

DRAFT

WALLINGFORD PLANNING & ZONING COMMISSION

Monday, July 13, 2015

7:00 p.m.

Robert Earley Auditorium – Town Hall

45 South Main Street

MINUTES

PRESENT: Chair James Seichter; Commissioners Jim Fitzsimmons; Jeffrey Kohan; Armand Menard; Alternates David Leonard and Larry Zabrowski; Town Planner Kacie Costello.

Chair Seichter called the Meeting to order at 7:02 p.m.

The Pledge of Allegiance was recited.

Approval of Minutes

April 13, 2015

Mr. Fitzsimmons: Motion to approve the April 13, 2015 Meeting Minutes as presented.

Mr. Kohan: Second

Vote: Leonardo=yes; Kohan=yes; Seichter=yes

May 11, 2015

Mr. Fitzsimmons: Motion to approve the May 11, 2015 Meeting Minutes as submitted.

Mr. Kohan: Second

Vote: Fitzsimmons=yes; Kohan=yes; Seichter=yes

June 8, 2015

Mr. Fitzsimmons: Motion to waive Rule 5 to add the June 8, 2015 Meeting Minutes to the agenda

Mr. Kohan: Second

Vote: Unanimous

Mr. Fitzsimmons: Motion to approve the June 8, 2015 Meeting Minutes as submitted.

Mr. Kohan: Second

Vote: Leonardo-yes; Kohan-yes; Seichter-yes;

PUBLIC HEARING

1. Special Permit (mixed-use to multi-family)/Marino/10-12 Judd Square - #409-15

Mr. Menard read the Legal Notice and noted all correspondence into the record: memorandum from the Dept. of Engineering, to Town Planner Kacie Costello, received June 19, 2015; inter-office memorandum to Kacie Costello, Town Planner, from Erik Krueger, Sr. Engineer, Water & Sewer Divisions, dated July 7, 2015.

Appearing in front of the Commission was Hector Valentin, 18 Judd Square. He told the Commission the building he purchased was the former Monte Carlo Bar and applied for a Special Permit to convert this from a business to a residential apartment.

Ms. Costello asked Mr. Valentin to go over the answers to her comments. She said the important item to note is that this application is a change from one non-conforming use to another. She pointed out there is a non-conforming parking issue but the change from a bar/restaurant which required 24 spaces to a residential unit requiring two parking spaces is an improvement.

Chair Seichter entertained public comment at this time.

There were no public comments.

Mr. Kohan asked about fire escapes. Mr. Valentin said he had the building inspected by the Fire Marshal and everything passed code.

Ms. Costello recommended the July 7, 2015 comments from the Erik Krueger, Water & Sewer Divisions Senior Engineer, be made a condition of approval.

Chair Seichter entertained a motion to close the public hearing.

Mr. Fitzsimmons: Motion to close the public hearing at 7:10 p.m.

Mr. Kohan: Second

Vote: Unanimous

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Motion to approve a Special Permit (change from one non-conforming use to another) for Marino, to convert the first floor of an existing mixed use building from restaurant/bar into one (1) three-bedroom apartment, thus

converting the building into entirely multi-family residential with a total of three (3) apartments (one per floor), as show on floor-plan entitled "Monte Carlo House, Ground Floor", submitted with application on June, 2, 2015, subject to:

1. Comments of the Water & Sewer Departments dated July 7, 2015.

Chair Seichter noted the following Commissioners would be voting on the application: Alternate Commissioner Leonardo for Commissioner Venoit.

Mr. Leonardo: Second

Vote: Leonardo-yes; Fitzsimmons-yes; Kohan-yes; Menard-yes; Seichter-yes.

Application approved.

2. Special Permit (power generation)/Wallingford Energy, LLC/115 John Street - #410 - 15

Mr. Menard read the Legal Notice and noted all correspondence for the record: memorandum from the Dept. of Engineering to Planning & Zoning, dated June 18, 2015; letter to Wallingford Energy II, LLC, to Kacie Costello, Town Planner, dated July 7, 2015; a memorandum to Kacie Costello, Town Planner, from Erin O'Hare, Environmental Planner, received July 6, 2015; interoffice memorandum from Erik Krueger, Sr. Engineer, Water & Sewer Divisions, dated July 10, 2015; Zoning Checklist dated June 24, 2015.

Appearing in front of the Commission was Casey Carroll, Associate Project Manager, LS Power; David Wilson, P.E., Senior Environmental Engineer, LS Power, and James Rotondo, P.E. Godfrey-Hoffman Associates, LLC.

Mr. Carroll said Wallingford Energy is proposing to expand the existing Wallingford Energy Center at 115 John Street to add two additional electrical generating units to the existing five units owned by Wallingford Energy. He said Wallingford Energy purchased this project in 2011 and was originally constructed in 2001, at the site of a former electrical generating facility. Mr. Carroll said Wallingford Energy II currently leases an 8.5 acre site from the Town and went before the Town Council earlier in the year to expand their lease covering this project and the tax agreement. He said there will be a new connection to Thermo Spas access road at the northern end of the site.

He noted that the proposed project has been selected by the New England Grid Operator as part of the lowest cost solution to meet future electric needs. He said through agreements approved by the Town Council, this project will bring over one and a half million dollars annually in tax and lease payments and the substantial investment will employ an average of 60 employees over a year during construction.

Mr. Wilson spoke about the jurisdictional area on-site and presented a brief overview of the improvements on-site. He said this project will be subject to a number of environmental

approvals which will have to be obtained before the project begins the expanded operation. He said the Inland Wetlands and Watercourses Commission granted approval on July 1. He said an air permit will need to be obtained from the DEEP. He said other permits to be obtained from DEEP include construction stormwater and a petition to construct which will be obtained from the CT. Siting Council. Mr. Wilson said the CT Siting Council will also evaluate noise which he expects not to be an issue. He also addressed landscaping issues. He said landscaping will change in a relatively minimal way and said the parts of the gravel access road which is outside the process area will be converted to grass lawn after the project is complete.

Mr. Wilson said there is also an existing side yard landscaping berm planted with evergreen trees. He said this will be removed during construction to accommodate the two new generator units, and will be replaced by a planted row of evergreen trees adjacent to the ThermoSpas access road. He said the Applicant has requested at the facility, as a condition of approval, the submittal of a landscaping plan for approval by the Town consisted with landscaping requirements of the Siting Council on a State Level.

Ms. Costello said she has been through the majority of the issues with the Applicant and is comfortable they can be made conditions of approval. She said a lot of the questions she had were minor issues on the plan, and some notes to be updated on the final plan. She asked the Applicant to address the adjacent driveway over the Allegheny Ludlum Property, permission and access from there and the width of that driveway. She also asked the Applicant to give a general sense of the heights of the structures.

