a surgery center.

Attorney Ceneviva pointed out that the Wallingford Shopping Center is required to have 525 parking spaces. There are approximately 59 spaces that are allocated to the Wallingford Shopping Center that actually fall south of the access road from North Main Street. He suspects that the likelihood of those spaces being used by Stop & Shop shoppers versus the medical office building would be remote. It would be more logical to suggest that those spaces would be used by the medical office personnel. Those spaces are not within the 314 number. For a practical matter there are almost 370 spaces that exist south of that access road that appear to be allocated towards that building.

Attorney Ceneviva stated that there is an industry standard that this site exceeds significantly. There is an excess of parking based on the new potential user that is the generator of this request. In the physical locality of the site they have 59 additional spaces, which fall south of that access road.

Chairman Fitzsimmons clarified that some of the Commissioners just received the Parking Utilization Study at this meeting. He referred to the Section 6.11 of the regulations that discusses the parking required for a surgical center, which states it should be 1/250 sq.ft. Chairman Fitzsimmons feels that the proposal is just meeting the minimum. The application presented is for the addition of medical office space. It is not on the application as a surgical center. Attorney Ceneviva stated that the addition would be used for health services. He indicated that he has a tenant list stating that there would be 15,000 sq.ft. for a surgical center, 10,000 radiology assoc., 6,000 occupational health, etc. Attorney Ceneviva has not seen the lease.

Linda Bush, Town Planner, stated that she would make the assumption that most people go to the retail stores from 5p.m. to 8p.m. then from 9a.m. to 5p.m. because the majority of people work these days. She indicated that she raised the issue of parking but she had not thought about shared parking. She believes the medical offices will be at their peak from 9a.m. to 5p.m. and the retail space would peak after 5p.m. and Saturday. Chairman Fitzsimmons is concerned that what is being presented this evening is different than what was originally presented. If the surgical center does not go through then it would be a straightforward medical/dental office.

Attorney Ceneviva stated that the minimum requirements are being met. They are exceeding, significantly, the industry ITE standards. He stated that this is not something that has been taken lightly by his tenant. They are very comfortable with the analysis in the Parking Utilization Study. In 2007 Attorney Ceneviva stated that Meriden amended its regulations because of the changes in health care. Even using the ITE standards for a medical/dental office for the entire building they far exceed the requirements.

Chairman Fitzsimmons referred to page 5 of the Parking Utilization Study where it says that required by zoning is 839 spaces and what is provided is 839 spaces. Attorney Ceneviva indicated that there are some other spots on the site, with the installation of retention walls, where some additional parking can be located. Mr. Onderko stated that after the last meeting he reviewed the plan to see if there were any other areas to provide additional parking. He indicated that there was a small area that could provide an additional 10 parking spaces. He stated that there was also some flexibility in the lower parking lot, which currently has 76 spaces, to get up to about 81 spaces.

Chairman Fitzsimmons asked about the strip of driveway that goes to Route 5. He noticed yesterday that the curb cut is now paved over. Attorney Ceneviva stated that this Applicant would not have access to this strip. Linda Bush, Town Planner, explained that the strip is closed off because in order for this property owner to have access they would need approval from the STC, which would not grant it. The shopping plaza on Ives Road has an easement over it but they don't have permission from this Commission or the STC. The only other property owner that uses it is that small plaza on Route 5 but it is not on their property. Chairman Fitzsimmons stated that if someone were to gain access to that strip there would be an issue with reconfiguring the parking lot to make the flow work.

Chairman Fitzsimmons asked about the mobile radiology unit and how that is considered as far as parking. Mr. Sully stated that from a parking stand point the ITE and the definition of a medical office building includes all of those uses. Attorney Ceneviva stated that radiology is on the first floor and their CAT scan will be interior to the site. His understanding is that the mobile unit will be used on a rare occasion. It will not have full time use at this site. Attorney Ceneviva does not believe the mobile unit will be used regularly on this site.

Mr. Seichter stated that according to the regulations the requirement for a medical office building is one space per 150 sq.ft. Attorney Ceneviva clarified that the approval in 2007 was for one space per 200 sq.ft. For a surgical center the standards are one space per 250 sq.ft. If you were to use the 1/150 for the medical office space and the 1/250 for the surgical center what would be required would be 377 parking spaces. Attorney Ceneviva made it clear that the 377 would be required under a strict interpretation of the regulations, which the Commission modified back in 2007 when it was

approved that 1/200 sq.ft. would be acceptable. After comments from Ms. Baxter Attorney Ceneviva indicated that there is not enough future parking available to bring the site up to the 377 spaces. He doesn't think that those spaces were there back in 2007 either. He believes that there was a comfort level that the 1/200 sq.ft. was adequate. At that time Ms. Baxter believes that the Commission was comfortable with what was available for future parking and with the shared parking. This addition narrows that gap a bit. Attorney Ceneviva suggested looking at the entire site.

