

**WETHERSFIELD PLANNING AND ZONING COMMISSION
PUBLIC HEARING AND MEETING**

April 6, 2010

The Wethersfield Planning and Zoning Commission held a public hearing and meeting on Tuesday, April 6, 2010 at 7:00 p.m. in the Wethersfield Town Council Chambers located at Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut.

1. CALL TO ORDER

Chairman Hammer called the meeting to order at 7:04 p.m.

1.1 ROLL CALL & SEATING OF ALTERNATES (5 members required for a quorum)

Clerk Knecht called the roll as follows:

Member Name	Present	Absent	Excused
Joseph Hammer, Chairman	✓		
Richard Roberts, Vice Chairman	✓		
Philip Knecht, Clerk	✓		
Thomas Harley	✓		
Robert Jurasin		✓	
Frederick Petrelli	✓		
Earle Munroe	✓		
George Oickle	✓		
Anthony Homicki	✓		
James Hughes (alternate)	✓		
Thomas Dean (alternate)*	✓		
Dave Edwards (alternate)		✓	

Also present: Peter Gillespie, Town Planner; Denise Bradley, Assistant Planner;

Chairman Hammer noted that there were 8 full members and 2 alternates in attendance at the time of roll call. All members present to participate.

Members of the public were present.

2. OLD BUSINESS

There was no old business discussed at this meeting.

3. NEW BUSINESS

**3.1 PUBLIC HEARING APPLICATION NO. 1695-10-Z JPG Partners, LLC Seeking Zoning Text Amendments to modify the Wethersfield Zoning Regulations regarding multi-family uses. ---
Continued from 3-2-10.**

Susan Hays, Esq. of Updike, Kelly & Spellacy, P.C., One State Street, Hartford, CT, appeared before the Commission on behalf of JPG Partners, LLC. She indicated that she revisited her initial review of the Town regulations made in response to the Applicant's pre-application review before the Commission on December 1, 2009, and her appearance before the Commission on March 2, 2010.

Note: Attorney Hays had indicated at the March 2, 2010 PZC Meeting that in order to proceed with the Application, the Town Regulations were reviewed to ascertain whether the existing regulations could apply to a proposed apartment complex. She had noted that a review of the regulations was made with Mr. Gillespie and it was realized that many components of the SRD regulations were unclear from a general perspective. There were inconsistencies in the regulations. Terminology wasn't defined in some cases. In cases where the terminology was defined, said defined terminology was not used or referred to in the SRD regulations. The entire SRD zone was then reviewed to see where things may need to be changed to make the regulation itself more understandable and to fit in with other parts of the SRD regulations.

Attorney Hays noted that the Commissioners received some additional language changes as hereinafter noted.

Attorney Hays is proposing a deletion of the current Section 3.4, in its entirety, and replacing it with the following language:

3.4 Special Residential Development District (SRD).

A. PURPOSE

1. This regulation is intended to provide for a residential zoning district which permits a variety of housing diversity and housing opportunities including single family and multi-family residential units appropriate to the environmental characteristics of the land and the character of the neighborhood.
2. It is intended that any Special Residential Development (SRD) District shall be established by the Commission only after taking into consideration the following:
 - a. The community need as determined by the Commission;
 - b. The supply of land available in the present and proposed zone;
 - c. The site is capable of accommodating the increased building density without detrimental impact.

B. PROCEDURAL REQUIREMENTS

1. A Special Residential Development District may only be established following approval of a Zone Change and the submission of a Schematic site plan depicting the size, scale, intensity, and layout of the proposed development and of a development chart setting forth the specific type of development (e.g. Active Adult Housing, Multi-Family Development, Single-Family Development), the number of units proposed, the number of parking spaces proposed, and the development parameters such as the building height, lot coverage and proposed yards.
2. After the zone change has been approved and if the proposed development has not changed significantly from that shown on the Schematic site plan, the applicant may file a Site Plan application detailing the proposed development and its compliance with these regulations (the Schematic site plan and the development chart). The Commission shall determine if any changes constitute a significant change. In any event, any change in the specific type of development (e.g. changing from Active Adult to Multi-Family) or any change that increases the proposed impervious surface area or number of units by more than 10% increases the maximum building height or decreases the proposed yards by more than 10% from what was presented on the Schematic site plan or set for the in the development chart shall be deemed a material modification of the SRD and shall be acted upon in accordance with the procedures and within the time frame established for zone change applications. Any change that increases the proposed impervious surface area or number of units by 10% or less or decreases the proposed yards by 10% or less from what was presented on the schematic plan or set forth in the development chart shall not be deemed a material modification of the SRD but shall require special permit approval. In addition, if the proposed layout is significantly different from that shown on the Schematic site plan approved with the SRD, the

Commission shall have the right to require that the applicant submit a special permit application in lieu of a site plan application.

