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**PLANNING AND ZONING COMMISSION  
Town of Wallingford**

**REGULAR MEETING  
Tuesday, October 13, 2009  
MINUTES**

The Regular Meeting of the Wallingford Planning and Zoning Commission was held on Tuesday, October 13, 2009, at 7:00 p.m. in Room 315 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. David Fritz (Secretary), Mr. James Seichter (Acting Vice Chairman), Mr. Chris Smith (alternate), Mr. Jon-Paul Venoit (alternate)(arrived during the meeting).

Absent were Ms. Stacey Voss, and Mr. Patrick Birney

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

Chairman Fitzsimmons called the meeting to order at 7:05 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 8 people.

**APPROVAL OF MINUTES:**

(voted on after the arrival of J.P. Venoit)

September 14, 2009 - Regular Meeting – Action Minutes

Ms. Baxter made a motion to approve the Action Minutes from the Regular Meeting of September 14, 2009. The motion was seconded by Mr. Seichter and passed. Mr. Fitzsimmons, Mr. Fritz and Mr. Smith abstained from voting.

September 14, 2009 – Regular Meeting – Minutes

Ms. Baxter made a motion to approve the Minutes of the Regular Meeting of September 14, 2009. The motion was seconded by Mr. Seichter and passed. Mr. Fitzsimmons, Mr. Fritz and Mr. Smith abstained from voting.

August 17, 2009 – Special Meeting

To be taken up at the next meeting.

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

Chairman Fitzsimmons noted that since all of the regular members were not present the Commission would not be able to elect officers at this meeting.

## **WORKSHOP MEETING:**

### **1. Discussion - Temporary Signs**

Chairman Fitzsimmons indicated that the workshop meeting is a continuing conversation regarding the issue of temporary signs. Linda Bush, Town Planner, stated that there has been some interest in allowing temporary signs. She has taken all of the comments from the prior meetings and put together a draft (Att. 1) of a proposed amendment to the Wallingford Zoning Regulations. Ms. Bush indicated that she is starting to have serious reservations about this matter. She stated that two of the businesses, that had illegal signs, have come in and have been at workshops, have had their signs taken down by Ms. Bush. These business owners have complained and have put their signs back up. These signs are in the State ROW and public ROW. Linda Bush, Town Planner, is concerned that if this is allowed by the Commission it would be nearly impossible to enforce. She has spoken to the Law Department regarding the status of the citation ordinance because that would help, but the Ordinance Committee has not met in several months due to it being an election year. The Law Department doesn't believe anything is going to happen until the new year. Chairman Fitzsimmons noted that he has seen signs that were previously taken down by Ms. Bush back up where they originally were.

Chairman Fitzsimmons acknowledged that there has been some interest expressed but not an overwhelming demand for something to be done about this issue. He would need to see a significant showing of support from the public and groups such as Wallingford Center Inc. for the Commission to do something at this time.

Chairman Fitzsimmons asked for public comment.

Speaking from the public was:

**Bill Mack**, business owner on Quinipiac Street, asked if anything has been put on paper formally as to what the Commission is considering. Linda Bush, Town Planner, gave Mr. Mack a copy of the proposed amendment to the Wallingford Zoning Regulations (Att. 1). Mr. Mack asked if the WCI or Chamber of Commerce is aware of these meetings. He feels that those two groups are a great way to get the word out to local business owners. Linda Bush, Town Planner, stated that the Chamber was notified when this process began and she asked that all of the Chamber members be notified. Mr. Mack stated that he has heard through the business community that there is a sense that since no decision was made at the last meeting that the rules and regulations have been relaxed a little bit for a while. Mr. Mack feels that something needs to be done and a decision has to be made to not deny them completely but have some reasonable guidelines that business owners must follow. Chairman Fitzsimmons made it clear that in no way have the regulations been "relaxed". Ms. Baxter added that there are people who are not at this meeting who have made it clear to the Commission that they would like to be heard on this issue so that is why this will probably not be the end of the discussion. She agreed with Chairman Fitzsimmons that the regulations have not been "relaxed" in any way. Until the regulations are changed this is a black and white issue, you are either in violation or you are not.

**Jim Wolfe**, Economic Development, spoke about the section that discusses the size of signage that would be allowed in relation to the square footage of the building. Mr. Wolfe feels that if you are

talking about temporary signs you should simplify it and only allow certain sizes such as 3 feet x 8 feet or 2 feet x 6 feet.

Mr. Seichter agreed with earlier statements from Linda Bush, Town Planner, that enforcement could become a real issue. He feels that if down the road it is determined that it really isn't working and there are more violations that make it unworkable the regulation could just be taken off the books at that time. Mr. Seichter does not feel comfortable with allowing A-frame signs, but is fine with allowing signs as suggested by Mr. Wolfe. He feels that the Commission really has to wait and see what gets put out there and if the Commission is not comfortable with it and there are enforcement issues then the Commission can revisit it.