Mr. Seichter feels that there was a comfort level the first go around because there was extra space for future parking. What is being proposed now is that 47,592 sq.ft. is going to be medical/dental office building and 15,054 sq.ft. is potentially going to be a surgical center. He feels that from an approval stand point it needs to be approved in that way. Mr. Birney agreed that the use needs to be known before the application can be approved. Attorney Ceneviva indicated that in 2007 it was not identified as medical office and surgical center. He believes the Commission looked at it as not just a "typical" medical office building. At that time the Commission approved 1/200 sq.ft.

Chairman Fitzsimmons noted that from last month to this month there are no new comments from the Engineering Department. Mr. Onderko did have a conversation with Mr. Thompson and he indicated that the Engineering Department had no concerns. There is nothing that would affect the public way and as far as Mr. Thompson was concerned there were no issues.

Chairman Fitzsimmons asked for public comment. There were no comments from the public.

In closing Attorney Ceneviva indicated that there is a small area for additional parking should the need arise. The areas that were pointed out would be fairly easy to add. There could be additional spaces along the easterly side if a detention wall were to be installed. Importantly the tenant and the users are satisfied with the parking requirement and they want this to be successful.

Chairman Fitzsimmons asked that areas be shown on the final plan for potential future parking. Attorney Ceneviva was agreeable to that condition.

Ms. Baxter asked the Attorney Ceneviva if he would be comfortable with the designation of the building being 47,592 sq.ft. of medical/dental office building and 15,054 sq.ft. of surgical center. Attorney Ceneviva suggested that it is the medical office building that generates the significant parking requirement. Perhaps the Commission could limit the amount of traditional medical office use to the 40,000 +/- sq.ft. He stated that there are some types of uses that don't general the parking requirement of a traditional medical office so perhaps the Commission should cap the medical office use in the building. The Commission stated that those uses such as occupational therapy do not have specific parking requirements in the regulations. Mr. Seichter feels more comfortable designating a specific footage for the medical office building and a specific footage for the surgery center. Attorney Ceneviva asked if the Applicant came back in September with more current data would the Commission find it more acceptable. Mr. Seichter indicated that would not change his mind. He is comfortable with the breakdown of the medical office building and the surgical center. Chairman Fitzsimmons agreed with Mr. Seichter.

MS. BAXTER: MOTION TO CLOSE THE PUBLIC HEARING.

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

MS. BAXTER: MOTION THAT A SPECIAL PERMIT FOR A 15,054 SQ.FT. BUILDING ADDITION FOR MIDSTATE MEDICAL AT 863 NORTH MAIN STREET EXTENSION AS SHOWN ON PLANS ENTITLED "PROPOSED MIDSTATE MEDICAL BUILDING EXPANSION, NORTH MAIN STREET/NORTH COLONY ROAD", DATE 6/1/09 SUBJECT TO:

- 1. THE JULY 27, 2009 INTEROFFICE MEMORANDUM FROM VINCENT MASCIA, SENIOR ENGINEER TO LINDA BUSH, TOWN PLANNER REGARDING THIS APPLICATION.**
- 2. A \$5,000 PERFORMANCE AND MAINTENANCE BOND.**
- 3. THE APPLICANT SHALL DESIGNATE FUTURE PARKING AS REPRESENTED THIS EVENING ON THE FINAL MAP WHICH CAN BE CONVERTED TO PARKING AT THE PLANNERS DECRETION.**
- 4. THE USE FOR THE BUILDING SHALL BE A MAXIMUM OF 47,592 SQ.FT. AS MEDICAL/DENTAL CLINICAL OR LAB USE AND THE NEW 15,054 SQ.FT. OF THE BUILDING CAN BE OUT-PATIENT SURGERY CENTER.**

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY WITH A ROLL CALL VOTE.

8:00 p.m.

3. Zoning Regulation Amendment / Ahearn / Multi-Family in T-30 (Tracy Zone) #504-09

Ms. Voss, Acting Secretary, read the 8:00 p.m. public hearing legal notice. She acknowledged the correspondence received for the record from: Linda Bush, Town Planner, to Donald R. Ahearn dated July 31, 2009 (Att. 3A); Joseph Micalizzi, Fire Marshall, Inter-Departmental Referral received July 16, 2009 (Att. 3B); South Central Regional Council of Governments to Linda Bush, Town Planner, dated July 24, 2009 (Att. 3C); Vincent Mascia, Senior Engineer to Linda Bush, Town Planner, dated July 27, 2009 (Att. 3D)

Presenting the application was Attorney John Molloy.