Mr. Carroll said the proposed driveway will be 20 ft. wide internal circulation way. He noted the Applicant doesn't intend to use this driveway to access the site, and access for maintenance and operations will be off of John Street. He said the Town Fire Dept. requested a secondary access. He said the Town has a right to do a curb cut to access their property off of the Thermospa access road.

Mr. Carroll said the general character of the expansion is to be in line with the existing facility; he said the same architectural features, brick façade, will be used. He said the proposed screening and sound wall will be 50 ft., the same as the existing wall, and the two new stacks will be 100 ft., the same size as the existing stacks. He said the tallest part of the turbine train, housed behind the screening wall, will be 36 ft., well below the 50 ft. wall screening. He said the operations building and gas compressor expansion will be the same height as the existing buildings, approximately 25 ft. tall.

Chair Seichter asked how often the turbines are run. Mr. Carroll said they are dispatched approximately 500 hours a year by the regional grid operator. He noted these are standby units, not necessarily producers of energy.

Chair Seichter entertained public comments at this time.

There were no public comments.

Mr. Fitzsimmons asked about the ThermoSpas access road. Mr. Carroll said this is a private driveway which is on a number of different properties, including the Allegheny, ThermoSpas and Town properties. He said all of these parties have right of usage with Allegheny having the responsibility to plow and maintain the driveway during the winter months. Mr. Kohan asked about the turbines and asked if all seven could be run at once. Mr. Carroll said this could occur and have accounted for this in the noise and air modelings and said there would be no more room for expansion.

Ms. Costello said recommended additional conditions of approval, i.e., comments from the Water & Sewer Divisions dated July 10, 2015 and Ms. Costello's comment letter dated July 7, 2015 including incorporation of the landscaping plan to also incorporate the landscaping plan by the CT Siting Council.

Chair Seichter entertained a motion to close the public hearing.

Mr. Fitzsimmons: Motion to close the public hearing at 7:28 p.m.

Mr. Leonardo: Second

Vote: Leonardo-yes; Kohan-yes; Fitzsimmons-yes; Menard-yes; Seichter-yes.

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Motion to approve a Special Permit (power generation) for Wallingford Energy II, LLC, to construct two (2) additional combustion turbines and appurtenant support equipment, as shown on plans entitled "Facility Expansion Project, 15 John Street, Wallingford, Connecticut", dated 6/2/15, subject to:

- 1. Comments of the Town Environmental Planner dated July 6, 2015**
- 2. Comments of the Water & Sewer Division dated July 10, 2015**
- 3. Comments of the Town Planner in the letter to the Commission dated July 7, 2015**
- 4. Final plans to include detailed landscaping as approved by the CT. Siting Council**

Mr. Leonardo-Second

Vote: Leonardo-yes; Kohan-yes; Fitzsimmons-yes; Menard-yes; Seichter-yes

Application Approved.

- 3. Zoning Text Amendment (wall sign height/Shipman & Goodwin/IX and I-5 Zones - #503-15**

Mr. Menard read the Legal Notice and noted all correspondence for the record: Letter to Timothy Holder from Town Planner Kacie Costello, dated June 26, 2015; Amendment to the

Zoning Regulations; Memorandum to Kacie Costello, Town Planner, from the Dept. of Engineering, received June 16, 2015; pamphlet from Shipman & Goodwin received July 6, 2015.

Appearing in front of the Commission was Atty. Matthew Ranelli, and Atty. Amber Sarno of Shipman & Goodwin representing Wallingford LLC. He said the Applicant is requesting a change to the zoning text to allow for wall sign heights in the I-5 district to be increased from the current regulation which allows for a height of up to 45 ft. to a change to what is allowed in the I-40, I-20 and the RF-40, which allows a wall sign up to the height of the building, providing it is on the parapet of the building and not above the roof. Atty. Ranelli said this involves the proposed Hilton Gardens which is under development. He noted that Wallingford LLC took the project over from a prior developer who had failed to complete the project and pointed out that during construction, it was noted that the current zoning regulations did not allow for a sign at the top of the building at approximately 64 ft. He said Wallingford LLC applied for a variance which was not approved by the Zoning Board of Appeals. He said the Applicant took a look at the regulations and thought it would be appropriate to modify the regulations to allow the sign height.

Atty. Ranelli provided the Commission with a copy of the proposed zone text change which would switch the I-5 district from its current location in Section 69.E.6B to Sub-Section C of that same section. He said a rendering of the proposed building was also provided. Atty. Ranelli said he looked back at the evolution of Wallingford's sign regulations over the years, and noted there have been some changes. He said in 2013, the P& Z first amended the regulations to allow wall signs up to 45 ft. in the I-5 district. He said a year later, the P&Z decided in the I-20, I-40 and RF-40 zones, they would be comfortable with signs up to the height of the building. He said having a sign at a higher height would not be as imposing, because the building by definition in the I-5 zone would be setback even further than in the I-20 and the I-40 zones. He said after consulting with the Town Planner, a visual survey was done. He went over the July 6, 2015 package which was presented to the Commission. He said a number of properties were surveyed. Atty. Ranelli said there are existing signs which exceed the height allowed in the zone which were allowed by variance. He cited Webster Bank at 777 Northrup Road which is a one-story building with an established wall sign below the roofline; the Landmark Building with an established wall sign on the first floor; and a number of other one-story buildings. He said there is a three-story building with no apparent wall sign. He said these properties for the most part would not be impacted.

Atty. Ranelli pointed out four existing buildings: the Anthem building which is a three-story building which has an established roof line of approximately 45 ft. above grade; the Homewood Suites building, which is a taller building which has a wall sign on the parapet which is at 47 ft. which is over the 45 ft. allowed with a variance; the Courtyard Marriott, a three-story building with a wall sign, but also have a variance for a ground sign up to 80 ft. in height. He said their proposal wouldn't affect ground signs, but would allow wall signs. He also cited the Sinclair Building, a three-story building which has a roof line of 60 ft. which was allowed by variance and a second sign. Atty. Ranelli said their proposed zoning text amendment wouldn't

negatively impact the district and would be meaningful for Wallingford LLC and putting signs on parapets are how signs are now branded. Chair Seichter said what is being proposed doesn't increase the amount of signage, just its height. Atty. Ranelli stressed that the amount of signage being proposed is less than 100 sq. ft. He said a letter was received from Ms. Costello who had proposed suggestions and modifications to our proposal. He said the Applicant had no objections to these suggestions and modifications. Atty. Ranelli said if the P & Z approves their request, the Applicant asks the P&Z set an effective date after the date of publication.

Ms. Costello said the agenda ran with the proposal being in the IX and the I-5 zones, and while she believes there may be some support for this amongst the Economic Development Commission, this did not end up being part of this proposal. She said in this zone, the permitted square footage of signage is half of what it is in most other commercial zones, half of the square foot per linear foot of building width opposed to RF-40 where it is one to one. She said when she and the EDC prepared the initial language in Section C, regarding the potential height of signs, a lot of time was spent attempting to come up with ways the regulation could be problematic or end up with an unexpected sign. She said she believes this has been addressed and she and the EDC are comfortable with this regulation.