C. PERMITTED DEVELOPMENT TYPES AND USES

1. Provided the requirements of this section are complied with, development may occur:
 - a. With each individual residential unit on a separate lot or common land (such as a conventional, zero-lot-line, duplex, patio house, townhouse development, elderly housing, or individual active adult residence). (05/06/05)
 - b. With multiple individual residential units located on common land in:
 1. Multiplex building(s),
 2. Mid-rise building(s) and/or
 3. High-rise building(s)
2. The following uses are permitted:
 - a. Active Adult Housing;
 - b. Elderly Housing;
 - c. Multi-Family Development;
 - d. Single-Family Development (05/06/05);
 - e. Congregate housing, assisted living or life care facility on a collector or arterial street in accordance with Section 3.2.1. (08/08/08)

D. ACCESSORY BUILDINGS, STRUCTURES & USES

The following uses are permitted as accessory to the permitted principal uses when approved as part of a Site Plan application and when in compliance with the Accessory Buildings & Structures requirements of Section 3.6 of these regulations: (05/06/05)

1. On-site parking for motor vehicles owned or used by the residents.
2. Active and passive recreation improvements.
3. Private garages and carports
4. Community garages and carports
5. A bathing or swimming pool
6. Other accessory uses, buildings and structures customarily incidental to a permitted use as approved by the Commission.

E. SITE DEVELOPMENT REQUIREMENTS

1. Residential units built under this Section shall be accessed from internal driveways and streets and not from existing public streets.
2. Residential buildings shall be surrounded by a landscaped border of not less than fifteen (15) feet in width adjacent to and parallel to all sides of the building except points or entry.
3. Buildings shall be situated and grouped in a manner which, to the satisfaction of the Commission, gives due consideration to the elements of site design, including but not limited to terrain, vegetation, watercourses and other noteworthy natural features; pedestrian and vehicular circulation; the location and design of open space; building form, style and bulk; energy conservation; and access to sunlight, solar radiation, ventilation and noteworthy vistas. Buildings shall be so designated as to avoid monotonous patterns of construction or repetitive spaces between buildings.
4. Common open spaces shall be:
 - a. Provided on the development site in a minimum amount of space that is equal to 25% of the land area.

- b. Configured as outdoor living space and conservation areas for the use of residents. The open space shall, when appropriate, be improved as lawns and other landscape areas, common areas, walkways and the areas accessible from them, paved terraces, sitting areas, outdoor recreational areas and patios. (05/06/05)
 - c. Provided in addition to yards within lots, undeveloped lots, or areas necessary to establish minimum setback for multiple buildings and paved surfaces
 - d. Configured such that not more than fifty percent (50%) of such open space shall be land designated as wetland.
 - e. Planned so as to be reasonably distributed throughout the development site and, where feasible, to be connected by means of linear greenbelts.
 - f. Protected through adequate controls to assure the permanence of open space uses in areas so designated, through public acquisition or by easement or other suitable type of agreement. (05/06/05)
5. Public improvements shall conform to the applicable requirements of the Subdivision Regulations and the following standards:
- a. All utilities shall be installed underground.
 - b. Sidewalks constructed to town standards shall be installed on both sides of all public and private streets within the site and along the public street on which the site fronts.
 - c. A complete street lighting system shall be installed and all construction and energy charges incurred prior to acceptance of such improvements shall be borne by the developer.
 - d. The Commission may modify these requirements if public safety is not adversely affected by a three-fourths (3/4) vote of all the members of the Commission after stating upon its records, in each case, the reason for which a waiver was granted.
6. Within multifamily structures, dwelling units designed to meet the needs of handicapped persons shall be provided at the rate of the greater of one (1) unit for every twenty-five (25) units provided within all such structures on the planned development site or as otherwise required by building code.
7. Garage spaces for detached or attached dwellings occupying individual lots may be placed on a corner by a rear and side lot line if attached to the garage of the adjoining lot. Attached garages so placed may be served by a single, common driveway.
8. Exterior parking areas in parking lots shall be:
- a. Located at least fifteen (15) feet from any building,
 - b. Screened by landscaping of appropriate height and density, and
 - c. Illuminated in a manner which is compatible with the development
9. Where parking areas contain more than fifty (50) spaces, two (2) driveways to a street may be required by the Commission. In the event that the applicant does not have sufficient frontage or otherwise does not have the ability to provide two (2) driveways, then the applicant may provide emergency access through private property by way of an easement or other arrangement if the applicant has demonstrated to the satisfaction of the Town's public safety officials that the alternate emergency access is adequate. Driveways and aisles of parking areas shall have a minimum width of twenty-four (24) feet, except that aisle width may be reduced if angle parking

and one-way vehicle circulation are provided. (05/06/05)

10. Written declaration shall be made to the Commission as to the intended ownership and management of all land, buildings and other improvements on the site to remain in common ownership.
11. Where required, an appropriate declaration of covenants and restrictions running with the land and/or buildings in favor of the Town of Wethersfield shall:
 - a. be submitted as part of an application for a special permit for elderly housing,
 - b. restrict the design, use and occupancy of the buildings and land for elderly housing in accordance with such special permit and accompanying plans which may be approved,
 - c. be recorded on the land records of the Town of Wethersfield with special permit, if granted, and shall be prior in right to all encumbrances not excused by the Commission.
12. A change in use of an approved plan of development for housing for the elderly and handicapped may be made only through the procedures established for granting of a new special permit and approval of a new plan of development in accordance with applicable zoning regulations.