Chairman Fitzsimmons indicated to Attorney Molloy that the South Central Regional Council of Governments would be reviewing the application this Thursday. Attorney Molloy believes that the hope behind the recent regulation change is to spark some development in this area of town. The Applicant would like to construct a multi-family development on a parcel in the Tracy Zone. They are hopeful that the occupants of this development will provide a customer base for the commercial

and retail uses that are permitted in the zone. The proposed use is going to be a special permit application not a site plan application. The standards that are proposed for the Tracy Zone are similar to the existing standards in the downtown apartment zone. Attorney Molloy believes that the proposed amendment is in keeping with the recently adopted plan of conservation and development. It also meets the housing goal which is encouraging higher density development in appropriate areas of town. Attorney Molloy indicated that Linda Bush, Town Planner, is in support of the proposed change and that there was no objection from the W&S Divisions.

Mr. Seichter asked about the issue of minimum floor area. Attorney Molloy explained that she discussed the issue with Linda Bush, Town Planner. Attorney Molloy didn't know if the Commission needed to have minimum square footages because it is a Special Permit. If she is going to come in with a proposal she is going to have to come in and present to this Commission a plan that specifies the number of units and the size of those units. She would not have any objection to the Commission adding those minimums. Mr. Seichter feels that if an acceptable minimum was decided on for the downtown area he would like to see the same minimum for this area. Attorney Molloy indicated that she has no issues with that. With her application the sizes will be larger than the minimums that are currently in place.

Ms. Baxter stated that she would be in favor of doing something to help this area. She would like to see some of Mr. Seichter's comments incorporated so the guidelines are a bit clearer.

Chairman Fitzsimmons asked for comments from the public. There were no public comments.

Chairman Fitzsimmons noted that this item has been referred to the South Central Regional Council of Governments who will be hearing it this Thursday at 5:15 p.m. This Commission is unable to take action until the Regional Council renders a decision.

MS. BAXTER: MOTION TO CONTINUE THIS PUBLIC HEARING TO SEPTEMBER 14, 2009 AT 7:00 P.M.

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

8:30 p.m.

4. Special Permit (Change in Non-Conforming Use) / Corcoran / South Main Street #407-09

Ms. Voss abstained from voting on this application.

Ms. Baxter read the 8:30 p.m. public hearing legal notice. She acknowledged the correspondence received for the record from: Linda Bush, Town Planner, Corcoran Chronology dated 8/6/09 (Att. 4A); Vincent Mascia, Senior Engineer to Linda Bush, Town Planner, dated July 27, 2009 (Att. 4B); Joseph Mecalizzi, Fire Marshall Inter-Departmental Referral received July 16, 2009 (Att. 4C); Mr. & Mrs. Vincent Falcigno to To Whom it May Concern dated August 10, 2009 (Att. 4D) Presenting the application were Attorney Molloy and the Applicants Mr. & Mrs. Corcoran.

Attorney Molloy explained that this is an application for a Special Permit to permit the conversion of a former office into an apartment. Attorney Molloy reviewed the chronology provided by Linda Bush, Town Planner. She indicated that the property has been a multi-family use since the 1940's. At the time the Corcoran family acquired the property in 1973 the building had five apartments. In 1981 there was approval granted to convert an existing three-room apartment to an insurance office that was classified as a home occupation. In 2005 Mr. Corcoran was prepared to retire. His son was going to take over the business and ended up relocating out of the house. Since the business was moving out Mr. Corcoran approached the Planning Office to discuss the possibility of converting the office space back to an apartment. In June 2005 the issue was discussed before the P&Z. At that time the P&Z suggested to the Applicants that they go to the ZBA to see if they could get a variance. In July 2005 the Corcoran's applied for a variance. The issue of home occupation in a building where the operator of the business was not the occupant was discussed. The application was denied because there were not four affirmative votes on the motion to approve. After the denial the Corcoran's notified their tenant that the application was denied and he might have to vacate. They did not end up evicting their tenant because he lost his job. The Corcoran's contacted the P&Z to see what their options were. The P&Z put it on its workshop agenda in late November 2005. The Corcoran's did not attend the workshop because they were in Florida. They did not receive any notification about the workshop so they did not have any representation. The Corcoran's went out, during the time the request was before the P&Z, and applied for a building permit to convert the first floor into a large apartment. They received the building permit, had the work done, and received a certificate of compliance. The Corcoran's did not respond to Mark DeVoe when he was trying to get in to do an inspection because they were in Florida. A Cease and Desist was issued while the Corcoran's were still in Florida. The Corcoran's returned in December and contacted the Planning Office. Mr. Corcoran contacted the Law Department and then contacted Attorney Molloy. Attorney Molloy apologized for the delay in getting this issue in front of the Commission. What is in front of the Commission now is an application to see if the P&Z can try and rectify the situation.

