

APPROVAL OF MINUTES:

- 2 Approval of Minutes – August 8, 2011 - APPROVED

PUBLIC HEARING:

- 2 1. Special Permit/Pleasant View Farms/Clintonville Road (Extension Requested) #407-11 – NO ACTION
3 2. Special Permit/Simpson Village/701 Center Street #404-06R – CONTINUED TO OCT
5 3. Zoning Regulation Amendment/Gift Basket Liquor/Planning & Zoning Commission #901-11 - APPROVED

NEW BUSINESS:

- 2 4. Site Plan/D. Rainey/347 Highland Avenue #217-11 – NO ACTION

RECEIPT AND ACTION REQUESTED:

- 2 4a. Site Plan (Accessory Apartment)/K. Gannon/20 Southside Drive #219-11 – NO ACTION

REQUEST FOR SURVEY WAIVER:

- 7 4b. Request for Waiver of Zoning Location Survey/Musso/10 High Hill Rd – APPROVED

BOND RELEASES AND REDUCTIONS:

- 3 5. Subdivision/Toll Brothers/North Farms Road #413-11 – REDUCED
3 6. O/Byrne/57 Maple Avenue – RELEASED
3 7. JFC Construction/50 Northfield Road – NO ACTION

CORRESPONDENCE:

- 6 8. Land Use Law Center/LULA Training - RECEIVED
6 9. Seichter/ELUR – RECEIVED

REPORTS OF OFFICERS AND STAFF:

- 6 10. Administrative Approvals – APPROVED AS NOTED
a. Site Plan/Toyota of Wallingford/North Colony Road #218-11
b. Change of Use/Rozz/North Plains Highway #314-11
6 11. Proposed Amendments - RECEIVED
a. Wallingford Subdivision Regulations/Release-Reduction of Bonds #902-11
b. Wallingford Subdivision Regulations/Time Frames #903-11
c. Wallingford Zoning Regulations/Bonds #904-11
d. Wallingford Subdivision Regulations/Bonds #905-11
e. Wallingford Subdivision Regulations/Connections #906-11
f. Wallingford Zoning Regulations/Road Access #907-11
g. Wallingford Subdivision Regulations/Sidewalks #908-11
h. Wallingford Subdivision Regulations/Existing Streets #909-11
7 12. August 15, 2011 ZBA Results - RECEIVED
7 13. September 19, 2011 ZBA Agenda - RECEIVED
7 14. Workshop Meeting/September 26, 2011 – RESCHEDULED TO OCT 12TH
7 15. Zoning Violation Log - RECEIVED
7 16. Notes

**PLANNING AND ZONING COMMISSION
Town of Wallingford
REGULAR MEETING
Monday, September 12, 2011
MINUTES**

The Regular Meeting of the Wallingford Planning and Zoning Commission was held on Monday, September 12, 2011, at 7:00 p.m. in Council Chambers of the Town Hall Municipal Building, 45 South Main Street, Wallingford, Connecticut.

In attendance were Commissioners: Mr. James Seichter (Chairman), Mr. Patrick Birney (Vice Chairman), Mr. JP Venoit (Secretary), Mr. Jim Fitzsimmons, Ms. Marci Baxter (arrived after meeting began), Mr. Armand Menard (alternate), and Mr. Rocco Matarazzo (alternate).

Absent:

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

Chairman Seichter called the meeting to order at 7:05 p.m. The Pledge of Allegiance was given to the Flag. Chairman Seichter introduced the Commissioners and the Town staff persons to the audience of approximately 15 people.

Approval of Minutes:

August 8, 2011 – Regular Meeting

Mr. Birney made a motion to approve the minutes of the August 8, 2011 meeting as submitted. The motion was seconded by Mr. Venoit and passed unanimously.

PUBLIC HEARINGS:

7:00 p.m.

1. Special Permit/Pleasant View Farms/Clintonville Road (Extension Requested) #407-11 (Att. 1)

Chairman Seichter announced that the Applicant has requested an extension and the application would not be heard this evening.

NEW BUSINESS:

4. Site Plan/D. Rainey/347 Highland Avenue #217-11

Chairman Seichter announced that this application would not be heard this evening at the request of the Applicant.