F. MINIMUM FLOOR AREA OF UNITS

1. Except as may otherwise be set forth herein, a multi-family residential unit shall contain at least 600 square feet of floor area for a one-bedroom unit and 800 square feet of floor area for a two-bedroom unit and shall not contain more than two bedrooms unless specifically authorized by the Commission.
2. A high-rise residential unit, when restricted to persons aged 55 and over, shall contain at least 500 square feet of floor area plus at least 150 square feet per actual or potential bedroom and shall not contain more than two bedrooms unless specifically authorized by the Commission.
3. An elderly housing unit shall contain at least 400 square feet of floor area.
4. An active adult housing unit shall contain at least 900 square feet of floor area.

G. DIMENSIONAL REQUIREMENTS

Minimum lot area (square feet) excluding wetlands
(Where an existing building is to be converted for housing there shall be no minimum lot area) 2.0 acres

Minimum lot frontage (feet) where a development proposes the construction of a public street that extends an existing dead-end street the minimum lot frontage required is fifty (50) feet. (05/06/05) 150

Minimum yards (to public streets and perimeter property lines)

Front yard depth 50' with at least 12 feet per story if front yard adjacent to residentially zoned property

Rear yard depth 50'' with at least 8 feet per story if rear yard adjacent to residentially

	zoned property
Side yard depth	30'' with at least 8 feet per story if side yard adjacent to residentially zoned property
Minimum separation (to private streets and internal property lines)	
Front yard depth	15 feet
Rear yard depth	15 feet
Side yard depth (may be zero if approved as duplex or townhouse)	5 feet
Minimum building separation	15 feet
Maximum building height (stories/feet)	
Single Family and multiplex residential units	2 and ½ / 35
Mid-rise residential units	5 / 50
High-rise residential units when not restricted to persons aged 55 and over	6 / 60
High-rise residential units when restricted to persons aged 55 and over	8 / 80
Maximum density (units per acre)	
Single Family residential unit (05/06/05)	6.0
Multiplex residential units	9.0
Mid-rise residential units	15.0
Mid-rise residential units when restricted to persons aged 55 and over	18.0
High-rise residential units when not restricted to persons aged 55 and over	20.0
High-rise residential units when restricted to persons aged 55 and over	25.0
Maximum building coverage (percent of lot area)	
Single Family residential unit (05/06/05)	35%
Multiplex residential units	35%
Mid-rise residential units	35%
High-rise residential units when not restricted to persons aged 55 and over	35%
High-rise residential units when restricted to persons aged 55 and over	40%
Minimum landscaped area (percent of lot area)	
Single Family residential unit (05/06/05)	35%
Multiplex residential units	35%

Mid-rise residential units	35%
High-rise residential units when not restricted to persons aged 55 and over	35%
High-rise residential units when restricted to persons aged 55 and over	40%

H. EXCEPTIONS

1. The Commission may, where deemed appropriate and in the sole judgment of the Commission, allow development in the SRD District that does not comply with the strict application of these Regulations by modifying the minimum yard, minimum building separation, common open space and minimum separation requirements of these Regulations upon determination that one or more of the following criteria has been satisfied: (05/06/05)
 - a. Unusual site conditions exist which warrant flexibility in the application of these regulations;
 - b. The exception provides for the most orderly development of the land and the neighborhood;
 - c. The exception results in a substantial functional and aesthetic improvement in the site design;
 - d. The applicant has substantially exceeded one or more of the minimum dimensional or site plan requirements of these regulations.
2. In the event the property that is the subject of the application is located partially within Wethersfield and partially in another town and the access to the property is from the other town, then notwithstanding the requirements set forth above, the following criteria shall apply:
 - a. There shall be no frontage requirement in Wethersfield provided the property abuts a public road in the other town and provided the property has not less than 150 feet of frontage on such public road. If there is no frontage on a public road in Wethersfield, then the property shall not be required to have a front yard. The Applicant shall designate which property line shall be the rear lot line and all other lot lines shall be side lot lines.
 - b. In the area where the property line is conterminous with the Wethersfield Town line, such area shall be deemed a side yard. In the area where the property crosses the Town line, if such area is also the location where the access to the other Town's public road is located, then there shall be no yard requirement at the Town line in such area provided that the distance from the Town line to the public road is at least 50 feet.

III. Section 6.2 Parking and Loading Regulations

1. Delete Section 6.2.C.8.a. and replace with the following table:

7. MINIMUM PARKING REQUIREMENTS

a. RESIDENTIAL USES	Minimum Number Of Parking Spaces
1.) Single And Two Family Dwellings	2 spaces per dwelling unit
2.) Accessory Apartment	1 additional space
3.) Multi-Family Dwellings	1.5 spaces per unit
4.) Housing For The Elderly	1 space per unit
5.) Congregate Housing	1 space per 4 dwelling units
6.) Assisted Living Facility	1 space per 2 units
7.) Bed & Breakfast/Boarding Lodging	Two parking spaces plus 1 additional Space per room for separate occupancy