Attorney Molloy stated that the lot fronts on two streets. It has more than adequate parking for three apartments. There will be no physical changes to the exterior of the building. There are no negative Department comments that she is aware of. Attorney Molloy argued that the change from a business use to a residential use is more in keeping with the neighborhood.

Chairman Fitzsimmon pointed out that the Applicants were granted a building permit. This Commission has had issues with the Building Department that they have addressed aggressively. He would expect that if the Applicants were to go into the Building Department today they would not be granted a permit without checking with the Zoning Office.

Mr. Birney is in favor of settling this issue this evening. He noted that when the house was purchased it was a five-family house and now it is a three-family house. He visited the site and noted that the property is very well kept. He would support the approval of the Special Permit.

Ms. Baxter agreed that an apartment would be a less intensive non-conforming use. She went past the property and noted that it is very well kept and she would be in support of the application.

Chairman Fitzsimmons asked for public comment. There were no comments from the public.

Linda Bush, Town Planner, indicated that the apartment is not subject to an inspection at this time.

MS. BAXTER: MOTION TO CLOSE THE PUBLIC HEARING.

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

MS. BAXTER: MOTION TO APPROVE A SPECIAL PERMIT FOR CORCORAN AT 309 SOUTH MAIN STREET TO CHANGE FROM ONE NON-CONFORMING USE (TWO APARTMENTS AND AN OFFICE) TO ANOTHER NON-CONFORMING USE (A THREE-FAMILY HOME), SUBJECT TO:

- 1. THE CONDITION SET FORTH IN THE JULY 27, 2009 INTEROFFICE MEMORANDUM FROM VINCENT MASCIA, SENIOR ENGINEER TO LINDA BUSH, TOWN PLANNER REGARDING THIS APPLICATION.**
- 2. THE CONDITIONS SET FORTH IN THE JULY 15, 2009 INTERDEPARTMENTAL REFERRAL FROM JOSEPH MICALIZZI, FIRE MARSHALL REGARDING THIS APPLICATION.**

THE MOTION WAS SECONDED BY MR. BIRNEY AND PASSED UNANIMOUSLY BY A VOICE VOTE.

Mr. Birney requested that if the Commission is presented with a long chronology it should also be presented with a copy of the corresponding minutes. The chronology is subjective and the minutes allow the Commission to view the contemporaneous discussions. Linda Bush, Town Planner, stated that would not be a problem.

OLD BUSINESS:

5. Site Plan / J. Orsini / Lot 1C, Northrop Industrial Park Road West #209-09

Ms. Voss, Acting Secretary, acknowledged the correspondence received for the record from: Linda Bush, Town Planner, to John Orsini dated July 31, 2009 (Att. 5A); Vincent Mascia, Senior Engineer to Linda Bush, Town Planner, dated July 27, 2009 (Att. 5B); Joseph Micalizzi, Fire Marshal Interdepartmental referral received June 11, 2009 (Att. 5C); Emile Pierides, Statement of Use received May 29, 2009 (Att. 5D); Emile Pierides to Linda Bush, Town Planner, dated August 9, 2009 (Att. 5E); Erin O'Hare, Environmental Planner to Linda Bush, Town Planner, dated August 10, 2009 (Att. 5F)

Presenting the application was Emile Pierides, BL Companies.

Mr. Pierides stated that the lot is 5.1 acres and is number 1C. It is a part of a nine-lot subdivision that was approved by the Commission in 2003. They received approval from the IWWC on August 5, 2009. In 2006 there was a very similar site plan approved, 1B. The site is located in the IX zone. They are an allowed use and meet all of the town standards. They are proposing a 45,000 sq.ft. industrial mixed-use building with 92 parking spaces and 12 loading docks. There is 52% open space on the site. There are two curb cuts being proposed on Norththrop Industrial Park Road West. The road is under construction at this time. The majority of the parking is proposed for the north side of the building. Drainage on site will be caught with catch basins and directed to an existing swale to the rear of the site. The parking lots will flow to the catch basins and go through oil/grit separators and precede to the onside swale that will direct it to the existing detention pond. The roof drains will flow through a perforated pipe for recharge. They are proposing on site septic and have received favorable reviews from the Health Department. Mr. Pierides indicated that he would be relocating the storage area to the rear of the parking lot off of the septic fields. He will also be changing the south radius of the driveway on the south property line so it does not go over that property line. Mr. Pierides explained that the water was brought in from Meriden and already services Lots 1A and 1B. The water main has been brought up to the edge of this property. As part of this application they will be extending the main to the south end of the property.

