

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

September 5, 2012

The Wethersfield Planning and Zoning Commission held a public hearing and meeting on Wednesday, September 5, 2012 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:

Vice Chairman Roberts called the meeting to order at 7:00 p.m.

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

Clerk Margiotta called the roll as follows:

| Member Name | Present | Absent | Excused |
|--------------------------------|---------|--------|---------|
| Thomas Harley, Chairman | | | ✓ |
| Richard Roberts, Vice Chairman | ✓ | | |
| Antonio Margiotta, Clerk | ✓ | | |
| Joseph Hammer | | | ✓ |
| George Oickle | ✓ | | |
| Anthony Homicki | ✓ | | |
| James Hughes | ✓ | | |
| Dave Edwards | ✓ | | |
| Angelo Robert Fazzina | ✓ | | |
| Thomas Dean (alternate) | | | ✓ |
| Alex Vasel (alternate) | ✓ | | |
| Leigh Standish (alternate) | ✓ | | |

Also present: Jeff Bridges, Town Manager;
Peter Gillespie, Town Planner/Economic Development Manager;
Denise Bradley, Assistant Planner

Vice Chairman Roberts noted at the time of roll call there were nine (7) full members and three (2) alternate members in attendance. All members present to participate.

Members of the Public were present.

2. OLD BUSINESS:

There was no Old Business discussed during this meeting.

3. NEW BUSINESS:

3.1 PUBLIC HEARING APPLICATION NO. 1775-12-Z Thomas A. DiCioccio Seeking a Zoning Text Amendment in accordance with Section 10.1.F of the Wethersfield Zoning Regulations to permit and define landscape contracting business in the Agricultural (AG) Zone.

Michael F. Romano, Esq., 41 New Britain Avenue, Rocky Hill, CT, and Jack Guilmartin of JL Surveying, 212 Old Brickyard Lane, Berlin, CT appeared before the Commission as Counsel and as a representative, respectively, to describe this Application. The Applicant is seeking a zoning text amendment in accordance with Section 10.1.F. of the Wethersfield Zoning Regulations to permit and define landscape contracting business in the Agricultural (AG) Zone. The proposed Text Amendments: 1) create a new definition of a “landscape contracting business” (Sec. 2.3); 2) Section 4.1.B.: add #14 which reads: “landscape contracting business including appurtenant equipment storage and offices as a Conditional Use Permitted only after Special Permit Approval by the Commission; 3) Section 4.1.D.: add 1-7 – 1) no parcel containing less than five (5) acres shall be used for a Landscape Contracting Business; 2) such establishment must engage in the raising and wholesale distribution of agricultural and horticultural commodities and no less than seventy (70%) percent of such parcel must be used for that purpose; 3) the non-agricultural uses of the site shall not be located within one thousand (1,000) feet from a residential zone; 4) no retail sales of plants, mulch or any other product is permitted; 5) all bulk landscape and plant materials and supplies shall be located a minimum of two hundred and fifty (250) feet from any structure on an adjacent parcel and all equipment shall be stored within a building or must be located at least one-hundred (100) feet from any structure or adjacent parcels. The Commission may require the use of a privacy border or landscape buffer in order to screen the area from view by neighbors and from the public right of way as prescribed by Section 6.1 of these regulations; 6) no screening, sifting, washing, crushing or other processing activities are permitted; 7) The Commission may impose reasonable conditions on any Landscape Contracting Business application including the following: (see proposed a-f); 8) Sec. 6.3.D. Signs Permitted in any Zone: One (1) detached or wall sign permitted for each principal use authorized by the Commission requires Staff and Design review approval and may be up to a maximum of twelve (12) square feet in area.

It was noted that the Applicant wishes to move their existing landscaping business, which they consider as integral to the site, to the address in an AG zoned parcel. Counsel indicated that existing regulations present complexity in this process. The representatives indicated the wetland area of the site would not be adversely affected by the Applicant’s business and noted that the State of CT DEP, Wethersfield Inland Wetland and Watercourses Commission and the Design Review Advisory Commission approved the initial plan. There would be nine (9) employees at the site, and there would be no signage, public retail sales, or storage of goods (i.e. topsoil) at the site. It was noted that some of the work equipment (trucks and or accessory equipment) would be stored at the site in the four thousand (4,000) square foot building proposed for the site and that seventy (70%) percent of the site property would remain agricultural (for raising arborvitae shrubbery).