8.) Home Occupation 1 space plus 1 space per employee

2. Modify Section D. Reduction of Required Parking Spaces by adding a new Paragraph 6 and renumbering the former Paragraph 6 to number 7 as follows:

D. REDUCTION OF REQUIRED PARKING SPACES

1. Intensity of Use – The Commission may waive the requirement for the installation of additional spaces when a change in the use of the premises results in an increase in the number of required parking spaces in an amount of 15 percent or less than the number of existing parking spaces.
2. Reserved Parking – The Commission may waive the immediate installation of up to 25 percent of the required parking spaces when:
 - a. The applicant has designated the location of all required parking spaces of the site plan and has labeled them as “Reserved Parking”;
 - b. The area designated for possible future parking shall be left in their natural state or landscaped as directed by the Commission;
 - c. The Commission determines that the reduced parking facilities will adequately serve the proposed use; and
 - d. The applicant has filed the site plan with the Town Clerk stipulating that the owner, or the successor and assigns of the owner, will reserve the required spaces for future parking needs. The Commission may require the future construction of as many of the waived parking spaces as the Commission deems necessary within 6 months of the Commission’s request.
3. Excellence in Building and Site Design – The Commission may, by Special Permit, permit a reduction of up to 15 percent of the required parking spaces due to excellence in building and site design.
4. Shared Parking – Shared parking areas for more than one use shall be encouraged. The Commission may, by Special Permit, permit a reduction of the required parking spaces due to shared use of the parking facilities when the parking needs of the joint users occur at different hours of the day. The applicant shall present to the Commission an analysis of the shared parking needs of the various uses. In no case shall the total parking requirements be reduced below the estimated peak hour parking need as estimated by the parking analysis. The Commission may grant such approval only after it has received a written agreement between the users that clearly stipulates the terms of the shared use of the parking.
5. Permanent Village Business District Reduction – In the Village Business District, the Commission may, by Special Permit, permit a reduction in the number of required on-site parking spaces due to shared use of the parking facilities and the availability of parking off-site in the vicinity.
6. For multi-family developments located along a bus route, the Commission may decrease the number of required spaces by up to 25%.
7. The applicant can demonstrate that the requirements are unreasonable or unnecessarily stringent for the nature of the building or use, and that the proposed number of parking spaces will adequately serve the proposed development.

Discussion:

Commissioner Oickle mentioned that he is in favor of having the requirement of a safety official's determination regarding the 2 driveway requirement. He also expressed his desire of a restriction on the distance over private land with regard to the requirement.

Commissioner Oickle made an inquiry regarding Mr. Gillespie's opinion of the language in Section 2.a. of Section H. Exceptions.

Mr. Gillespie indicated that he is comfortable with the modifications to Section H.2.a.

Chairman Hammer suggested that any overly broad language be reviewed. He noted that in Section H.2.b., the following language should be inserted (see the following text in bold):

In the area where the property line is conterminous with the Wethersfield Town line, such area shall be deemed a side yard. In the area where the property crosses the Town line, if such area is also the location where the access to the other Town's public road is located, **and where the 150 feet frontage is located**, then there shall be no yard requirement at the Town line in such area provided that the distance from the Town line to the public road is at least 50 feet.

Commissioner Oickle inquired and Attorney Hays concurred that there is no evidence suggesting that a 25% reduction in parking can be made if an apartment complex is located on a bus route.

Commissioner Oickle inquired if Mr. Gillespie believed that the proposed changes would have an impact on other possible sites in Wethersfield.

Mr. Gillespie indicated that the changes pertain to multi-family development and that other sites are not impacted by the proposed changes.

Vice Chairman Roberts inquired if Mr. Gillespie believes the proposed changes are acceptable when taking into consideration the Town's Plan of Conservation and Development and the SRD Zone.

Mr. Gillespie believes that most of the changes are helpful for clarifying existing regulations. He stated that medium density development rules are needed and that gaps in the existing regulations would be filled in order to respond to future development/redevelopment inquiries.

Commissioner Munroe believes there is a lack of access to the site and has concerns regarding safety at the site. He noted his desire to see a detailed plan for this site.

Commissioner Homicki inquired if the development chart was considered for one use only.

Public Comments:

Mr. Dan Silver, 19 Orchard Brook Drive, appeared before the Commission. He is the President of the Orchard Brook Condominium Association. He urged the Commission not to entertain site plan approval on its face. He'd rather have the Commission keep the Special Permit process in place. He believes that the Commission is obligated to impose the Special Permit process.

Commissioner Oickle inquired and Mr. Silver agreed that Commission discretion is a necessary element in land use determination. Commissioner Oickle noted that Mr. Silver has an extensive land use background.

Chairman Hammer believes Town regulations should not entertain zone changes with site plan submission only.

Commissioner Oickle would like to know how many nearby communities utilize a zone change with special permit process.

Attorney Hays indicated that in some communities, SRD – zone change then site plan submission (no special permit requirement).

Vice Chairman Roberts expressed his desire to keep the hearing open.

Commissioner Petrelli concurred with Vice Chairman Roberts. He noted he is in favor of streamlining the procedural requirements.

Chairman Hammer inquired and Attorney Hays agreed with an extension of time regarding the thirty-five (35) day statutory timeframe that a hearing can be open.