Chairman Fitzsimmons pointed out that there was no one at the meeting to represent the Engineering Department. He asked Mr. Pierides if he has had any contact with the Engineering Dept. He indicated that he has not heard from the Engineering Dept.

Chairman Fitzsimmons asked for public comments. There were no public comments.

Chairman Fitzsimmons asked Linda Bush, Town Planner, if she remembered if the Engineering Department had conditions for the 2006 approval. Linda Bush, Town Planner, went to her office and pulled the conditions from the last approval, Site 1B.

Chairman Fitzsimmons asked the Applicant to take a seat until Ms. Bush returns with those conditions.

RECEIPT AND ACTION REQUESTED:

8. Special Permit Revision / Water Division / East Center Street (McKenzie Reservoir) #40108R

Ms. Voss, Acting Secretary, acknowledged the correspondence received for the record from: Roger Dann, General Manager W&S to Linda Bush, Town Planner, dated August 4, 2009 (Att. 8A); John Scarfo, LaRosa Const. to Mr. Roger Dann dated July 23, 2009 (Att.8B)

Presenting the application were Roger Dann, W&S, and John Scarfo, LaRosa Construction. Mr. Dann indicated that one of the conditions of the Special Permit for the McKenzie Project was a limit that was placed on the days and hours of work for the project. Work began on this project in

late May, early June. June and July have not been good months to work doing this type of activity. The site is extremely wet and it has been difficult to maintain the elevation low enough in the reservoir for the work to consistently proceed. As a result work has fallen behind schedule and the request that is being made is a temporary modification for that permit condition that would allow the contractor to do limited work on four Saturdays. The work would be limited to work within the reservoir itself. There would be no hauling on Saturdays. They would be looking to work the next four Saturdays that weather permits.

Mr. Scarfo indicated that this request is being made because of the fact that a lot of time has been lost due to bad weather. They are proposing to work only within the limits of the reservoir. There would be no hauling off the site on those Saturdays. They would need four Saturdays that would allow a productive workday. The Saturdays would be consecutive if weather permits. Mr. Scarfo indicated that four Saturdays are being requested and he hopes that will be enough.

The Commission Members all agreed that this change would be considered a minor change to the special permit since there is not going to be any hauling and all the work would be done on site.

Chairman Fitzsimmons asked for comments from the public. There were no comments from the public.

Chairman Fitzsimmons indicated that the Commission would be agreeable to granting the Applicant five Saturdays. The Applicant does not have to use them but they would be there if needed.

MS. BAXTER:

**MOTION TO APPROVE A MINOR MODIFICATION TO
CONDITION #2 OF THE FEBRUARY 11, 2008 APPROVAL OF
THE WALLINGFORD WATER DIVISION, WHICH
PERMITTED THE EXCAVATION AND STOCKPILING AT
MCKENZIE RESERVOIR, TO PERMIT WORK TO BE
PERFORMED ON FIVE (5) SATURDAYS, SUBJECT TO:**

- 1. THE WORK HOURS WILL BE FROM 8 A.M. TO 2 P.M.**
- 2. THERE WILL BE NO HAULING PERMITTED ON THOSE SATURDAYS**
- 3. ALL OF THE WORK DONE ON THOSE SATURDAYS
WOULD BE DONE WITHIN THE CONSTRUCTION
LIMITS.**

**THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY
A VOICE VOTE.**

Chairman Fitzsimmons stated that they would now go back to agenda item 5.

Mr. Pierides read into the record the suggested conditions of approval from the Department of Engineering dated October 10, 2006. These conditions were included in the approval of a similar lot in the same development. Chairman Fitzsimmons pointed out again that there is no representation from the Engineering Department at this meeting. The Applicant stated that he would agree to all of those conditions if they were to be attached to this application. There was a \$10,000 performance

and maintenance bond and there would be an additional \$9,000 construction bond. Mr. Pierides clarified that one of the conditions would have to be modified because this site does not front Norththrop Road.