Mr. Fritz questioned Item 2e in the proposed amendment. He asked how the fourteen (14) day would be monitored. Ms. Bush pointed out that in Item 2a it states that the Zoning Enforcement must be notified prior to the placement of a sign. Her office would most likely put together some sort of list or form to keep track of the start dates.

Ms. Baxter suggested putting something in the regulations about taking freestanding signs in between certain hours such as 12 midnight – 7 a.m. Linda Bush, Town Planner, indicated that could be added to the regulation.

Chairman Fitzsimmons feels that with all of this input there should be a public hearing. He suggested that it be done at the next scheduled meeting. The details would be discussed later in the meeting. Chairman Fitzsimmons inquired about a fee for temporary signage. Ms. Bush stated that she didn't think there was going to be any fee associated with temporary signs because it is a registration not a permit. She clarified that if a Town fee is going to be charged then the \$60 State fee has to be added to that.

Ms. Baxter stated that she would be less inclined to look favorably on this if there are active violations.

Ms. Bush asked if the Commission would specify a size for the banners that would be allowed. She indicated that it would be a lot easier to administer. Mr. Wolfe indicated that he spoke to a sign maker and was told that the average banner size was 5' x 8' or 40 sq.ft. The Commission agreed on the figure of no greater than 40 sq.ft. for a banner size per business.

Chairman Fitzsimmons stated that this item would be on the agenda as a public hearing for the next regular meeting. The details would be discussed later in the meeting.

**Mr. Lazarus**, President, WCI, would like to see a workshop to talk specifically about signage in the downtown area. He indicated that the suggestions for the downtown area greatly differ from the regulations for the rest of the town. Mr. Lazarus referred to his letter dated September 3, 2009 (Att. 6). Chairman Fitzsimmons feels that early on, the Commission did discuss the downtown area. He allowed Mr. Lazarus to discuss his letter because Chairman Fitzsimmons didn't not want to leave anything out there that hadn't been discussed. Mr. Lazarus discussed his letter dated September 3, 2009 (Att. 6) item by item. Ms. Baxter asked if "blade" signs would be able to be seen through the trees. Mr. Lazarus indicated that there has been some pruning of the trees in the last few weeks and there is more to come. He stated that there has been some discussion about replacing, on a regular basis, some number of the Center Street trees annually. Mr. Lazarus stated that the "blade" signs would be the nicest way to advertise in the downtown area. Mr. Baxter asked about the size of these

“blade” signs. Linda Bush, Town Planner, stated that what would be allowed would be approximately a 2’ x 4’ sign. She recommended that there be an allowance for these signs. Her understanding is that WCI would mandate what the signs look like and they would all have to be uniform. She feels that it would help with the upgrade of downtown since there would be control over the signage.

Mr. Lazarus discussed Item 2 of his letter (Att. 6), which discussed permitting by the DOT for temporary signage. He does not know what the State charges for those permits.

Mr. Lazarus moved on to discussed Item 3 (Att. 6) which talked about identification banners being placed on the existing light poles. These banners would be of a regulated size and controlled by WCI.

Mr. Lazarus stated that Item 4 (Att. 6) has been on the table for a few years but he would like to change what the signs look like. He would like to see the signs externally illuminated with gooseneck lamps or that type of thing rather than regular florescent lamps inside of metal boxes.

Mr. Seichter questioned Item 3. Mr. Lazarus stated that the banner would have a fixed bottom and top pole and would probably be no bigger than 2’ x 4’. The banner would be over the sidewalk not the street.

Linda Bush, Town Planner, doesn’t feel that the Commission could address Item 3 until WCI gets permission from the Town Council because those are Town light poles. If the Town agrees then this Commission could address the issue.

Chairman Fitzsimmons would be in support of the concept of banner signs on the light poles. Ms. Baxter agreed with Chairman Fitzsimmons and she also stated that she would be in support of “blade signs”. Mr. Seichter would support Item 1, 3 and 4. Mr. Fritz would support Item 3 but would like to see it in plan form before it gets approved. He doesn’t believe that Item 4 would ever happen. Mr. Fritz feels that Item 1 is the most logical and would be the most esthetically pleasing to the downtown area. Chairman Fitzsimmons concluded that it would be worth it for Mr. Lazarus to go before the Town Council in regard to Item 3. Linda Bush, Town Planner, stated that she would supply a draft regulation, for all three items, for the Commissioners for next month. Chairman Fitzsimmons made it clear that he would not be in favor of Item 2.