Mr. Fitzsimmons asked if there was a letter from the EDC. Ms. Costello said there was nothing on the record, but noted there were EDC representatives in attendance at tonight's meeting.

Mr. Kohan asked Ms. Costello if this would impact the lighting regulations. Ms. Costello said with the exception that signs can be illuminated; they can be internally lit, down-lit, no up-lighting. She said the lighting associated with the sign could be higher.

Chair Seichter entertained public comments at this time.

Jim Wolfe, member of the EDC, said the Commission supports the change not only for the I-5 but also for the IX. John LeTourneau, 3 Regent Court, said he was in favor of this zoning text amendment, noting that anyone who has lived in Wallingford has known this to be an eyesore and as a sitting member of the Town Council, received the largest number of complaints about. He said he gave the EDC credit for cleaning up the property, and at their expense, cleaning up the property next door which doesn't belong to them. He said he has gone out there numerous times and looked at the property from the road and the street, and this will be a plus for the Town. He said the only thing missing is a sign which belongs there and urged the P&Z to pass the ordinance.

Ms. Costello said she appreciated the Applicant taking the appropriate approach to modifying the signage regulation and their thorough job of reporting of the existing buildings.

Chair Seichter entertained a motion to close the public hearing.

Mr. Fitzsimmons: Motion to close the public hearing at 7:50 p.m.

Mr. Leonardo: Second

Vote: Unanimous

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Motion that the Commission approve a Zoning Text Change Amendment for Shipman & Goodwin, LLP, to modify Section 6.9.E.6 to allow wall signs to be located as high as the approved height of the building structure or, when located on a parapet, no more than five (5) feet above the adjacent roof line, in the I-5 (Interchange District) zone, as proposed in the updated submission package dated July 6, 2015, Tab L, document titled "Proposed Zoning Amendment, Wallingford Zoning Regulations 6.9.E.6 a,b and c" because: it clarifies Wallingford Zoning Regulation and is consistent with similar signage allowed in industrial zones in Town, subject to:

1. This regulation should be effective July 31, 2015.

Mr. Leonardo: Second

Vote: Leonardo-yes; Kohan-yes; Fitzsimmons-yes; Menard-yes; Seichter-yes.

Application approved.

4. Special Permit Modification/Live Nation Worldwide, Inc./ 95 South Turnpike Road (Toyota Oakdale Theater) - **#408-15**

Mr. Menard read the Legal Notice and noted all correspondence for the record: letter from Maddalena Ferrante, dated June 8, 2015; letter from Irene Kowerko, dated June 9, 2015; letter from Science Park New Haven, received June 18, 2015; letter to P&Z Chairman James Seichter to Atty. Joan Molloy, dated July 9, 2015; letter from Corporation Counsel, Town of Wallingford, Janis Small, dated May 29, 2015; memorandum to the P&Z from Atty. Small, dated July 13, 2015; memorandum to the P&Z from Town Planner Kacie Costello, dated July 13, 2015; letter to the P&Z from the Lorene Anderson, received July 13, 2015.

Mr. Kohan, P&Z Commission member, recused himself citing his son having part-time employment with Live Nation.

Appearing in front of the Commission was Atty. Joan Molloy, Loughlin Fitzgerald; Jim Koplik, representing Live Nation Worldwide; Atty. Daniel Marra.

Atty. Molloy distributed exhibits to the Commission before beginning her presentation. Atty. Molloy said the Applicant appeared before the P&Z at its June 8, 2015 meeting with the primary focus being the parking layout and traffic circulation. She said the proposal to allow the use of The Dome for events was also presented. She said based upon the comments of the P&Z after this meeting and Ms. Costello's June 26' 2015 memo, it appeared to the Applicant that the concerns regarding the proposed modifications to the Special Permit had been satisfactorily addressed. Atty. Molloy said the sole remaining issue is the "No Noise" condition. She said the

condition states: "the entire facility will be totally enclosed, thus producing no outside noise during the performances". She said the Applicant has argued during its appeal of the Cease & Desist order that the "No Noise" condition refers to noise produced outside during the performances rather than noise which is produced inside the Theater, but can be heard outside. She said while Ms. Costello noted in her memo of July 13, that the ZBA did not agree with this argument, the Applicant doesn't believe this precludes this Commission from interpreting its own condition of approval.

Atty. Molloy said the Applicant believes this interpretation is logical, as the application before the Commission at that time was to move the Theater from an outdoor tent to an enclosed building. She said Ms. Costello's initial interpretation of that condition as evidenced by the March 9, 2011 memorandum, agreed with the interpretation that the condition met no noise could be generated from outdoor locations. She urged the Commission to consider this position and accept this interpretation of the existing condition.

Atty. Molloy noted that should the Commission decide not to agree with the foregoing meaning of the existing condition, the Applicant hopes that the Commission agrees that the Town's current interpretation of the condition is unreasonable and needs to be modified. She said the uncertainty created by this condition has impacted the Theater's operations. She said several performers have decided against booking with the Theater citing concerns the Theater will be closed by the Town. She said certain educational facilities, which have used The Dome for graduation, proms and charitable organizations which used The Dome for fundraisers, have stated they are seeking other venues. Atty. Molloy said the economic impact of the "No Noise" enforcement has resulted in only four shows booked this summer, in comparison to 13 last July and August. She said the Applicant has always questioned as to exactly how many neighbors were complaining about the noise levels. She said the Applicant believes based on the established facts, (police report), shows that all the complaints were being made by one or two individuals who acquire their property after 2008.

She said despite the fact that the number of complainants were not large, the Applicant wanted to be responsive and commenced steps to moderate the sounds coming from the Theater which front of house to 100 dba which was instituted effective January 2015; the installation of a special sound door near the Beryl Lane properties which went into effect in February 2015; the installation of mats below the sub-woofers to absorb vibrations which went into effect in April 2015 and the setting of end of performance curfews which have been in effect for several months.

Atty. Molloy pointed out that all of these changes occurred after the final testing by the Town's expert which Atty. Small noted was on Dec. 19, 2014. Atty. Molloy said there have been 34 performances since January including 4 EDM and 3 hip-hip shows. She said these changes have resulted in a dramatic drop in the number of complaints. She said many nearby neighbors have told Oakdale representatives that they are satisfied that their noise concerns have been resolved by the actions taken by Live Nation. She said some submitted letters to the

Commission attesting to this and cited a letter written by Alice Souza and emails from a Brentwood resident who states she hasn't been impacted by noise. She said two of these people about the property of the complainant. Atty. Molloy noted the Applicant had to give notice to 285 abutters. She said the feedback summary from Atty. Small demonstrates the complaints are not coming from a small majority of the abutters, but primarily one or two people. She noted that Atty. Small solicited comments from the individuals in May 2015, based on what she was told by Atty. Small, and noted that several referred to "hearing noise or sound" but did not say it was disturbing, excessive or unacceptable. Atty. Molloy said the Applicant hoped that by understanding the sources of the complaints, together with the positive comments from the immediate neighbors, would be sufficient evidence that these voluntary measures are working.