MS. BAXTER:

MOTION TO APPROVE A SITE PLAN TO PERMIT A 45,000 SQ.FT. OFFICE/WAREHOUSE FOR ORSINI SHOWN ON PLANS ENTITLED "NORTHROP INDUSTRIAL PARK LOT 1C, 1070 NORTH FARMS ROAD", DATED 5/8/09 SUBJECT TO:

- 1. A \$5,000 S&E BOND AS RECOMMENDED BY THE TOWN PLANNER.**
- 2. THE CONDITIONS SET FORTH IN THE JULY 27, 2009 INTEROFFICE MEMORANDUM FROM VINCENT MASCIA, SENIOR ENGINEER TO LINDA BUSH, TOWN PLANNER REGARDING THIS APPLICATION.**
- 3. A \$10,000 PERFORMANCE AND MAINTENANCE BOND IS RECOMMENDED BY SENIOR ENGINEER OF THE DEPARTMENT OF PUBLIC UTILITIES.**
- 4. THE CONDITIONS SET FORTH IN THE 6/10/09 INTERDEPARTMENTAL REFERRAL FROM JOSEPH MICALIZZI, FIRE MARSHAL**
- 5. TO INCORPORATE THE CONDITIONS OF APPROVAL SET FORTH ON MEMORANDUM DATED OCTOBER 10, 2006 BY THE DEPARTMENT OF ENGINEERING TO THE WALLINGFORD PLANNING AND ZONING COMMISSION THAT APPLIED TO THE APPLICATION 241-06 WITH THE CHANGE TO ITEM #2 IN SO FAR AS THERE IS NO DRIVEWAY TO NORTHROP ROAD, INSTEAD THERE ARE TWO PROPOSED DRIVEWAYS TO NORTHTHROP INDUSTRIAL PARK ROAD WEST. THAT INCLUDES A \$9,000 CONSTRUCTION BOND PER THE RECOMMENDATION OF THE TOWN ENGINEER. THESE CONDITIONS OF TOWN ENGINEERING WILL HAVE TO BE CONFIRMED IN A NEW MEMORANDUM FROM ENGINEERING BEFORE THE ISSUANCE OF A BUILDING PERMIT.**

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A ROLL CALL VOTE.

SURVEY WAIVER:

9.Bracale / Wayne Road

Ms. Baxter abstained from voting on this application.

Ms. Voss, Acting Secretary, acknowledged the correspondence received for the record from: map prepared by Landscape Architect Mark J. Papa dated August 6, 2009 (Att. 9A); Guy Beach to the Wallingford Zoning Board of Appeals dated July 13, 2009 (Att. 9B); Bill Bonocchi to the Wallingford Department of Planning & Zoning dated June 12, 2009 (Att. 9C)

Presenting the application was Anthony Bracale.

Mr. Bracale stated that this matter is being continued from the last meeting. He has submitted a sketch along with a letter from the abutter to the north. At the end of the meeting last month he was asked to submit a more formal documented and dimensioned drawing and that is what the Commissioners have in front of them tonight. The map was prepared by a landscape architect and shows the house, the existing pool and the proposed pool house. He feels it is clear with the information provided that the proposed building would be entirely on his property and he is asking that the requirement of providing an A-2 survey be waived.

Kacie Costello, Assistant Town Planner indicated that the ZBA has not acted yet because they have not received an A-2 survey. The ZBA's decision is pending a decision from the P&Z.

Mr. Bracale indicated that a landscape architect not a certified engineer or land surveyor prepared the map that was submitted to the Commission. Linda Bush, Town Planner, is concerned that if this waiver were to be granted the Commission would spend all of the future meetings discussing these issues. She believes the intent was for large parcels where it would be obvious that there would be no issues. This is a very ordinary type of application. In the opinion of Linda Bush, Town Planner, if the Commission starts approving these there is almost no point in having the zoning requirement.

Chairman Fitzsimmons stated that he has visited the site twice, reviewed the Minutes from the last meeting and also knows one of the abutting property owners. He does not feel that he could support this request for a waiver. Chairman Fitzsimmons feels this way primarily because of the note on the map which states that the map provided was not done by a certified land surveyor. The concern he has with supporting the change to require a survey is shown on the map where it states, "approximate rear property line" and "existing corner fence post". Until a survey is done you wouldn't know if a fence were on your property, on the line or on your neighbor's property.

Mr. Bracale stated that it is a very expensive proposition to have an A-2 survey done. He feels that it is clearly and reasonably not a proposal to build something on someone else's land.