## **PUBLIC HEARINGS:**

### **7:30 p.m.**

#### **2. Special Permit / Tracy Realty, LLC / Old Colony Road #408-09**

Mr. Fritz, Secretary, read the 7:30 p.m. public hearing legal notice. Mr. Fritz, Secretary, acknowledged the correspondence received for the record from: Linda Bush, Town Planner, to Planning & Zoning Commission dated September 29, 2009 (Att. 2A); Inter-Departmental Referral from the Fire Marshal dated September 14, 2009 (Att. 2B); Linda Bush, Town Planner, to Tracy Realty, LLC dated October 6, 2009 (Att. 2C); Vincent Mascia, Senior Engineer to Linda Bush, Town Planner, dated October 8, 2009 (Att. 2D); Department of Engineering to P&Z dated October 6, 2009 (Att. 2E); Juliano Assoc. to Linda Bush, Town Planner, dated October 7, 2009 (Att. 2F); Department of Engineering to P&Z dated October 13, 2009 (Att. 2G); Juliano Assoc. to John Thompson, Town Engineer dated October 12, 2009 (Att. 2H).

Presenting the application was Attorney Joan Molloy, Engineer Christopher Juliano, Juliano Assoc., and Architect George Felner, Felner Assoc.

Attorney Molloy acknowledged for the record that she received copies of all of the correspondence read into the record. This is a proposal to construct a twenty (20) unit multi-family development in the Tracy Zone.

Mr. Juliano reviewed the existing site conditions, the topography and the proposed layout including site development and landscaping. This is a 2.3 acre site that is generally flat through the first third and then gently slopes up to a knoll and then slopes down to the greenbelt of the Quinnipiac River. There is an existing single-family dwelling and a few out buildings on the property. What is being proposed is a multi-family residential development. There would be twenty (20) residential units, all two bedrooms. There would be two buildings with ten (10) units in each. The main access driveway would come in off of Old Colony Road. There will be no access to this property off of Oak Street. There would be two (2) carports with ten spaces each.

There is a 50-foot greenbelt along the Quinnipiac River so they pulled the building back another 25 feet to allow for some extra room along the River. The residents could potentially use that area as a community area. There is nothing formally being proposed for that area.

Mr. Juliano reviewed the landscaping plan. The main concept was to fill in the area where they are removing trees to provide screening to the neighbors at the north and screening to the existing neighbor to the south. There will be buffered plantings all along the buildings and carports. Mr. Juliano stated that the tree removal has been limited to 10' – 15' off of the back patios and everything beyond that will remain. They are just going to cut the amount of trees that need to come down to do the construction. There will be privacy fencing placed between each patio.

Mr. Juliano stated that the site is generally flat through the first third of the property. The first building will be stepped. There will be minimal grading throughout the site. The back building will be built into the hill staying with the existing grade. Units 2 through 10 and 12 through 20 will have basements and the accessible unit would be slab on grade. The site is served by public water and sanitary sewer. Water will be collected in a number of catch basins, run through an underground detention system where it will be allowed to infiltrate. The water will finally discharge to an overflow if necessary and go into the State system and discharge to the Quinnipiac River.

Mr. Felner, Felner Assoc., reviewed the architecture of the buildings. He reviewed photos of the existing conditions of the property and neighborhood. Mr. Felner stated that there are nine (9) two-story units in each building with one one-story accessible unit in each. The buildings would be stepped for more visual interest. The front of the units will have soffit lights and the rear doors will have lantern lights and down lights on the sides. The lighting will be full cutoff lighting. Mr. Felner designed this site to fit in with the colonial residential feeling of the neighborhood.

Attorney Molloy stated that the Engineering Department comments discussed the catch basin out in the State ROW. She indicated that condition would really be controlled by DOT so she asked the Commission not to make that a requirement in the conditions of approval. Ultimately that would be a decision made by DOT. Attorney Molloy brought up the issue of sidewalks. She stated that the problem is that the location of the roadway is so close to the property that they can't construct a

sidewalk within the Town ROW. She pointed out that this is a site plan and typically sidewalks are not required on site plans. Mr. Thompson would like to see sidewalks so he suggested that the Applicant grant to the Town an exclusive sidewalk permanent easement across the site frontage. He made it clear that this was not a suggested condition of approval. It was just something that he wanted to talk about since this is the starting point of Tracy. Mr. Thompson understands that sidewalks cannot be required but believes that they should be discussed. As far as the catch basin issue he stated that if the DOT says that they want that basin to remain as a curb type basin, then the driveway would have to change.

Mr. Thompson discussed the stormwater management. He finds that with the type of system being proposed over time there is infiltration of silt and sand that make them lose their effectiveness. This could result in on site problems that could potentially spill off into the State highway. Mr. Thompson would like to have the stormwater management plan in place and included when the project gets approval. Mr. Juliano suggested that it be placed on the land records as a deed restriction. He stated that it is relatively low maintenance; it just has to be done on a regular basis.