Atty. Molloy noted that while the Applicant has argued that they are not violating the existing conditions, since the performances are not producing noise outside, the Applicant understands that the P&Z may wish to add additional protections for the neighbors and suggest the following:

Live Nation Worldwide or any future operator of The Oakdale, shall impose on all performers a contractual requirement that sound levels shall not exceed 100 dba at the front of house; Performances which take place Monday through Thursday, shall end at midnight, and performances which take place Friday, Saturday and Sunday, shall end by 12:30 a.m. Atty. Molloy said the Applicant believes the foregoing creates enforceable conditions that will continue to reduce sound levels coming from the Theater, while helping Live Nation convince performers to book shows at the Theater because it will not be closed by the Town.

Chair Seichter said staff would have appreciated receiving this letter earlier instead of at the end of the business day on Thursday. He said this would have given staff more time to review. Atty. Molloy said she hand delivered the letter to Atty. Small and explained the reason, but noted she explained some of the reasons behind the delay in getting the letter out, but stressed that what was being presented to the Commission was an argument they were familiar with that the no noise condition meant that was no noise being produced outside the Theater which was discussed with the ZBA and the suggested Conditions of Approval which were voluntary measures which had been discussed with staff and Atty. Small repeatedly.

Mr. Fitzsimmons asked Atty. Molloy regarding the no noise condition, what was meant by "front of the house".

Atty. Molloy said after one comes up to the first section, there is a sound table where all of the sound levels and balances are set and is a term describing where the sound table is located. Mr. Fitzsimmons asked about contractual requirements. Atty. Molloy said that when the show is being set up, sound levels are set and are not allow to preset the level of sounds not to be above 100 dba. Mr. Fitzsimmons said this is self-imposed, but won't go above 100 dba. Atty. Molloy said it is more than self-imposed, there is Oakdale staff on site to monitor and even before the performers come in, they know they can't go above 100 dba. Mr. Fitzsimmons asked if the same standards would apply if the Theater was rented out. Atty. Molloy said this is why

this is contractual and no matter who is coming into the Theater, there will be a clause in the performers contract that noise cannot exceed 100 dba and became effective in late January. Mr. Koplik explained there were shows that turned down the Oakdale. He said the contractual limit pre-dates the compliance before the performers even accept the booking. Atty. Marra said the 100 dba limit has caused loss of artist and noted the Oakdale is willing to accept this. Mr. Koplik said the shows usually begin weekdays at 7:30 p.m. and weekends at 8 p.m. and noted that most shows end by 11 p.m. Chair Seichter asked for a sense of what the 100 dba limit at the front of the house would be like outside. Atty. Molloy said from her client's perspective, any sound that leaves the Theater is generally not greater than the ambient noise that exists when there are no performances.

Chair Seichter asked for a dba level. Atty. Marra said the ambient noise runs between 30 and 55 dba at night and noted complaints are down because of the actions taken by the facility to bring the ambient noise down. Chair Seichter asked how this impacts the C Weight (bass) noise. Atty. Marra said the base tones are embed in the numbers above. He said there is no separate appropriate test for the C Weight which is an older scale no longer used to regulate sound by the State or the Feds. Chair Seichter noted a third party audiologist letter referenced by Atty. Molloy stating there was some disagreement between what the Town third-party audiologist produced and what this gentlemen did but no information was provided. Atty. Molloy said the noise ordinance and compliance with this ordinance is not the matter in front of the P&Z.

Chair Seichter asked about the parking and the buses brought up by a member of the public. Atty. Molloy said almost all the buses are down towards the loading docks, not closest to Beryl Lane. She noted in one case, where there were 13 buses, some parking took place in the VIP area. Chair Seichter spoke about a letter addressing the tailgating. Atty. Molloy said the policing of this is ongoing by Oakdale. Chair Seichter said when he looked at the 1989 minutes, this dealt with the noise coming out of the Theater rather than noise created outside.

Mr. Zabrowski spoke about the practices exceeding the noise level and this being part of the no noise condition. Ms. Costello said if the Applicant wishes to utilize their interpretation of this condition, that clarifying language to this effect be proposed. She said she wholeheartedly supports the curfews and is appropriate to the location and believes Sunday night is work night and school night and should be included in the weekday time limitations which are stringent. She said the weekday time limitations seem late to her and noted typically that ordinances define daytime hours as being until 8 p.m. and said midnight is still late. She asked about the proposed condition #1: she asked what would be the resolution if the performer didn't comply with this contracted agreement.

She said her biggest concern was there was no verification to what the impact of the 100 dba in front of house limitation would have and the verification of the improvements made so far. She said she would like to see documentation to this effect and without the documentation, said she felt uncomfortable supporting that condition. She said the Applicant is proposing this so if the P&Z is inclined to accept this as a condition of approval, it should be stated on the record that

this restriction may not solve the sound issues. Atty. Molloy said she was not aware that Ms. Costello believed the Applicant needed to propose alternate language to the condition. She said the Applicant was interpreting the word "produced". She said this is the Commission's condition and noted the Applicant submitted an application to modify stating the Commission could leave it as it is or interpret "produce" as emanating from the inside of the Theater and does not constitute a violation of the condition. She said the curfews are based on historic times when events which have taken place on weekdays versus weekends. She said there are many individuals who consider Sundays as still part of the weekend.

Atty. Molloy addressed the verification that the system is working. She said the people who originally made the complaints, have almost all stopped making the complaints. Atty. Molloy said if one looks at the feedback summary provided by Atty. Small, there is a break between March and May. She said there were complaints about an Acapella group and an eight-day performance of which one day a complaint was received. She said Atty. Small sent out direct inquiries to neighbors in May who commented they couldn't hear any noise or it wasn't too loud. She said to her, this is the evidence this condition is working.

Chair Seichter entertained Public Comments at this time.

Maddalena Ferrante, Beryl Lane, said it was unfortunate that she has been mis-understood in the Media and emphasized this is not about closing down Oakdale or saving the Dome, but respecting neighbors and obeying the law has to do. She said over the years Oakdale has gotten so loud there have been countless sleepless nights and irritable days along with severe headaches and anxiety because of extreme inconsideration of the Oakdale which include loud daytime rehearsals and concerts which sometimes ran into the early morning hours, as far as 2 a.m. on the weekdays. She said the noise was so loud at times, radiators and pictures have vibrated on the walls and eyes tearing because of the noise. Ms. Ferrante said she has sung professionally since age 16 and her son and husband are also musicians. She said the Oakdale was not built to handle today's music technology which allow volume levels to be raised without distortion.