RECEIPT AND ACTION REQUESTED:

4a. Site Plan (Accessory Apartment)/K. Gannon/20 Southside Drive #219-11

Chairman Seichter announced that this application would not be heard this evening at the request of the Applicant.

BOND RELEASES AND REDUCTIONS:

5. Subdivision/Toll Brothers/North Farms Road 413-11 (Att. 5)

Ms. Costello recommended that the bond be reduced to \$295,720.

6. O'Byrne/57 Maple Avenue (Att. 6)

Ms. Costello recommended that the bond be released.

7. JFC Construction/50 Northfield Road (Att. 7)

Ms. Costello recommended that no action be taken.

MR. BIRNEY: MOTION TO APPROVE THE BOND RELEASE FOR 57 MAPLE AVENUE AND BOND REDUCTION TO \$524,280 FOR NORTH FARMS ROAD IN ACCORDANCE WITH THE ASSISTANT TOWN PLANNER'S RECOMMENDATIONS.

THE MOTION WAS SECONDED BY MR. VENOIT AND PASSED.

Chairman Seichter asked Mr. Menard to vote in place of Ms. Baxter until her arrival.

PUBLIC HEARINGS:

7:15 p.m.

2. Special Permit/Simpson Village/701 Center Street #404-06R

Mr. Venoit, Secretary, read the Legal Notice and acknowledged the correspondence received for the record from: Attorney Martorelli to Chairman Robert Parisi dated June 7, 2011; memo from Christopher Foote to Linda Street dated April 12, 2011; memo from the Fire Marshal to Bob LaRosa dated July 18, 2011; memo from Vincent Mascia to Linda Bush, Town Planner dated July 22, 2011; memo from Linda Bush, Town Planner to Wallingford Town Council dated July 12, 2011; memo from Kacie Costello, Assistant Town Planner to Simpson Village LLC dated July 28, 2011; memo from Attorney Martorelli to the Wallingford Planning and Zoning Commission dated August 5, 2011; Minutes from the Town Council dated July 12, 2011.

Presenting the application was Attorney Martorelli and the Applicant Robert LaRosa.

Attorney Martorelli gave some history on the property. They are proposing to reduce the 10 unit building on Center Street to 7 units. The units on Center Street would be more architecturally compatible with the existing units to the rear of the project. These units would have one-car garages and two bedrooms on the first floor. Each of these units would also have a private green space. The 7 units proposed would be affordable units as part of an agreement with the Town Council of Wallingford. Attorney Martorelli read from the Stipulated Judgment from the Court dated May 30, 2008. He submitted an article from the Colorado Real Estate Journal dated August – September 2008 discussing

affordable housing (Att. 2I) and an article on proposed conditions that would meet the requirements of the Town Council (Att. 2J).

Attorney Martorelli stated that his client is looking for an approval of the project without any condition on affordability, because that has been covered with the Town Council and it is not a part of the zoning regulations.

Chairman Seichter asked if the Applicant has had any discussion with the Town Attorney regarding language to be used regarding affordability. Attorney Martorelli indicated that he has not discussed the issue with the Town Attorney. He clarified that this plan has no reduction in the number of affordable units pursuant to the contract. The Applicant is not looking for a reduction in the formula of the affordability but he is looking for a reduction in the number of units in the entire project which has that same result. Attorney Martorelli stated that he would like any condition on affordability to mirror the Town Council language or for there to be no language at all. He indicated to Chairman Seichter that if this hearing were to be continued he would work with the Town Attorney to come up with some language regarding affordability.

Attorney Martorelli explained that the Applicant originally agreed on a formula, negotiated with the Town Council, not a specific number of affordable units on this project. There was always the possibility that the number of units could change and it did, it was reduced.

Mr. Birney pointed out that the stipulated judgment doesn't address the issue of the 40 year condition. Attorney Martorelli agreed.

Mr. Fitzsimmons stated that the issues that the Applicant has with the Town Council are separate from the Planning & Zoning Commission issues. He pointed out that according to the Special Permit approval, the Applicant is looking for modification to two of the conditions. Mr. Fitzsimmons stated that the Applicant is asking that the number of affordable units be reduced from 9 to 7. Attorney Martorelli presumes, regarding the stipulated judgment, that the Town Attorney met with the Planning & Zoning Commission in Executive Session and obtained approval. Mr. Fitzsimmons stated that when the Special Permit was granted he does remember an appeal. Attorney Martorelli stated that there was an appeal of the conditions but it never went to judgment because of the stipulated judgment.