Attorney Molloy stated that she is trying to cover all bases. She is not sure if the developer is going to retain it and use it as rental property or if they are going to be sold as condominiums. The type of ownership doesn't preclude them from recording the maintenance plan on the records.

Chairman Fitzsimmons asked if there was any type of community-based recreation such as a pool or tennis courts proposed. Attorney Molloy stated that nothing has been formally proposed.

Chairman Fitzsimmons understands the reason that Attorney Molloy is not proposing sidewalks but believes that if there are going to be young families living in these units there would be the issue of school buses and where they would pick up the children. Attorney Molloy indicated that conceptually the Applicant would be willing to grant the easement for the sidewalks if the Town wanted to construct them. Mr. Thompson stated that the Town cannot construction the sidewalks. There was discussion about the possibility of bonding for the sidewalks and installing them at a future date when something else happens because at this time the sidewalk would be capped at both sides. Mr. Seichter would like to see the sidewalk installed during the project rather than at a later date. Attorney Molloy stated that most developers these days are trying to watch their cost and everything adds up including the cost for sidewalks.

Ms. Baxter asked for some more details as far as what was being proposed for screening for the neighbors. Mr. Juliano pointed out the existing conditions of the drawings. He showed how they are proposing to install various types of plants to be planted off center for buffering. They will be installing screening for the existing landowners so they don't have a direct visual of the new buildings. Mr. Juliano stated that where there was nothing they are putting something. The plants being proposed would be 6 feet – 7 feet high. On the side of Old Colony there are some existing pine trees. They will be filling in to block the view of the carports in that area. When the project is complete landscaping and existing trees should block the views from both abutters.

Chairman Fitzsimmons asked for public comment.

Speaking from the public was:

**John Azmaras**, 80 Oak Street, feels that they would totally be destroying the property with this development. He is concerned that the plantings being proposed for screening would grow into his property and too close to his house. He owns the corner of Oak Street and Old Colony Road and is concerned that if a sidewalk is installed it would go onto his property. He would have to lose trees if a

sidewalk were to be installed. If a sidewalk is not installed he is concerned that his yard would be used as a path to the park on Oak Street. Mr. Azmaras has septic and he is concerned about the potential for the stormwater management system failing. He has issues with potential noise and the lighting of the site flowing over onto his property. Mr. Azmaras stated that he lives on the corner and there have been several accidents in the area. Added traffic would just add to the problem.

**Fred Dimassi**, 1165 Old Colony Road, has concerns with the building and layout of the property. He stated that there are 110 – 120 trees tagged to come down. He would like to see some buffer plantings or a fence placed so when he is in his backyard he cannot see the development. Mr. Dimassi wanted to be sure that all of the lighting on the buildings be full cut off.

(J.P. Venoit arrived.)

Mr. Dimassi would like to have some dust control during construction. He asked if a traffic study was done for this project. He is concerned with drainage on the site especially during the winter months where his back yard normally floods. Mr. Dimassi questioned what the Applicant stated earlier when it was mentioned that this would be “affordable” housing. He would like to see a guardrail installed near the front of his house where accidents have occurred in the past.

**Jim Wolfe**, 396 Church Street, stated that he is excited to see this type of project going up in Tracy. He did express some concern with the sidewalks. He feels that sidewalks should absolutely be installed for the protection of the children that would be living in these units.

Attorney Molloy responded to public comment stating that they are trying to provide as much screening as possible to the abutting property owners. If sidewalks were required by the P& Z they would only be on the property of the Applicant. Mr. Juliano stated that if the stormwater management system fails there is an overflow that runs into the State system. There is no activity proposed within 75 feet of the Quinnipiac River. All of the lighting on the property would be full cutoff lighting. No traffic study is required to be done on this site but the engineers did have to look at site line issues. She indicated that the screening in the area of the Dimassi property is mimicking existing conditions. Attorney Molloy stated that the Applicant is trying to construct these units so they could be reasonably priced in the \$200,000 - \$300,000 range.

Linda Bush, Town Planner, pointed out that there is an existing driveway across the Town property in that area and she feels that every child in that new development will take the shortest route to the park and that would be that existing drive. She doesn't believe that the Azmaras property will have issues with trespassing.

Ms. Baxter asked that the screening for the abutting property owners be connected to make it a full row of trees. Mr. Juliano agreed to make that connection. Linda Bush, Town Planner, indicated that the issue of dust control is addressed in sedimentation and erosion control measures. Mr. Thompson indicated that he has not heard the issue of the guardrail before this meeting. He recommended that Mr. Dimassi contact his office directly so he can research it and make the request of the DOT.

Mr. Fritz made some suggestions for plant variety in the area of the buffers.