Ms. Ferrante said while the bass is the major problem, the vocals can also be heard and noted this is not a problem at Foxwoods or Mohegan Sun because their venues are soundproofed. She said Oakdale is not soundproofed and they have no intention of soundproofing. She said the isolation pads do nothing to control the noise and noted that even when the Cease & Desist was issued, the concerts were still loud. She spoke about the June 20 Steve Miller concert which she said was so loud, her bedroom radiators were vibrating. Ms. Ferrante said people have called the Police over the years about the noise, but were told that Wallingford doesn't have a noise ordinance and their hands are tied. She asked why people would continue calling the Police if that was the response from Law Enforcement. She said we are entitled to peace & quiet and said that Oakdale is trying to make it appear that the complaints were coming from one residence. She said there have been complaints from all over Wallingford including people on S. Whittlesley which is approximately two miles from the Oakdale. She said the reason there

are reports on her complaints is because she insisted a report be written. Ms. Ferrante said since this has happened at the Oakdale, her family has received death threats on the Internet, threats to damage their home and countless ridiculous comments. She said she has never called the police on her neighbor in the seven years she has lived in Beryl Lane. She said she was appalled at the person who is in charge of "Save the Oakdale". She said if the Oakdale wants to close down, it is because they wanted it closed down. She said Oakdale is a multi- billion dollar corporation who can well afford to correct the noise issue.

Ms. Ferrante said the Oakdale has not abided by the law with the no noise ordinance and are requesting a contract of 100 dba at front of house. She said if 85 decibels causes hearing damage, one can imagine what she and her family will be subject to at 100 decibels. She said it will get worse. Ms. Ferrante spoke about the curfew saying that Oakdale is asking permission to break the law and how does this fix the problem. She said the buses are parked facing Beryl Lane and they run all night at times and sometimes pull out of the parking lot at 4 a.m. She said this isn't right and still above the decibel level. She said to her, a Cease & Desist means one ceases until the problem is solved. She said she has been going through this for seven years with her family and have been calling the Town for six years and have gotten nowhere.

Ken Lloyd, Washington Street, said there is a thing called know what you are getting into when you get into it. He said this Theater has been in Wallingford for years and when there is a concert, there is noise. He said he lives on the other side of Rt. 15 and hears no noise from Oakdale but hears fire engines all day long coming down Quinnipiac Avenue. He said complaints from a few people, shouldn't ruin it for everyone else. He said if everyone is complaining about Oakdale, he didn't seem them here tonight. He said he supports Oakdale and noted only being able to have four concerts is a travesty. He said Oakdale should be given the freedom to do what they are doing. He said Oakdale has made efforts to correct problems.

John LeTourneau, 3 Regent Court, said he didn't believe it was as much about the music and the shows and contracts with the various artists, he believed the problem is what is 100 dba or 50 dba. He said everyone on the Ordinance Committee of the Town Council didn't know either but made a suggestion that the Town's sound expert and Live Nation's sound expert to invite us over there as a group to see what 100 dba is in front of house. He said they were looking to meet with the experts and have the sound generated and suggested a joint workshop to see what 100 dba in front of house sounds like outside the Oakdale. He said he believed the invitation was still in effect and go over to Oakdale and listen.

Mr. LeTourneau said the night of the Town Council meeting, he went over the Beryl Lane when a concert was taking place and heard soft bass. He said he went over to some other neighborhoods and depending upon where one was located; the bass could or could not be heard. He noted when he was on Beryl Lane, a car alarm kept going off. He said he asked the neighbor who told him every time there is bass, the car alarm goes off and noted this was a small show which ended around 9 to 9:30 p.m. He suggested a joint meeting tween the Town Council and P&Z, and obtain noise experts to see what 100 dba sounds like.

PLANNING & ZONING COMMISSION MEETING
JULY 13, 2015

Mark Pivin, 12 Gregory Road, Wallingford, said if Oakdale isn't able to soundproof their facility, Oakdale might be able to soundproof the residences of the people in the area.

Charles Kelman, 80 Tremper Drive, Wallingford said he worked at Oakdale at 16, and attended concerts when heavy metal bands played and no one complained. He asked that Oakdale remain open.

Andrea Rodnick, Killingworth, said the Oakdale was a sentimental part of her childhood and remembers when it was a tent. She said she helped get the signatures to save the Oakdale and will be a shame if the doors close. She said she was at the Crosby Stills & Nash show and when she went to the restroom and the doors closed behind her, she couldn't hear any music.

Mike Lapatino, 18 St. Andrews Circle, said he applauded the Town for listening to peoples complaints but doesn't agree with some of them. He said he respects peoples privacy, but when one moves near an airport or train station, one hears the noise. He said this is the same for a concert venue. He said if this was a weekly or nightly occurrence, he could understand the complaints. He said he worked for a radio station in New Haven which does a lot of advertising for this venue and is a great source of income. He said the Oakdale is the crown jewel of Wallingford and is one of the reasons he moved to Wallingford. He said during the Led Zeppelin show which took place in the Dome, he walked outside and only heard ambient noises. He urged the Commission to stop the Cease & Desist.

Alice Souza, 125 Cook Hill Road, said there are no problems with noise from the Oakdale. She said she has lived in the area for 54 years. She said her car alarm went off the other night and there was no show at the Oakdale.

Michael Hutzel of Fairfield said he has been coming to Oakdale for years and has seen no problem with noise once the doors are closed. He said he attended Hall & Oates last year and left early and couldn't hear the concert outside. He said he is the Administrator for Save the Oakdale Group and believes in the cause and the music. He said he just purchased a home near I-95 and hears noise all night long. He asked the Commission to think things through before making their decision.

Peter Malone, 11 Autumn Leaves Rd, said this is an emotional issue and spoke about the decibel level and noted that every speaker tonight exceeds the Town's ordinance on decibel levels. He said one must look at the Town's ordinance and can it ever be complied with. He noted that when Oakdale was an open air theater, it was much louder than now. He said one can't look at the ordinance as it exists now, it can't be enforced.

Maddalena Ferrante, Beryl Lane, said Oakdale is not the venue it used to be. She noted that years ago, there were no sub woofers. She said the noise issue needs to be measured on a C Scale not an A Scale level which doesn't measure vibration.

End of Public Comment – 9 p.m.

Mr. Fitzsimmons asked the Applicant to further discuss the tour buses and trucks and the idling. Mr. Koplik said the buses are dropped off in the upper lot but they can't stay up there because it is a small area so they are moved down to where the trucks are located. Mr. Fitzsimmons asked the Applicant to designate the tour and bus parking on the plan so it would be on file with the Town. He said there is a lot of documentation and there are three requests: the events in the dome, the site plan modification and the noise ordinance. He read a memo from the Town Planner and Town Attorney which stated enforcement of the noise ordinance was not the responsibility of the Planning & Zoning Commission. He said he was in favor of removing this condition from the Special Permit. He said 25 or 26 years ago, he voted on the original application. He said this noise condition was offered by the Applicant at the time which was accepted by the P&Z. He said the concern back then was about the traffic and now it is about the noise. He said he didn't see how noise can be a zoning enforcement issue and staff is overloaded with zoning compliance issues. He said when conditions are put on a Special Permit, they should be enforceable.