Motion: Commissioner Oickle made a motion to table this Application to the next PZC meeting of Tuesday, April 20, 2010.

Second: Vice Chairman Roberts seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

This Application is tabled to the April 20, 2010 PZC meeting.

3.2 PUBLIC HEARING APPLICATION NO. 1696-10-Z Wethersfield Farmer's Market Seeking a Special Permit for a Farmer's Market at 200 Main Street (Keeney Cultural Center).(Renewal of Application No. 1656-09-Z)

Ms. Jenna DeLay, of 167 Church Street, Wethersfield and Mr. Douglas Sacks of 116 Ox Yoke Drive appeared before the Commission. They requested a renewal of the special permit which allows them to operate a Farmer's Market as an accessory use at 200 Main Street, Wethersfield. The market would set up at 3:00 p.m. and run from the hours of 4:00 p.m. to 7:00 p.m., on Thursdays only, starting in May 2010 and ending in late October 2010.

Commissioner Oickle mentioned that he has received positive feedback from the community regarding this market. He noted that he'd like to see an increase in the number of days the market operates.

Ms. DeLay and Mr. Sacks indicated that they can only commit to one day at this time due to the work involved with running the operation.

Commissioner Homicki suggested that the permit be renewed for at least three (3) years.

Motion: Vice Chairman Roberts made a motion to close the public hearing.

Second: Commissioner Hughes seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

Motion: Commissioner Munroe made a motion to renew the permit for a period of three (3) years.

Second: Commissioner Petrelli seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

Application Approved.

**3.3 PUBLIC HEARING APPLICATION NO. 1697-10-Z Sandra Byrne Seeking a Special Permit
for a change of use to yoga and massage therapy at 221 Main Street.**

Ms. Sandra Byrne and Mr. Allen Byrne, 75 Apple Hill, appeared before the Commission to describe their proposed yoga and massage therapy business, River Rock Yoga, LLC, for 221 Main Street. Yoga classes will be offered to children and adults (multi-generational). Meditation classes and massage therapy will also be offered. A small retail operation offering items related to yoga, meditation and wellness will also be incorporated into the business. Classes offered will run approximately 1 - 1½ hours in the morning and evening, depending on the needs of the community. There is an anticipated average class size of 8-10 people. The 400 x 400 square foot area designated for the yoga classes would accommodate a class of up to 20 people. Independent contractors will be employed. At the time of a class, one instructor would be present. A receptionist would be present during business hours to man the front desk. Ms. Byrne noted that she would direct any independent contractors and the receptionist to park at the Keeney Center or on the street (away from the business location).

Chairman Hammer inquired if the Applicant was agreeable to having the parking stipulations from the former tenant's (Mainly Tea) Application No. 1320-99-Z, made applicable to this Application.

The Applicant indicated consent to those parking stipulations.

Commissioner Oickle believes that the parking needs of the Applicant would exceed those of the previous tenant (Mainly Tea). He inquired of the property owner as to what parking is available to this Applicant.

Mr. Gillespie indicated that he reviewed the 1999 permit for the said property and an approval was made for a 24 seat restaurant. When reviewing the parking potential for this Applicant's use, the only concern would be parking during the dinnertime hours. Mr. Gillespie believes that the Applicant would be willing to work on a schedule to make the situation work for the best interests of the Applicant and the other businesses in the vicinity.

Ms. Linda Pinn, Westbrook, CT, manager of the building and the LLC, spoke to the issue of parking lot behind the building. 20 spaces are available behind the building. All businesses are allowed one parking space behind the building. Village Pizza has 11 parking spaces on the side of the building. 75% of the spaces behind the building, during the daytime, would be available to the Applicant's clientele. She also noted that parking is available on Church Street and in the Town's parking lot at the Keeney Memorial Cultural Center.

Commissioner Oickle inquired and Ms. Pinn confirmed that all commercial tenants in the building have been notified that employees are not to park in the rear lot or in front of the building.

Commissioner Oickle inquired and Ms. Pinn confirmed that she has seen all of the spaces in the rear parking lot filled to capacity.

Commissioner Knecht inquired if the Applicant could create a class schedule as to avoid issues with parking.

Ms. Byrne indicated that she could encourage her patrons, during class registration, to park at the

Keeney Memorial Cultural Center to avoid parking issues. She believes that patrons will walk or cycle to the site, thus minimizing parking issues.

Commissioner Petrelli made an inquiry regarding the regulation of message therapy.

Ms. Byrne indicated that message therapy is regulated by the local health department and the State. She noted that in compliance with the law, only licensed massage therapists in good standing and with proper insurance will be utilized as contractors.

Mr. Byrne noted that the Applicant is aware of parking complexity in the area and is willing to cooperate with efforts to minimize parking impact.

Public Comments:

Ms. Ozlem Camli, Ph.D., 84 Hillcrest Avenue (Director, Rainbow Center for Children & Families, 80 Garden Street), appeared before the Commission in support of this Application (see her letter dated March 29, 2010 to the Town of Wethersfield Planning and Development Commission. She indicated she has known the Applicant for a few years as a Yoga instructor and noted her good character. She also noted the Applicant's desire for a good location for business. Dr. Camli indicated that the proposed location is optimal for the community.