Mr. Seichter agreed with Linda Bush, Town Planner that the intent, when adapting the requirement for a survey, was more if it was a larger parcel of land and it was very obvious that what was proposed would not encroach on someone else's property and building lines. He feels that if the

Commission starts approving waivers for situations such as this it will be inundated with wavier requests. Mr. Seichter agreed with Chairman Fitzsimmons that he would not be able to support this request.

MR. SEICHTER: MOTION TO DENY THE REQUEST FOR A WAIVER OF AN A-2 SURVEY FOR BRACALE ON 3 WAYNE ROAD.

THE MOTION WAS SECONDED BY MS. VOSS AND PASSED UNANIMOUSLY BY A ROLL CALL VOTE.

CALLING OF BOND:

10. Housewright Development / 288 Cook Hill Road (Att. 10)

Linda Bush, Town Planner, stated that this bond was posted over five (5) years ago. She has written a letter to the developer telling them that her office is going to recommend that the bond be called. She has not heard anything from the developer. The bond is to pave the driveway apron.

MS. BAXTER: MOTION THAT THE BOND BE CALLED FOR 288 COOK HILL ROAD BASED ON THE RECOMMENDATION FROM THE TOWN PLANNER.

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

BOND RELEASES:

- 11. Greene – Woronick / 1632 Tuttle Avenue**
- 12. Crowell / 1044 North Farms Road**
- 13. Capasso / 980 Clintonville Road**
- 14. Edger / 342 Grieb Road**
- 15. Hadarik / Village Lane #232-03**
- 16. Ceruzzi / Home Depot / North Colony Road #427-97**
- 17. White Way Laundry / Hall Avenue #229-99**
- 18. Fulton Forbes / South Colony Street #415-01**

Linda Bush, Town Planner, recommend that all of the bonds listed above be released with the exception of Item 16, Ceruzzi. She also added Item 18a. Imports Unlimited at 569 North Colony Street to her list of bonds to be released.

MS. BAXTER: MOTION TO APPROVE THE FOLLOWING BOND RELEASES BASED UPON THE RECOMMENDATION OF THE TOWN PLANNER AND INDICATION THAT ALL WORK HAS BEEN DONE.

1. **GREENE-WORONICK / 1632 TUTTLE AVENUE**
2. **CROWELL / 1044 NORTH FARMS ROAD**
3. **CAPASSO / 980 CLINTONVILLE ROAD**
4. **EDGER / 342 GRIEB ROAD**
5. **HADARIK / VILLAGE LANE #232-03**
6. **WHITE WAY LAUNDRY / HALL AVENUE #229-99**
7. **FULTON FORBES / SOUTH COLONY STREET #415-01**
8. **IMPORTS UNLIMITED / 569 NORTH COLONY STREET**

THE MOTION WAS SECONDED BY MR. SEICHTER AND PASSED UNANIMOUSLY BY A VOICE VOTE.

CORRESPONDENCE:

19. Polverari / Flashing Sign (Att. 19)

Linda Bush, Town Planner, indicated that a resident of Yalesville wrote her a letter commenting on the sign for Brothers Pool. She pointed out that there are several LED signs in town. She suggested that perhaps the Commission discuss this issue at the Workshop next Monday on signs. Ms. Bush feels that in the YLB zone she would agree with the author of the letter. Chairman Fitzsimmons agreed to discuss this issue in the Workshop.

20. Mayor Dickinson / Commuter Rail (Att. 20)

Linda Bush, Town Planner, indicated that this is the letter from the Mayor to the DEP as the result of the discussion with all of the Town agencies regarding the relocation of the train platform.

21. Janis Small, Town Attorney / Public Act 09-181 (Att. 21)

Linda Bush, Town Planner, explained that the State Legislature has revised approvals that were granted between 2004 and 2009. Those approvals would now be six-year approvals not five years. That would be for site plans, special permits and subdivisions.

22. DEP / Wallingford Used Parts and Recycling (Att. 22)

Linda Bush, Town Planner, indicated there was a letter sent to the Commission about an inspection the DEP did of Wallingford Used Auto Parts. They did not pass the DEP inspection. Ms. Bush has not talked to them since the letter was sent out. She stated that the Town is doing local inspections per requirements. Linda Bush, Town Planner, will contact DEP to see what the next step is. She stated that the Town also has problems with the site. She noted that they didn't just fail the DEP inspection but they also failed the Town inspection. Ms. Bush indicated that she would follow up on her end. She could not speak to how the DEP will handle the issue. Ms. Bush will submit to the Commission a copy of the inspection form that she uses during such an inspection.

23. Ianuzzi / Sign Enforcement (Att. 23)

Linda Bush, Town Planner, stated that this was a letter from a local business that supports the sign enforcement.