Mr. Fitzsimmons said as far as the curfew, after midnight on Sunday would be unreasonable. He said he preferred Sunday through Thursday and nothing after midnight. He said he can support what the Applicant is offering, but doesn't want to incur another zoning enforcement problem.

Chair Seichter said when the application was originally approved; the building wasn't constructed with the no noise ordinance in mind. He said he understands the "should have known" position, as far as moving to an area with a concert theater, but noted Live Nation when Live Nation purchased the property, they may not have been aware of conditions of Special Approval concerning the no noise. He said there is another side of the "should have known" game. He said if this application was being reviewed today, he didn't believe that restriction would have been put in here. He said he supports removing the no noise position on the application and said there are noise ordinances, but is not within the P&Z's jurisdiction to enforce.

Chair Seichter said he is looking at 11 p.m. Sunday through Thursday for performances to end and Fridays and Saturdays, the performances should end at midnight. He spoke about rehearsals and some type of restrictions as to when they should end suggesting 11 p.m.

Ms. Costello said there are three components of the proposal of the special permit. She said the P&Z may want to act on them individually and the three parts of the proposal of the noise ordinance independently or state specifically what won't or will be approved. She recommended in terms of the discussions last month, she recommended Atty. Molloy's June 5, 2015 letter to her be made a condition of approval as noted in her June 26 letter and the memorandum of VHB dated June 8, 2015. She said there were two proposed floor layouts regarding the Dome, one is acceptable to the Fire Marshall and one with concerns. She recommended a condition of approval that "Layout B" must be approved by the Fire Marshall prior to any implementation. She said in her June 7 letter to Live Nation she recommended there be a two-hour minimum between the ending of one event and the beginning of another

event. She said she believed the Applicant represented they don't hold a show at the Dome and the Theater on the same day. Ms. Costello referred to the condition in regards to Dome events be modified stating that no more than 4,800 people can be in attendance on the premises at any given time, whether it be a combination of events or a single event based on the parking provided. She said the Applicant agreed to this. Atty. Molloy said she wasn't 100% June 8th memo was entirely accurate of the final representations made during the hearing. She said the Applicant doesn't have objections in complying. Atty. Molloy referenced the 11 p.m. curfew on Sunday nights and during weekdays and said one must be realistic and noted the Applicant proposed the times based upon where there won't be a zoning violation. Mr. Koplik said he wanted to end every show at 11 p.m. and noted most shows end before 11 p.m. He said the reason midnight was chosen was to account for people entering the Theater at a slow rate and performers being late. He said he doesn't expect 98% of the performances to go past 11 p.m. Atty. Molloy asked if there will be time limits on rehearsals. Chair Seichter said he was looking at some times a lot less, not 12:30 p.m. or midnight.

Mr. Fitzsimmons spoke about the curfew and recognized the neighbors and their proximity and said he was extremely sympathetic. He said he could support 11:30 p.m. for the curfew. Mr. Leonardo said without more background on when the concerts generally end, it would be hard to make a judgment and felt he would be picking times out of a hat. He said midnight seems reasonable to him, but noted he doesn't live next door to the venue. He said he would hate to be back here in six months with another zoning violation. He said as far as rehearsals, which could go on two or three days before the concert, he said he could support limiting those times. He requested the Applicant give insight on how long rehearsals last.

Mr. Menard and Mr. Zabrowski said they both supported the 11:30 p.m. curfew. Mr. Zabrowski said the rehearsals should end before midnight but would have to have more information. Mr. Koplik said he was fine with rehearsals ending at 10 p.m. and said he would appreciate a midnight Sunday through Thursday and 12:30 p.m. on Friday and Saturdays and noted these times are exceptions not the rule. Ms. Costello said it is important to recognize that the P&Z's purview is the make a determination of what is appropriate for the health, safety and welfare of the community and in accordance with the Zoning regulations. Atty. Molloy said she hoped the P&Z would allow an institution which has been in Wallingford for over 60 years to continue operating and noted the Applicant has been responsive to the complaints.

Chair Seichter entertained a motion to close the public hearing at this time.

Mr. Fitzsimmons: Motion to close the Public Hearing at 9:27 p.m.

Mr. Leonardo: Second

Vote: Unanimous

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Based on the totality of the record, motion to approve a modification to an approved Special Permit and Site Plan, as follows for LiveNation Worldwide, Inc.

Proposed uses: Events shall be permitted in The Dome subject to the following conditions:

1. Total number of patrons shall not exceed 4,800 people for events held in both the Dome and the Theater;
2. Comments from the letter from Atty. Joan Molloy dated June 5, 2015;
3. Comments from the Town Planner dated June 3, 2015
4. Final site plan to be approved by the Wallingford Fire Marshal's office prior to any use of the revised facility.

Mr. Leonardo: Second

Vote: Leonardo-yes; Fitzsimmons-yes; Menard-yes; Zabrowski-yes; Seichter-yes.

Motion approved.

Chair Seichter entertained a second motion on the application.

Mr. Fitzsimmons: Based on the totality of the record and in light of Wallingford's zoning regulations, motion that the Commission approve for Live Nation Worldwide a modification to their approved special permit and site plan as follows:

2. VIP and "paid parking" shall be permitted as shown on plans entitled "Oakdale Theater, 95 S. Turnpike Road, Wallingford, Connecticut, Compilation Plan for Cook Hill Access Management", dated May 8, 2015, subject to the following conditions:
 1. Filing of an updated parking plan including designated areas for all tour buses and entertainer buses and/or trucks;
 2. Comments in the letters from Atty. Joan Molloy to the Commission dated June 5, 2015;
 3. Comments in the letter to John Thompson, Town Engineer, dated 6/8/ 15, from the VHB Memorandum

Mr. Leonardo-Second

Vote: Leonardo-yes; Fitzsimmons-yes; Zabrowski-yes; Menard-yes; Seichter-yes

Motion approved.

Chair Seichter entertained a third motion on the application.

Mr. Fitzsimmons: Motion that the Commission approve a modification to an approved special permit site plan for Live Nation Worldwide, based upon the totality of the record, public comments, and information obtained and discussed at the public meetings, subject to the following conditions:

- 1. Remove the "no noise" condition on the original approval, and to replace it with the following condition:**
- 2. Performances at the Oakdale or Live Nation Worldwide facility and any other future operator of the Oakdale, shall be allowed to hold performances Sunday through Thursday ending no later than 11:30 p.m., and performances on Friday and Saturday shall end by midnight;**
- 3. 3. All rehearsals for any performances shall conclude by 10 p.m. seven days a week.**

Mr. Leonardo: Second

Vote: Leonardo-yes; Fitzsimmons-yes; Zabrowski-yes; Menard-yes; Seichter-yes.