Attorney Martorelli stated that the term "affordability" is not defined in the zoning ordinance. The term is defined by HUD and by the State of Connecticut. The approval simply says "affordable" but there is no definition in the zoning ordinance. There was detailed discussion about the affordable housing aspect of the plan and the buying and selling of these affordable units. Attorney Martorelli referred to 8-30g of the Connecticut General Statutes.

Chairman Seichter stated that what the Commission needs to get a handle on, as far as the affordable units, is are they affordable one time or are they actually affordable units that would have a benefit to the Town rather than just to the first time homeowner.

Mr. Birney stated that he reviewed the stipulated judgment as well as the appeal. He doesn't see where the affordability issue and the length of the affordability issue were appealed or resolved in the stipulated judgment. Mr. Birney agreed with Chairman Seichter that the Commission needs more time to review the documents that were presented. He would like to see the Applicant work with the Town Attorney to craft some language regarding the affordable units.

Chairman Seichter stated that the Commission has not had enough time to review all of the documents and would not be acting on the application this evening.

Chairman Seichter asked for public comment. Speaking from the public was: Bob Gross, Long Hill Road, commented that doesn't agree with the fact that in the agreement it would state that the seller of an affordable unit is entitled to make a profit on the sale.

Chairman Seichter stated that the Commission would like to see the Applicant work with the Town Planner to develop some language regarding the affordable housing issue. He made it clear to the Applicant that any documentation should be given to the Commission for review prior to the next meeting.

Mr. Venoit, Secretary, acknowledged additional correspondence for the record from: Town Attorney Janis Small to James Fitzsimmons dated April 21, 2008; Robert LaRosa to the Planning & Zoning Commission dated November 16, 2007; Planning & Zoning Commission minutes dated December 10, 2007; LaRosa to Planning & Zoning Commission dated June 30, 2006.

Mr. Fitzsimmons read from the June 12, 2006 Planning & Zoning Commission meeting minutes in an attempt to clarify what language the Applicant would be working out with the Town Attorney. Attorney Martorelli stated that he would be discussing developing specific language that would go into the condominium declaration that would define affordability and the requirements surrounding it. Attorney Martorelli indicated that included in the language would be the 40 year covenant. He clarified by saying that he would like the Commissions 40 year restriction to comply with the Applicants contract with the Town Council which means that the 40 year restriction would be subject to HUD/FHA guidelines.

MR. BIRNEY: MOTION TO CONTINUE PUBLIC HEARING #404-06R TO OCTOBER 12, 2011 AT 7:00 P.M.

THE MOTION WAS SECONDED BY MR. VENOIT AND PASSED UNANIMOUSLY.

8:00 p.m.

3. Zoning Regulation Amendment/Gift Basket Liquor/PZC #901-11

Mr. Venoit, Secretary, read the Legal Notice and acknowledged the correspondence received for the record from: Proposed Amendment #901-11 (Att. 3); Department of Engineering to Planning Department dated August 18, 2011 (Att. 3A).

Ms. Costello discussed a revision to the State Statute that is coming into effect allowing stores who put together gift baskets to include wine in those baskets. She indicated that there is no statute attached to it yet so she recommended that it read "...provisions of Connecticut General Statutes to be assigned".

MR. BIRNEY: MOTION TO CLOSE THE PUBLIC HEARING.

THE MOTION WAS SECONDED BY MR. VENOIT AND PASSED UNANIMOUSLY.

MR. BIRNEY: MOTION TO APPROVE AN AMENDMENT TO § 6.19 OF THE ZONING REGULATIONS TO EXEMPT THOSE WITH GIFT BASKET RETAILER

LIQUOR PERMITS FROM THE 1,500 FOOT RULE BASED UPON THE COMMENTS IN THE RECORD AND THE REGULATION AS MODIFIED BY THE ASSISTANT TOWN PLANNER. THE MOTION TO BECOME EFFECTIVE OCTOBER 1, 2011.

THE MOTION WAS SECONDED BY MR. VENOIT AND PASSED UNANIMOUSLY.