Commissioner Munroe inquired as to the hours of operation.

Ms. Byrne indicated that 9:00 a.m., lunchtime, early afternoon and evening classes (ending by 9:00 p.m.) are likely. She indicated that perhaps a 7:00 a.m. dependent upon demand. She noted that morning classes and afternoon workshops may be scheduled on weekends.

Commissioner Homicki indicated that for the record, the two letters of reference regarding this Application be acknowledged. There is a letter dated March 29, 2010, to the Town of Wethersfield, Planning and Development Commission, from Ozlem Camli, Ph.D., Director of the Rainbow Center for Children & Families. The other letter dated March 17, 2010 is from Linda Graver to the Planning and Zoning Committee. Commissioner Homicki believes that the Applicant's business is of a lower impact on parking than that of the previous tenant of the same location. He noted that the Application is solid.

Motion: Commissioner Petrelli made a motion to close the public hearing.

Second: Commissioner Knecht seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes
Nay: None

Vote: 9-0 – 0

Motion: Vice Chairman Roberts made a motion to approve the application with the following conditions:

- (1) No employee/independent contractor shall park in front of the building;
- (2) The Commission requests that the Applicant do what is reasonably necessary to protect the private parking rights of the adjacent businesses and to encourage patrons to use off-street parking, such as the Keeney Memorial Cultural Center and behind the building.

Second: Commissioner Homicki seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

Application Approved with Conditions.

3.4 PUBLIC HEARING APPLICATION NO. 1698-10-Z Wilkus 1, LLC Seeking a Special Permit for earth removal and filling at 138 Willow and other properties located to the south and west a.k.a. M/B/L 103-5-30 and 103-4-29.

John Dombrowski, Esq., 158 Ox Yoke Drive, appeared before the Commission on behalf of Applicant, Wilkus I, LLC. He indicated that the following consultants [Beth Roccapiore of Clean Slate Environmental, Inc., 351 West Street, Hebron, CT 06248-1233, telephone: (860) 228-2461; Chris Cole and Ethan Stewart of Diversified Technology Consultants, 2321 Whitney Avenue, Hamden, CT 06518-3535, telephone: (203) 239-4200] were present at this meeting for purposes of responding to inquiries of the Commission.

Counsel noted that the Applicant is requesting approval for a special permit to remediate 3 areas on a 24 acre parcel of land by removing and replacing contaminated soil. In Area #1 (immediate rear of the property), 500 cubic yards of soil will be removed and remediated. In Area #2 (in or near the barns), 500 cubic yards of soil will be removed and remediated. In Area #3 (near Willow Street access), 1,000 cubic yards of soil will be removed and remediated. Approval from the Inland/Wetland and Watercourses Commission has been received for this Application. Counsel also noted that pursuant to the March 31, 2010 memorandum from Michael J. Turner, Director of Public Works/Town Engineer to Peter Gillespie, Town Planner, the standards pursuant to Article 6.10 of the Town Zoning Regulations have been met in this Application package.

Counsel indicated that notice was provided to abutting property owners (within 300' of the parcel) as required by law. Counsel read into the record an Affidavit signed on April 6, 2010 and submitted by Collier Farms Association in order to further satisfy the notice requirements. This Affidavit was submitted to the Commission to be made part of the record.

Counsel indicated a desire of waiving the bond of guaranteeing performance, as remediation would take place prior to closing.

Chairman Hammer inquired and Counsel concurred that the Applicant is suggesting a condition that the Town would have to be satisfied with documentation, prior to closing, by the Applicant's consultants of remediation completion rather than requiring the Applicant to secure a performance bond for the site's restoration.

Commissioner Oickle inquired and Counsel indicated that remediation of the property as such was required by the Town.

Commissioner Petrelli noted his agreement with Mr. Turner's memo as it pertains to the performance bond issue. He also noted that a possible way at closing to address a potential lack of performance regarding the remediation could involve escrow fund utilization.

Commissioner Munroe mentioned concerns with protecting the sewer pipe when accessing the site during its remediation.

Counsel noted that the sewer pipe would not be adversely impacted.

Ms. Beth Roccapiore of Clean Slate Environmental, Inc., indicated that the equipment used in the remediation process will not adversely impact the sewer pipe.

Commissioner Munroe inquired and Mr. Chris Cole of 783 Highland Lane, Northford (Diversified Technology Consultants) indicated that asphalt fragments and petroleum. The contaminated soil would be excavated, trucked off site and brought to another landfill. New fill would then be provided.

Commissioner Oickle inquired and Mr. Gillespie noted that an advisory group may be formed that would come up with a long-term plan for the property.

Public Comments:

Mr. Joseph Hickey, 28 Meadowview Lane, appeared before the Commission in support of this Application. He asked the Commission to expeditiously act on this Application.

Mr. Jack Quinn, 120 Willow Street, appeared before the Commission in support of this Application. He concurs with Counsel and Commissioner Oickle. He believes this land purchase has taken a large amount of time to complete.