Mr. Seichter stated again that he would be in favor of the sidewalks. Chairman Fitzsimmons asked if the patio areas could be extended and if the privacy fences could be taken down. Attorney Molloy

stated that the patio area cannot be extended and the fence cannot be taken down. Chairman Fitzsimmons thanked the members of the public for their comments. He stated that he would be in favor of sidewalks for this development. Attorney Molloy stated that the sidewalks would be installed and the easement granted to the Town.

**MS. BAXTER: MOTION TO CLOSE THE PUBLIC HEARING.**

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

**MS. BAXTER: MOTION TO APPROVE A 20 UNIT, MULTI-FAMILY DEVELOPMENT FOR TRACY REALTY AT OAK STREET AND OLD COLONY ROAD AS SHOWN ON PLANS ENTITLED "SITE LAYOUT PLAN, OLD COLONY ROAD, LAND OF TRACY REALTY, LLC, 1163 OLD COLONY ROAD", DATED 9/9/09, REVISED TO 10/7/09, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

- 1. THE CONDITIONS SET FORTH IN THE INTERDEPARTMENTAL REFERRAL DATED 9/14/09 FROM JOSEPH MICALIZZI, FIRE MARSHAL.**
- 2. THE APPLICANT MUST RECEIVE A CURB CUT PERMIT FROM THE DOT PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT.**
- 3. A \$10,000 SEDIMENTATION AND EROSION CONTROL BOND.**
- 4. THE CONDITIONS SET FORTH IN THE 10/8/09 INTEROFFICE MEMORANDUM FROM VINCENT MASCIA, SENIOR ENGINEER TO LINDA BUSH, TOWN PLANNER.**
- 5. A \$27,000 PERFORMANCE AND MAINTENANCE BOND.**
- 6. CONDITIONS SET FORTH IN THE 10/6/09 FROM THE DEPARTMENT OF ENGINEERING TO THE WALLINGFORD PLANNING AND ZONING COMMISSION.**
- 7. A \$5,000 CONSTRUCTION BOND.**
- 8. THE APPLICANT MUST GRANT THE TOWN AN EASEMENT ACCEPTABLE TO THE TOWN FOR THE PURPOSE OF PERMITTING THE TOWN TO MAINTAIN THE SIDEWALK THAT THE APPLICANT WILL INSTALL.**
- 9. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY THE STORMWATER MANAGEMENT PLAN SHALL BE PLACED ON THE LAND RECORDS**
- 10. ALL LIGHTING ON THE SITE IS TO BE FULL CUT OFF LIGHTING.**
- 11. THE LANDSCAPING ALONG THE DIMASSI PROPERTY TO THE NORTH SHALL BE INCREASED AND THE LANDSCAPING TYPE/VARIETY SHALL BE CHANGED ALONG THE AZMARAS PROPERTY TO THE SOUTH AS DISCUSSED.**

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

**8:00 p.m.**

**3. Zoning Regulation Amendment / Kieslich / Bed & Breakfast Inn #505-09**

Mr. Fritz, Secretary, read the 8:00 p.m. public hearing legal notice. Mr. Fritz, Secretary, acknowledged correspondence received for the record from: Proposed Amendment, Wallingford Planning and Zoning Regulations dated September 15, 2009 (Att. 3A); Linda Bush, Town Planner, to Sharlene Kieslich dated October 6, 2009 (Att. 3B).

Presenting the application was Carl Kieslich.

Mr. Kieslich would like to see a change in the definition of a Bed and Breakfast, which currently requires an owner/occupant to live on the premises. They would like to be allowed to have a full time innkeeper living on the premises not necessarily the owner.

Linda Bush, Town Planner, noted that the permitted use in this zone should become a Bed and Breakfast Inn or Bed and Breakfast. Her office does not oppose this change.

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

**MS. BAXTER: MOTION TO CLOSE THE PUBLIC HEARING.**

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

**MS. BAXTER: MOTION TO APPROVE TWO CHANGES TO THE ZONING REGULATIONS:**

- 1. TO ADD A DEFINITION OF BED AND BREAKFAST INN**
- 2. TO AMEND THE B&B REGULATIONS FOR THE CLB ZONE TO PERMIT A B&B INN TO BE OCCUPIED BY AN INNKEEPER, BECAUSE IT IS CONSISTANT WITH THE PLAN OF CONSERVATION AND DEVELOPMENT, THE ZONE, AND THE ZONING REGULATIONS.**

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

**NEW BUSINESS:**

**4. Site Plan / Valenti / South Colony Road #216-09**

Mr. Fritz, Secretary, acknowledged the correspondence received for the record from: Linda Bush, Town Planner, to Fred M. Valenti dated October 6, 2009 (Att. 4A); Inter-Departmental Referral, Fire Marshal dated September 14, 2009 (Att. 4B); Minutes from July 14, 2003 Planning and Zoning Commission Meeting (Att. 4C); Interoffice Memorandum, Vincent Mascia to Linda Bush, Town Planner, dated October 8, 2009 (Att. 4D); Memorandum Department of Engineering to Wallingford Planning & Zoning Commission dated October 7, 2009 (Att. 4E).