Motion approved.

NEW BUSINESS

5. Site Plan (Accessory Apartment)/Franceschetti/36 Cheshire Road - #218-15

Mr. Menard noted all correspondence into the record: letter from Kacie A. Costello, Town Planner to Gayle Franceschetti, dated June 3, 2015; interoffice memorandum from Erik Krueger, Senior Engineer, Water & Sewer Divisions, to Kacie Costello, Town Planner, received June 9, 2015; letter from Kacie Costello, Town Planner, to Gayle Franceschetti, dated June 24, 2015; various maps.

Appearing in front of the Commission was Gayle Franceschetti, owner/Applicant, 36 Cheshire Road, Wallingford, Ct. Ms. Franceschetti said this is an application for an accessory basement apartment at 36 Cheshire Road. She said the footprint for the entire home is 1,120 ft. and is a 24 by 40 ft. outside measurement for the basement. She presented a site plan drawing indicating what areas would not be part of the application. She said she took the storage areas, added them up and came up with 395.25 sq. ft. and subtracted the outside footprint area resulting in the entire livable area of the accessible apartment to be 724.75 sq. ft. She said this does open out to grade level on one side. Mr. Zabrowski asked if this application had been reviewed by the Fire Marshal. Ms. Franceschetti said this application went through all the zoning requirements and noted there were two exits, by the entryway and up the stairway.

Ms. Costello asked about the living area of the apartment being 724 sq. ft. and whether this included the outside walls. She said the Commission could make a condition of approval that she or the Assistant Town Planner would go to the site and take a measurement after the approval to ensure figures are consistent.

Chair Seichter entertained public comments at this time.

There were no public comments.

Mr. Fitzsimmons asked if the apartment had yet to be constructed. Ms. Franceschetti said this was already in existence because it was a basement apartment since 1980. Ms. Costello said this was an existing accessory apartment and this was brought about as the result of an enforcement action.

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Motion to approve a site plan for Franceschetti for a 724.75 sq. ft. accessory apartment at 36 Cheshire Road subject to:

- 1. An inspection by the Town's Zoning Enforcement Officer.**

Mr. Zabrowski: Second

Vote: Unanimous

6. Site Plan/DeMartino Colony Realty, LLC/920 South Colony Road - #216-15

Chair Seichter noted the Applicant was not in attendance. Ms. Costello said she notified the Applicant and his Attorney and noted this application may still not be ready to continue. She recommended denial without prejudice because of insufficient information.

Chair Seichter entertained a motion on the application.

Mr. Fitzsimmons: Based on the recommendation of the Town Planner and insufficient information submitted by the Applicant, motion to deny a site plan for DeMartino/Colony Realty, LLC, to add retail use, a greenhouse addition, a processing/distribution bakery, and a restaurant, and make associated minor modifications to the parking lot, as shown on plans entitled "Site Layout Plan Showing Proposed Greenhouse Addition, 920 S. Colony Road", dated May 11, 2015.

Mr. Leonardo: Second

Vote: Leonardo=yes; Fitzsimmons=yes; Kohan=yes; Menard=yes; Seichter=yes.

Application DENIED.

7.Planning& Zoning Fee Structure Modification

Ms. Costello said this is not a formal application by the Commission or anyone else, but thought it appropriate to take a formal action. She noted that several discussions have taken place and she noted she provided fee structure documentation from several other municipalities. She recommended paper copies increase from 25 cents to 50 cents; copies of the zoning regulations increasing from \$15 to \$25; subdivision regulations from \$5 to \$15 and POCD from \$15 to \$35. She said the zoning regulations are free online and if requested the other documents would be mailed out for free.

Ms. Costello said the other items are new and different proposals such as an additional fee (proposing \$150) for applications which are required to address an active zoning violation. She said the reason is because when there is an application that is in response to a zoning violation, it takes a lot more documentation and review and processing time. Ms. Costello said the downside to this, to some degree it is an added expense for someone, but is a result of their action in violating the zoning regulations. She recommended a use variance application fee be increased from \$280 to \$380; additional fee for postponement of a public hearing after project has been advertised unless postponement is at the request of the Town, recommended at \$50 because of the average cost of running those two public hearings before the meeting; revision to a valid site plan recommended fee increase from \$150 to \$200. She said if this were handled administratively, the cost would remain at \$130; verification of zoning compliance recommended at \$30.

Mr. Fitzsimmons asked about the additional fee for applications required to address an active zoning violation and whether it was \$150 per violation. Ms. Costello said this would be up to the Commission. Mr. Fitzsimmons said he was in favor of a one-time fee. He recommended adding an (s) to violation. He also asked about verification of zoning compliance. He asked why there were a lot of requests for this. Ms. Costello said she receives a lot of requests for commercial properties from people located out-of-state which require staff to perform these duties for them.

Chair Seichter entertained a motion on the Fee Structure.

Mr. Fitzsimmons: motion to approve the modifications to fee structure as proposed subject to NO CONDITIONS and effective, AUGUST 1, 2015

Mr. Leonardo: Second

Vote: Unanimous

ELECTION OF OFFICERS – TABLED

SURVEY WAIVER REQUEST

9. Brian Mascia/18 Town Farm Road

Mr. Menard noted all correspondence into the record: letter from Brian Mascia to the Planning and Zoning Commission received May 8, 2015; site plan maps received May 8, 2015; photos of the home received May 8, 2015.

Appearing in front of the Commission was Brian Mascia, owner/Applicant. He told the Commission he was looking to add on to his home, and a 24 ft. dormer to the second story of the south side and to connect the home to the garage with a 13 ½ ft. by 23 ft. breezeway. He said what he plans to do falls within the R-18 zoning requirements, he requested a waiver on the survey.

Ms. Costello said the plans conform. Mr. Kohan asked if this could have been done administratively. Ms. Costello said this possibly is an issue which should be raised because there isn't a provision to allow this to be done administratively. She said many of these are straight forward.

Chair Seichter entertained a motion on this application.

Mr. Fitzsimmons: Motion that Section 8.3B requiring submission of a Zoning Location Survey, per Section 8.3.C, based upon the Applicant's request and information discussed at this Meeting.

Mr. Leonardo: Second

Vote: Unanimous

Application approved.

BOND RELEASES AND REDUCTIONS

10. Greene-Woronick Builders/84 New Hanover Street

Ms. Costello said this is not ready to be released.

REPORTS OF OFFICERS & STAFF

11. Administrative Approvals

- a. Trieu/Change of Use/383 North Colony Street - **#310-15**
- b. MAD Associates, LLC/Site Plan/970F North Colony Road - **#217-15**
- c. Jim Frey – CT Wallingford/Site Plan/1181 Barnes Road - **#219-15**
- d. Lori Hoelscher/Change of Use/320 Main Street, Yalesville - **#311-15**
- e. T.O.W. – Engineering Dept./Site Plan/121-135 North Main Street - **#220-15**
- f. MAD Associates LLC/Site Plan/970F North Colony Road - **#222-15**

No questions from the Commission.