CORRESPONDENCE:

8. Land Use Law Center/LULA Training (Att. 8)

Received by the Commission. Ms. Bush stated that if anyone is interested they can let her know and she will sign them up.

9. Seichter/ELUR (Att. 9)

Received by the Commission.

REPORTS OF OFFICERS AND STAFF:

10. Administrative Approvals – APPROVED AS NOTED

- a. Site Plan/Toyota of Wallingford/North Colony Road #218-11**
- b. Change of Use/Rozz/North Plains Highway #314-11**

11. Proposed Amendments

- a. Wallingford Subdivision Regulations/Release-Reduction of Bonds #902-11 (Att. 11a)**

Ms. Bush stated that the Town cannot hold maintenance bonds after it has accepted a road.

- b. Wallingford Subdivision Regulations/Time Frames #903-11 (Att. 11b)**

Ms. Bush indicated that the State has changed the law and now an Applicant has nine years to complete work permitted with extensions up to 14 years.

- c. Wallingford Zoning Regulations/Bonds #904-11 (Att. 11c)**

Ms. Bush stated that the State requires that the Town accepts surety bonds.

- d. Wallingford Subdivision Regulations/Bonds #905-11 (Att. 11d)**

Ms. Bush stated that effective October 1st a contractor who is doing a subdivision can simply post an S&E bond and start work. All of the work can be done without a performance bond. No house can be sold until the bond is posted or the Town has accepted the work.

- e. Wallingford Subdivision Regulations/Connections #906-11 (Att. 11e)**

- f. Wallingford Zoning Regulations/Road Access #907-11 (Att. 11f)**

Ms. Bush stated that these two items should have been changed a couple of years ago. She stated that these items would amend the subdivision and zoning regulations. Ms. Bush stated that these changes were recommended by the Town Attorney. The Town lost a court case and these provisions have to be taken off the books.

- g. Wallingford Subdivision Regulations/Sidewalks #908-11 (Att. 11g)**

- h. Wallingford Subdivision Regulations/Existing Streets #909-11 (Att. 11h)**

Ms. Bush stated that the Mayor has requested that sidewalks not be required around the bulb of a cul-de-sac. She explained that because of the Buttermilk case the Town can no longer require developers, along existing town roads that don't comply with town standards, to improve the road.

Ms. Bush indicated that she has briefly discussed the above mentioned amendments with the Town Attorney. Ms. Bush stated that these amendments are the results of court cases and changes in the law.

Ms. Bush referred to a letter from the EDC dated September 12, 2011 supporting the proposed amendment to Section 4.10.

12. August 15, 2011 ZBA Results (Att. 12)

Received by the Commission.

13. September 19, 2011 ZBA Agenda (Att. 13)

Received by the Commission.

14. Workshop Meeting/September 26, 2011

- a. **IHZ**
- b. **Design Standards/I-5 Zone**
- c. **Digital (Flashing) Signs**

Ms. Bush stated that for the workshop meeting she would take off the I-5 Design Standards and put on sidewalks around cul-de-sacs. Chairman Seichter suggested that the workshop be postponed to another date when a majority of the members could be present. Ms. Bush suggested that the workshop be scheduled for immediately after the regular October Planning & Zoning Commission meeting. Chairman Seichter agreed to hold the workshop after the regular October meeting.

REQUEST FOR SURVEY WAIVER:

4b. Request for Waiver of Zoning Location Survey/Musso/10 High Hill Road

Ms. Bush stated that a homeowner came into her office and wants to put a small roof over the front stoop of their house. Ordinarily surveys are required for additions to houses but this is such a small addition Ms. Bush told the homeowner that she would ask the Commission if it would waive the survey requirement. The house is approximately 60' – 70' back from the road.

MR. BIRNEY: MOTION TO WAIVE THE SURVEY REQUIREMENT FOR 10 HIGH HILL ROAD.

THE MOTION WAS SECONDED BY MR. FITZSIMMONS AND PASSED UNANIMOUSLY.

15. Zoning Violation Log (Att 15)

Ms. Costello briefly discussed several items included on the Log.

16. Notes

Mr. Birney made a motion to adjourn. The motion was seconded by Mr. Fitzsimmons and passed unanimously by a voice vote. The meeting adjourned at approximately 8:50 p.m.

Respectfully submitted,

Sonja Vining,
Recording Secretary
Att. 1 through 15