24. Behera / Playscapes at Fieldstone (Att. 24)

Linda Bush, Town Planner, stated that this letter is from a resident who has a son who is very upset that he can't have a playscape in Fieldstone. She indicated that she had a question relating to this issue. She received two calls last week regarding installing a flagpole, to fly the American flag, in the exclusive use area of on OSPRD. Ms. Bush told the homeowner that she didn't think that would be a problem but according to the president of the condo association she had told him earlier that they could not install the flagpole. She asked the Commission for clarification.

Chairman Fitzsimmons thought that this issue had come up before and it was determined that it was a structure. Mr. Seichter stated that he would have no issues with someone putting up a flagpole to fly the American flag. Ms. Baxter feels that this is such a sensitive issue at this time it would be difficult to make a decision. Chairman Fitzsimmons feels that the regulations are the regulations. Ms. Bush indicated that Mr. Behera is aware that it is not permitted. Chairman Fitzsimmons feels that the response to these sorts of questions should be just that "that at this time it is not permitted".

REPORTS OF OFFICERS AND STAFF:

25. Administrative Approval

a. Change of Use / Jakes / 175 Center Street #312-09

Linda Bush, Town Planner, stated that they are looking to expand the restaurant.

26. ZBA Decisions / July 20, 2009 (Att. 26)

The Commission received and noted the decisions of the Zoning Board of Appeals made at the July 20, 2009 meeting.

27. ZBA Agenda / August 17, 2009 (Att. 27)

The Commission received and noted the Agenda for the August 17, 2009 Zoning Board of Appeals meeting. Kacie Costello, Assistant Town Planner suggested that the Commission might want to look at Item 7 on the agenda. Linda Bush, Town Planner, stated that the building used to have four stories and now it is two. The present owner wants to bring it back to three floors. Kacie Costello, Assistant Town Planner indicated that she is not opposed to the plan but she does have concerns about the way that it is proposed and the way the parking is laid out. Chairman Fitzsimmons and Mr. Seichter don't understand what the applicant could provide as far as hardship in this instance.

Ms. Baxter questioned Items 4 & 6. These applications are for garage space. Kacie Costello, Assistant Town Planner indicated that both of the applications are on large pieces of property. They both have existing attached garage space and are looking for additional detached garages. Ms. Baxter asked about how the garage space compares to the relative size of the houses. Ms. Costello

would look into that. Ms. Baxter asked that she keep that in mind since the Commission has discussed it in the past.

28. Zoning Violation Log (Att. 28B)

The Commission received and noted the Zoning Violation Log. Kacie Costello, Assistant Town Planner commented briefly on several items included in the log. She notified the Commission that her office has been uncovering a lot of illegal dwelling units in town. The question has come up as to what constitutes removal of the illegal dwelling unit. Her office has always taken the position that generally it is the removal of the kitchen. Some people have asked what constitutes the removal of the kitchen and whether or not they can keep cabinets and/or sinks. Ms. Costello has always told them no because it becomes too easy to bring the appliances back in after an inspection.

Mr. Seichter agreed with the position of Kacie Costello, Assistant Town Planner. He feels that the cabinets and fixtures should come out. Ms. Baxter stated that she has less of a problem with cabinets than with fixtures. There was discussion about what determines it to be a dwelling unit. Kacie Costello, Assistant Town Planner stated that if you have to access the area by walking through the primary portion of the house that is not considered a second dwelling unit. A dwelling unit is defined by having a sleeping area, living area, bathroom and a kitchen and a separate entrance.

Mr. Birney doesn't feel it has anything to do with what is there. He believes it has to do with the ability of the Commission to divest a homeowner from having someone residing in the premises. The question is what teeth does the Planning Office need to make sure there is no one living in the illegal dwelling. Mr. Birney feels that is where the focus should be.

After some discussion the Commission decided to add it to the Monday workshop.

29. Proposed Zoning Amendment / ZBA Survey Requirement

Kacie Costello, Assistant Town Planner indicated that this is a proposed zoning amendment that the Commission has discussed in recent months about the zoning location surveys indicating that when the survey is required along with variance being required that the zoning location survey has to be submitted with the variance request.

30. Notes

31. Special Meeting / August 17, 2009

Chairman Fitzsimmons indicated that the Special Meeting would be held on Monday, August 17, 2009 in room 315.

Mr. Seichter made a motion to adjourn. The motion was seconded by Ms. Baxter and passed unanimously by a voice vote. The meeting adjourned at approximately 10:46 p.m.

Respectfully submitted,

Sonja Vining,
Recording Secretary

Atts. 1A – 28B