12. Land Use Academy Basis Training

Ms. Costello said this is from the Assistant Planner regarding a flyer about land use training. It was noted that if 15 people attend, the program will be conducted free of charge. She said she attended several years ago and is very informative.

13. ZBA Decisions of June 20, 2015 – MEETING CANCELED

14. ZBA Legal Notice for July 20, 2015

Ms. Costello said there is a variance application from Choate Rosemary Hall for a new student center facility. She said they also have an application which is on the P&Z receipts list for August for two Special Permits, along with two other applications from the public for a home variance and a garage size.

15. Zoning Enforcement Log

Ms. Costello said the Dept. is attempting to get this updated. She said she included a list of the closed complaints from 2015 so far and the summary of standard zoning enforcement procedures. Mr. Kohan thanked Ms. Costello for the enforcement procedures. He noted that some of the outstanding violations some going back to 1999 are now off of the list. He asked if some of these are still outstanding but in the Legal realm. Ms. Costello said this was discussed last month and said she believed unless there was an error, internally when she has these reports run, it was discussed having a report which only goes back to a certain date to remove the ones which were older and referred to the Legal Dept. She said she didn't believe this was done and said they should still be documented somewhere.

Mr. Kohan said it is off of the zoning plate once it goes to the Legal Dept. Ms. Costello said this is true for the most part except for where there are ongoing active court cases. Mr. Kohan said if one of the zoning complaints is not going to come back to the Commission, it isn't necessary to see it here. Ms. Costello suggested she get together with the Legal Dept. and go through the longer outstanding violations which have been referred to them. Mr. Kohan said these are long outstanding and should be resolved and noted the owner/violator has the right to have this resolved.

Mr. Zabrowski asked about the sign violations. Ms. Costello said the sign violators on this list are typically repeat long-term offenders and noted the ZEO has initiated an intense sign compliance program. She said signage violations tend to pop up and they get addressed and aren't typically recorded if dealt with in a timely manner. Mr. Zabrowski asked if there was a way the sign violations could be reduced possibly with a regulation change. Ms. Costello explained that what is currently being done is to visit every property and ensure everyone starts on equal footing and has an understanding. She pointed to Rt. 5 where there is a noticeable improvement. She said the ZEO hasn't fined anyone yet. She said he visits the property, speaks with the property

owner and gives them time to comply with the sign violation. She the goal is not to take people's money, but for everyone to follow the same rules and be in compliance. Mr. Zabrowski said he saw a signage violation which dates back to 2012. Ms. Costello said this is a situation where there were problems, they were addressed and kept on the log to monitor, but in terms of signage it could probably come off the list, but this seems to be a summer problem. She said the citation ordinance helps in terms of enforcement as well as staff of which there has been a decrease.

16. APA Report- 91 North Turnpike Road

Ms. Costello said this was a violation of the aquifer protection regulations by the Town. She provided a brief report but noted there haven't been any real issues. Mr. Kohan thanked Ms. Costello for looking into this issue. He said there hasn't been a meeting as the Aquifer Protection Agency and spoke about quarterly meetings. He wondered if there was anything regulatory we as the agency should be looking at because it was important. Ms. Costello said there are yearly inspections upcoming and suggested in September there be a meeting as the Aquifer Protection Agency and the results of the inspections can be discussed.

DISCUSSION

17. Manufacture/Retail Sale of Alcohol

Ms. Costello said there has been a change in State law in regard to manufacturer of alcohol which allows them to have a limited amount of retail sales. She noted the Commission approved in 2012, an alcohol manufacturer/distillery who wants to have the ability to conduct retail sales. Ms. Costello said there is a zoning regulation which prohibits the sale or a permit for the sale of alcohol for off premise consumption within 1,500 ft. of an existing approved permit for the sale of off-premise consumption, not including bars but including package stores, beer permits and grocery stores.

She noted that when the regulation was created, manufacturers couldn't have retail sales so the regulation doesn't speak to retail sales under a manufacturer's permit. Ms. Costello said there is this provision for limited retail sales. She said she recommended Mr. Kotowski, owner of Elm City Distilling, come in front of the Commission to discuss this issue. She said a regulation/exception was made when the wine/gift baskets were approved by the State so there would be an option to make a regulation modification.

Eric Kotowski said the State law has changed which now allows retail sales on premise and said he is looking to add this as an accessory. He said it isn't like a package store because he is the manufacturer and is more of a tourist attraction. He noted that the package stores are in support of this. He said he has a distillery which manufactures whiskey and vodka and would sell what he produces on-premise.

Mr. Kohan said he supports this idea and said other Towns have opened up special zoning areas to attract this and is a newer up and coming business which we should try to allow.

Mr. Fitzsimmons and Chair Seichter said they could support modifying the regulations. Ms. Costello said she will work with Mr. Kotowski on regulation language.

18. T.O.D. (Transit Oriented Development) Grant

Ms. Costello spoke about the draft scope of services and changes which she presented to the Commission and spoke about in December. She said the Town applied for a grant which they received. She said the Town is looking to build off of this study to get a more in-depth plan of development around the train station. She said this will be separate from the Plan of Conservation and Development. Ms. Costello asked the Commission for comments. Chair Seichter questioned the timing saying he would like to see the POCD done by the end of the year. Ms. Costello said there would be an end date of approximately the end of the fiscal year.

Chair Seichter asked Ms. Costello to provide the Commission with a more formal timeline of meeting dates so as to be able to coordinate with the various committees. Mr. Fitzsimmons asked about page 3, parking and whether the Town would be taking the study the former Town Planner Linda Bush did and updating it or whether there would be a fresh approach. Ms. Costello said this would only be for the T.O.D. study area which is a quarter to a half mile radius of the train station location.

Mr. Kohan spoke about the boulders at Vietnam Veterans Memorial Field. Ms. Costello said she visited the site and noted the boulders were large. She said she spoke with Public Works and informed them they need to apply for a modification to their site plan approval. She said they will probably apply administratively.

Mr. Kohan spoke about the letter from the winery workshop. He said it was mailed to him on July 2 and got mailed again on July 7 and said he received in on July 9. He said when he came to the workshop and saw a Commission member with a document and was informed it was received in the mail, he said he felt upset and left out of the conversation because he wasn't able to obtain the document in time for the workshop.

Mr. Kohan said this happens frequently and is in the best interest of the Town to get this information to the Commissioners. Ms. Costello said this information is sent out as soon as they receive them and said the Town uses a bulk mailing system and said she has gotten complaints. She said she would look into this with the Purchasing Dept.

ADJOURNMENT

Mr. Kohan made a motion to adjourn the meeting at 10:35 p.m. Mr. Fitzsimmons seconded the motion which passed unanimously.

Respectfully submitted,

Cynthia A. Kleist

Recording Secretary