Mr. Jim Woodworth 5 River Road, appeared before the Commission in support of this Application. He concurs with the comments of Mr. Hickey and Commissioner Oickle.

Mr. Myron Baldwin, 891 Ridge Road, made an inquiry regarding his property bordering the property mentioned in the Application. He briefly reviewed a site map and spoke privately with Applicant's Counsel regarding his concerns.

Motion: Commissioner Hughes made a motion to close the public hearing.

Second: Commissioner Petrelli seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

Motion: Commissioner Hughes made a motion to approve the application with the following conditions:

- (1) The bond for \$12,700 be waived;
- (2) The property boundary survey be waived.

Second: Commissioner Petrelli seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

Application Approved with Conditions.

3.5 APPLICATION NO. 1700-10-Z Lucas Kyriakos Seeking Site Plan and Design Review to expand the outdoor dining area with associated site improvements.

Kirk D. Tavtigian, Esq., 780 Farmington Avenue, Farmington, CT 06032-2362, telephone: (860) 606-9888, appeared before the Commission representing Peter Alter, who is the property owner of 26-28 Marsh Street.

Chairman Hammer informed Counsel that this matter was not considered a public hearing. He also noted that the Commission would allow him to address the Commission after the Applicant presented his Application.

Mr. Lucas Kyriakos of 57 Windy Hill Drive, South Windsor and owner of Lucky Lou's Bar and Grill,

222 Main Street (a/k/a the Deming-Standish House), appeared before the Commission to seek a site plan and design review for an expansion of the patio toward the rear parking lot at said premises. He noted that the existing patio is approximately 30'x27' (seating 24 people) and he'd like to make the patio a total of 60'x40' (seating 48 people). Renovations to the patio would include: new pavers, retaining walls, a barbeque pit, a small outdoor bar with sinks only (approved by State Liquor Commission and the Regional Health District), replace old cedar fence with new 4 ft. tall cedar fencing, and landscaping improvements. No trees will be removed. Lighting that will mimic the street fixtures will be present.

Mr. Gillespie indicated that the Wethersfield Historical Society and the Historic District Commission have approved the plans proposed.

Commissioner Oickle inquired if wedding parties would be held on the patio.

Mr. Kyriakos indicated that after wedding socials could be held on the patio, not bachelor parties.

Commissioner Oickle inquired if the Applicant is in the restaurant business.

Mr. Kyriakos indicated that he has as many as 20 restaurants under his belt. He mentioned that completed a similar renovation to a restaurant he had in the Tariffville section of Simsbury. He likes his current restaurant location because of the area it is in.

Chairman Hammer made an inquiry regarding the maximum amount of seating pertaining to both the indoor and outdoor seating as proposed.

Mr. Kyriakos indicated that seating would be maximized outdoors in ideal weather circumstances (68-75 degrees). He believes that in ideal weather, many indoor seats would remain unoccupied. His reasoning is that people would rather sit outdoors in ideal weather.

Chairman Hammer inquired if the Applicant intends to provide any outdoor entertainment on the patio.

Mr. Kyriakos indicated that he would provide outdoor entertainment on the patio if zoning regulations and ordinances allowed him to do so.

Chairman Hammer noted that in the past, the Commission has looked at issues of impact when restaurants wish to provide entertainment.

Mr. Gillespie noted that he and the Applicant have discussed the entertainment issue. He indicated that the Applicant was informed of the process in terms of police input, etc. As such, he suggested that the Applicant return to the Commission in the future with a more detailed plan concerning the entertainment.

Chairman Hammer expressed that the Applicant needs to have the clear understanding that the Applicant would not be permitted to have outdoor entertainment should this Application be granted. Outdoor entertainment would have to be made separately.

Mr. Kyriakos indicated that he respects the district and the people in it. He noted that he does not want to disturb people.

Vice Chairman Roberts concurs with Chairman Hammer regarding the issue of outdoor entertainment at the site. He inquired whether the Commission has made additional parking requirements, historically, when factoring in outdoor seating.

Mr. Gillespie noted that in many communities on-site parking for outdoor seating is not a complicated issue because of the seasonal nature of outdoor seating. A stipulation can be made with regard to the maximum number of patrons at the entire site. Also, a time frame for an approval with monitoring can occur. He believes that the Applicant can work with his neighbors to make the situation work.

Commissioner Oickle hopes the Applicant would be successful in this endeavor.

Chairman Hammer inquired as to when the kitchen closes nightly.

Mr. Kyriakos indicated that the kitchen closes at 10:00 p.m. Monday through Thursday, 11:00 p.m. on Friday and Saturday, and 9:00 p.m. on Sunday. He noted that people come back inside the restaurant around 9:00 p.m. if they are outside.

Mr. Kyriakos indicated that he has to deal with a mosquito issue in the area the patio is proposed.

Chairman Hammer suggested that a time limitation may be required for exit from the patio. This requirement may satisfy issues related to noise ordinance violation.

Commissioner Oickle inquired if the diagram submitted by the Applicant is sufficient for Town Staff reference purposes.

Mr. Gillespie noted that the Applicant had submitted a list of materials to the HDC. Therefore, that list and the diagram submitted with this Application is enough information for Town Staff reference and review.