Presenting the application was Attorney Joan Molloy, Mr. Fred Valenti and Engineer Steve Pustola.

Attorney Molloy stated that there was a plan proposed in 2003 that was approved. That addition was never built and the permit has expired. Mr. Valenti now wishes to proceed with the addition. The plan has changed slightly since 2003. The new building would be servicing Audi. Variances have been granted for this property since it is a very unique property. The landscaping that was previously approved in the 2003 plan has been maintained in this plan. The parking layout is essentially the same as well as the vehicle storage to the north. The plan is basically the same except for the design of the building.

Attorney Molloy has spoken to the W&S Divisions regarding an old DEP violation. The W&S Divisions have some concerns that there were some open floor drains still open. Attorney Molloy indicated that the ones that were in the existing service building had been sealed but apparently W&S was never told. There was also a question about car washing taking place in the existing building. Mr. Valenti indicated that there is no longer car washing taking place on the premises.

Attorney Molloy referred to the comments from the Engineering Department. She noted that the plan that has been submitted is based on an A-2 Survey that is of record with the Town. They are not planning any change to the site topography. Some breaks would be installed on the islands so the water can continue to sheet flow if any issues arise. The parking plan will remain the same as the 2003 plan. They don't feel there is a need to change it. Once again Attorney Molloy noted that this is a site plan and sidewalks are not required by the regulations. There are no sidewalks proposed on this site. The stormwater plan is the same as 2003.

Mr. Pustola, Professional Engineer, presented a rendering of what the completed building would look like.

Ms. Baxter noted that in the 2003 approval there were conditions from the IWWC. Linda Bush, Town Planner, noted that this time around there were no comments from the IWWC. Attorney Molloy read the IWWC conditions from 2003 and indicated that they were included in this plan.

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

Mr. Thompson commented on the on-site drainage stating that in the past five years his office has become aware of a serious drainage problem on South Main Street. This site seems to be a major contributor to that problem. Something has happened that makes water flow off of this site which makes the Engineering Department very concerned that the drainage proposed will work effectively. If there were an opportunity to contain the water on this site he would like to be able to continue to work with the engineer and Applicant. The project engineer indicated that he would be happy to work with the Engineering Department to come up with a plan to resolve the issue.

Linda Bush, Town Planner, suggested a \$2,000 sedimentation and erosion control bond.

**MS. BAXTER:            MOTION TO APPROVE A SITE PLAN FOR AN AUTO DEALERSHIP BUILDING WITH A 12,290 SQ.FT. FOOTPRINT FOR VALENTI AS SHOWN ON PLANS ENTITLED "PROPOSED BUILDING PREPARED FOR FRED M. VALENTI, 800 SOUTH COLONY ROAD (RTE 5)",**

**DATED 9/10/09, REVISED TO 10/12/09, SUBJECT TO THE  
FOLLOWING CONDITIONS:**

- A. CONDITIONS SET FORTH IN THE INTEROFFICE  
MEMORANDUM DATED OCTOBER 8, 2009 FROM VINCENT  
MASCIA, SENIOR ENGINEER TO LINDA BUSH, TOWN  
PLANNER.**
- B. A \$10,000 PERFORMANCE AND MAINTENANCE BOND.**
- C. CONDITIONS SET FORTH IN THE OCTOBER 7, 2009  
MEMORANDUM FROM THE DEPARTMENT OF  
ENGINEERING.**
- D. THE FLOOR DRAINS IN THE MAIN SERVICE BUILDING AND  
THE SERVICE ARE OF THE SHOWROOM BUILDING MUST BE  
PERMANENTLY SEALED.**
- E. THE APPLICANT AGREES TO WORK WITH THE  
ENGINEERING DEPARTMENT TO CONTAIN DRAINAGE ON  
THE SITE.**
- F. A \$2,000 SEDIMENTATION AND EROSION CONTROL BOND.**

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

**RECEIPT AND ACTION REQUESTED:**

**5. Special Permit Revision / Old North Colony Properties, LLC / Old Colony Properties, LLC /  
Old Colony Road #404-09**

Mr. Fritz, Secretary, acknowledged the correspondence received for the record from: Joan Molloy to James Fitzsimmons, Chairperson, Wallingford P&Z dated October 7, 2009 (Att. 5).

Presenting the application was Attorney Joan Molloy.

Attorney Molloy reviewed her letter dated October 7, 2009. She indicated that the site has some environmental issues and there has been testing done. They have completed all of the necessary testing and they would now like to commence bringing some fill on to the site. The Applicant has lost 6-months of the permit so they are asking that the Commission consider making the permit effective November 1, 2009 and give them one year from that date. Nothing has been done on the site other than cleaning it up. Attorney Molloy stated she would be coming back in front of the Commission with some sort of intermediate plan for remediating the site.