Commissioner Homicki made an inquiry as to what triggers a site plan review. He noted that this Application shows a quality capital investment to the community.

Mr. Gillespie noted that significant modifications to a site would trigger a site plan review.

Kirk D. Tavtigian, Esq., 780 Farmington Avenue, Farmington, CT 06032-2362, telephone: (860) 606-9888, appeared before the Commission representing Peter Alter, Trustee for the Josephine Daly Family Trust, which is the property owner of 26-28 Marsh Street. The large residence consists of 4 apartment units. This 4-apartment residence is located directly behind the proposed site. He spoke in opposition to this Application and requested that this matter be tabled to the next meeting in order for the public to have the opportunity to make written suggestions regarding this Application.

Counsel believes the Application is blank. He noted that when interpreting the Town zoning regulations, the process of a public hearing to obtain a special permit would be the appropriate mechanism for this Application. He reasoned that part of the bar and kitchen operation is being brought outdoors, as indicated in the Application. He inquired whether the proposed barbeque pit is a permitted use under the regulations. He believes that there is a significant change to the 1999 approval for the outdoor dining patio at this site. He asserted that because so many questions were being asked from the Commission, a public hearing and special permit process is warranted.

Counsel stated that there would be increased noise and lighting at this site. He questioned fire safety and smoke emission issues with regard to the barbeque pit.

For the above reasons, Counsel opposes this Application on behalf of his client.

Commissioner Petrelli believes that the Applicant is proposing a clean and attractive plan that accommodates a public demand for dining outdoors. He stated that boisterousness has to be curtailed and believes that the Applicant can make this entire concept work, as the Applicant has had extensive experience in the restaurant business.

Chairman Hammer suggested that the hearing be continued. He believes that there are at least two (2) legal issues to be investigated by staff and/or the town attorney. The first issue is to have a determination made whether the special permit process or the site plan process is the appropriate method of handling this particular Application. The second issue is whether the 300' notice requirement should be invoked.

Mr. Gillespie believes that site and seeding conditions do not trigger a change in use. He acknowledged that the Applicant is under some time issues. Therefore, Mr. Gillespie recommended the advertisement of this Application. He also stated that Mr. Alter and the Applicant should talk in the meantime to work

on issues of contention.

Chairman Hammer agreed regarding the advertisement and the suggestion to the Applicant and Mr. Alter that issues of contention be discussed and worked out in preparation for the next meeting.

Commissioner Homicki indicated that the end of the proposed patio is 150'-180' from the property line of Counsel's client. He believes that if communication opened up between the parties, the proposal could work.

Motion: Vice Chairman Roberts made a motion to table this Application to the next PZC meeting of Tuesday, April 20, 2010.

Second: Commissioner Oickle seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes

Nay: None

Vote: 9-0 – 0

This Application is tabled to the April 20, 2010 PZC meeting.

4. OTHER BUSINESS

5. MINUTES – Minutes from the March 2, 2010 Meeting.

Vice Chairman Roberts, Commissioner Oickle noted corrections to the Minutes. The Minutes will be revised accordingly.

Motion: Vice Chairman Roberts made a motion to approve the minutes with the suggested revisions.

Second: Commissioner Petrelli seconded the motion.

Aye: Hammer, Roberts, Knecht, Harley, Munroe, Oickle, Homicki, Hughes

Nay: None

Abs: Petrelli

Vote: 8 – 0 – 1

Minutes approved as corrected.

6. STAFF REPORTS

Mr. Gillespie informed the Commission that a parallel effort with Staff and the Town Attorney is occurring with regard to the modification of commercial vehicle regulations. He indicated that matters concerning off-street parking and parking on the snow shelf may create zoning issues. Mr. Gillespie believes that Commission assistance will be necessary should zoning issues emerge from the modification process.

Mr. Gillespie informed the Commission of the current procedure utilized by Staff pertaining to the legal requirement of an applicant to provide notice to abutting property owners within a 300 ft. radius of the

subject application. Mr. Gillespie requested Commission feedback regarding Staff utilization in this regard.

7. PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING

There were no public comments made regarding general matters of planning and zoning.

8. CORRESPONDENCE

8.1 A letter dated March 9, 2010 from John & Shireen Aforismo regarding Application No. 1691-09-Z.

8.2 Cargill Quick Lube & Carwash, LLC v. Putnam ZBA.

9. PENDING APPLICATIONS TO BE HEARD AT FUTURE MEETINGS

9.1 PUBLIC HEARING APPLICATION NO. 1699-10-Z Eric Lindgren Seeking a Special Permit in accordance with Section 3.5.3 of the Wethersfield Zoning Regulations for the use of an accessory apartment at 15 Willard Street.

10. ADJOURNMENT

Motion to adjourn at 9:43 PM – by Commissioner Harley.

Seconded – by Commissioner Homicki.

Aye: Hammer, Roberts, Knecht, Harley, Petrelli, Munroe, Oickle, Homicki, Hughes
Nay: None

Vote: 9-0 – 0

Meeting adjourned.

Respectfully submitted,

Ellen Goslicki, Recording Secretary