Chairman Fitzsimmons asked if there was a charge for this item. Linda Bush, Town Planner, indicated that she did not charge Attorney Molloy. After some discussion Attorney Molloy indicated that she would drop off a check at the Planning Office.

The Commission discussed if this would be considered a major or minor revision. The Commission unanimously felt that this would be a minor revision.

**MS. BAXTER: MOTION THAT THIS ITEM BE CONSIDERED A MINOR MODIFICATION.**

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

**MS. BAXTER: MOTION TO APPROVE A MINOR REVISION TO THE SPECIAL PERMIT FOR OLD NORTH COLONY PROPERTIES, APPROVED ON APRIL 13, 2009, TO CHANGE CONDITION #4 TO STATE: "THE PERMIT WILL BE VALID FOR A PERIOD OF ONE YEAR FROM NOVEMBER 1, 2009." THIS APPROVAL IS SUBJECT TO THE PAYMENT OF THE FEE FOR A SPECIAL PERMIT RENEWAL.**

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

## **CORRESPONDENCE:**

### **6. WCI / Signs**

Discussed earlier.

### **7. Lee / Chieppeo Farm Zoning**

Mr. Fritz, Secretary, acknowledged the correspondence received for the record from: Timothy Lee to Linda Bush, Town Planner, dated September 11, 2009. (Att. 7)

Attorney Lee stated that is representing the Chieppeo Family who is interested in selling their property to a developer. The Chieppeo property has a portion that is residential and a portion that is industrial. The developer is considering doing an open space subdivision. The residential portion of the property will continue to be residential and the industrial portion of the property would be the open space. Attorney Lee appeared in front of the Commission to ask if it would require a zoning change for the industrial portion of the property as part of an open space subdivision.

Linda Bush, Town Planner, explained that if it is re-zoned it becomes residential and the Commission would have no guarantee that this particular development plan would go through.

Chairman Fitzsimmons spoke for the Commission when he stated that he does not believe a zone change would not be required to consider the industrial portion of this property as open space for a subdivision. The Commission made it clear that just because it is of that opinion it does not mean that it feels that is the most appropriate location for open space for a subdivision.

## **BOND RELEASES AND REDUCTIONS:**

Linda Bush, Town Planner, made the following recommendations:

### **8. Special Permit / Pulte / Wadsworth Drive #413-04 (Att. 8A, 8B)**

Bond to be released.

**9. Special Permit / Baker / Grieb Road #409-02 (Att. 9A)**

Bond to be reduced to \$5,000.

**10. Special Permit / Center Place / Center Street #403-07, #223-07 (Att. 10A, 10B)**

Bond to be released.

**11. Special Permit / VW Homes / North Farms Road #413-07 (Att. 11A)**

Bond to be reduced to \$325,000.

**MS. BAXTER:**

**BASED UPON THE RECOMMENDATIONS OF THE TOWN  
PLANNER;**

**MOTION THAT THE FOLLOWING TWO (2) BONDS BE  
RELEASED:**

- 1. SPECIAL PERMIT / PULTE / WADSWORTH DRIVE #413-04**
- 2. SPECIAL PERMIT / CENTER PLACE / CENTER STREET #403-07,  
#223-07**

**MOTION THAT THE BOND FOR SPECIAL PERMIT / BAKER /  
GRIEB ROAD #409-02 BE REDUCED TO \$5,000.**

**MOTION THAT THE BOND FOR SPECIAL PERMIT / VW HOMES /  
NORTH FARMS ROAD #413-07 BE REDUCED TO \$325,000.**

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

**REPORTS OF OFFICERS AND STAFF:**

**12. ZBA Decisions – September 21, 2009 (Att. 12)**

The Commission received and noted the decisions of the Zoning Board of Appeals made at the September 21, 2009 meeting.

**13. ZBA Agenda – October 19, 2009 (Att. 13)**

The Commission received and noted the agenda for the Zoning Board of Appeals meeting scheduled for October 19, 2009.

**14. Special Meeting – November**

Linda Bush, Town Planner, stated that the Commission was considering canceling the December P&Z meeting because the agenda is light. Chairman Fitzsimmons has spoken to Linda Bush, Town Planner, about this matter stating that the Commission is not having the volume of applications that it once did. He asked if the November agenda could be revisited to see if possibly the December meeting could be dropped. Chairman Fitzsimmons has a conflict and would not be able to attend the regularly scheduled November meeting. He was looking for input from the Commissioners on the idea of switching the November date and dropping the December meeting. After some discussion it was decided that the Commission would cancel the November 9<sup>th</sup> meeting and have a Special Meeting on November 30<sup>th</sup> and cancel the December meeting. On the 30<sup>th</sup> the public hearing for temporary signage would be at 7:00 p.m.

### **15. Legal Opinions (Att. 15A, 15B)**

Linda Bush, Town Planner, spoke to the Law Department about adult uses because of what has been going on in Southington and Berlin. The Law Department indicated that it would be willing to work with the Commission if it would like. Ms. Bush feels that the Town should wait and see how the judge rules in the Berlin case. The Commission noted it for the record.

### **16. Incentive Housing Zone Update**

Linda Bush, Town Planner, indicated that the Town was supposed to resubmit its application to OPM last week. OPM put it off and the Town was to submit again today. OPM stated that they want to wait again until their guidelines are up on their website before anybody resubmits. Linda Bush, Town Planner, feels that the Town is in good shape for possible funding. She does not want to recommend that the regulations be adopted until the State makes a determination on the funding. Ms. Bush stated that the Town did receive a planning grant and Wallingford was the first town in the state to submit a proposed zoning regulation based on that grant.

**John Gervasio**, Jodi Drive, stated that several months ago he sent some correspondence to this Commission. He was under the impression that there would be no resubmission until there was further discussion about revisions to the application. Mr. Gervasio does not feel the application should be resubmitted in its current form. He feels that there are errors in the application and the process should be looked at more closely before anything moves forward.

Linda Bush, Town Planner, doesn't feel that there was ever any intent to change what was to be resubmitted. If and when the State approves it, as a draft, it will then come back to the Town and that is when there could be public hearings and more meetings. If the Town chooses to make changes at that point it can.

Mr. Gervasio stated that at least the simple calculation errors should be corrected. His feeling is that the Town should not go forward to the State with something that is clearly wrong. Ms. Bush disagreed with Mr. Gervasio and recommended that he make an appointment to come in to her office to discuss the matter. Mr. Gervasio indicated that he would be happy to do that but he has issues with the process that was in place that generated the application.

Chairman Fitzsimmons pointed out that this issue was on the agenda to make sure that the P&Z get an update from the Town. It is his feeling that the Commission should wait and see what happens in Hartford and then move forward from there.

**Craig Fishbein**, Grieb Road, indicated that it was his understanding that OPM never approved this and never responded on this and the 60 days lapsed. Mr. Fishbein agreed with Mr. Gervasio that there were some issues with the application.

Linda Bush, Town Planner, stated that the process was very open. There were many meetings and lots of public input. Many people have reviewed the application and commented on it. The Town Council, the P&Z and the public had meeting after meeting. Ms. Bush stated again that she would be happy to sit down with Mr. Gervasio and address his concerns.

Mr. Gervasio has spoken with the Economic Development Council who he indicated was very surprised about some of the things that were included in the application. He doesn't think it has been

widely distributed or is widely understood. He feels the process was narrowed to include people who would agree with it.

Mr. Seichter disagreed that the process was a very narrow one. He feels that the hearings were very heavily publicized. There was clearly the opportunity for anyone and everyone who was interested in this issue to come and be heard.

Chairman Fitzsimmons made it clear that the Commission has received the update from the Linda Bush, Town Planner, and this item is not on the agenda for discussion. When and if the State acts it will come back to the Town for a full hearing.

### **17. Administrative Approvals**

#### **a. Change of Use / Gambardella (Marino) / South Colony #316-09**

The Commissioners had no comments.

### **18. Herasimovich vs. PZC (Att. 18)**

Linda Bush, Town Planner, stated that the Town lost the court case that had to do with small engine repair being a regulated use in the aquifer. She stated that this issue would be on the November agenda and the Law Department would assist in the proper wording.

### **19. PZC & ZBA Fees (Att. 19A, 19B, 19C, 19D)**

Linda Bush, Town Planner, indicated that this fee started out as \$10 about 15 years ago. It has slowly gone up to \$30. October 1<sup>st</sup> it went into effect that all of the applications have to have a \$60 dollar fee added on. \$58 goes to the State and the Town gets \$2. At this time the State fees are incorporated right into the application fees. Ms. Bush asked the Commission if it wanted to raise the application fees by \$30 uniformly. After some discussion it was decided that the additional State fee should be passed on to the Applicants and the fees should be identified as such.

**MS. BAXTER: MOTION TO PASS ON THE STATE MANDATED \$30 FEE, PUBLIC ACT 09-03, SECTION 396 THE REVISION TO CT GENERAL STATUTE SECTION 22a – 27j FOR APPLICATION FEES.**

The Commission received and noted the Zoning Violation Log (Att. 20). Kacie Costello, Assistant Town Planner commented briefly on several items included in the log.

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 10:40 p.m.

Respectfully submitted,

Sonja Vining,  
Recording Secretary  
Atts. 1 - 20