PUBLIC COMMENTS:

The following persons spoke in favor of this Application:

Mary Lou Gates, 136 Charter Road, indicated the DiCioccio Brothers have completed landscaping and snow removal on her property. She mentioned that noise associated with snow plowing is expected and is not an issue and that the business proposed would generate much needed and desired tax revenue for the Town.

John Adamian, 86 Waters View Drive, a neighbor of the Applicant, indicated the use proposed is ideal for site and that the Applicant and his sons favorably maintain their residential properties, as well as any trucks he has seen in the community that are used for the business. He is not concerned about excessive noise from the business operation. He would like the Town to accept more commercial businesses to ease the tax burden on Town residents.

Renee Dinino, 67 Waters View Drive, a neighbor of the Applicant, spoke favorably of the character of

the Applicant and his family and concurred with the statements made by Mr. Adamian regarding favorable upkeep of residences and property of the business. She indicated the value of what the Applicant would bring to Wethersfield should not be ignored. She also indicated that the noise associated with plowing is to be expected as it is with the State of Connecticut Department of Transportation.

Margaret Peggy Delmastro, 65 Montague Street, a neighbor of the Applicant, commented favorably regarding the character of the Applicant and the maintenance of his property. She noted the Applicant and his family have contributed to the Town in many ways (sports, clubs, etc.) and indicated that anything the family does is top notch. She indicated the Town needs business and that it would be very unfortunate if the Applicant was denied the proposed business opportunity. She asked the Commission to approve this Application.

Tom Pentalow, 66 Boulter Road, indicated the Applicant's family has given so much to the Town and that he would like for them to have the opportunity to operate the business presented in this Application.

Armando Migliorati, 40 Kimball Road, concurred with the statements regarding the character of the Applicant and his family as noted from the speakers hereinbefore mentioned. He described an instance where the Applicant's son, Brian, while completing major renovations on his property, went out of his way to provide him with assistance.

Martin DeFilippo, 97 Waters View Drive, indicated this Application provides the opportunity for the Town to have a home town company locate in Wethersfield.

Matt Nalette, 179 Clearfield Road, noted the Applicant and his family have a history of representing the Town well. He mentioned that not allowing the Applicant to operate the business proposed in this Application would be unfortunate, as said business would contribute much needed tax revenue going forward. He noted that as a resident and taxpayer, he would like the proposed business to be located in Wethersfield.

William Skidgell, 58 Palmer Drive, a neighbor of the Applicant, mentioned his desire to have the proposed business located in Town. He indicated the proposed business would be provide tax revenue and would be an asset to the Town.

Shireen Aforismo, 185 Broad Street, submitted a letter to the Commission from her husband dated September 4, 2012. She and her husband are both in favor of this Application. She noted the proposed barn is pleasing to the eye and to the properties in proximity to it. She mentioned she does not understand why the proposed business would not be approved. She asked the Commission to be business friendly in consideration of this Application.

Matt Skehan, 105 Straddle Hill, indicated he and his family are in full support of the text amendment. He mentioned that despite the many commercial property vacancies which exist, the Applicant is fighting to come to Wethersfield. He noted that to deny this Application would be along the Silas Deane Highway would be a travesty, and that if necessary, he would bring many more people to a public hearing to support this Application.

Charlie Viani, 72 Sunrise Terrace, [former member (serving as Chairman, Vice Chairman) of the Wetlands Commission, and former member of the School Projects Committee (serving as Chairman, Vice Chairman)], noted this Application is self restrictive. He indicated his confidence in the Applicant to meet any restrictive condition, as well as with any terms/conditions this Commission may add.

Roger Muscillo, 100 Meadowview Drive, indicated that as a taxpayer, he considers this business as a mindful, excellent choice for a type of business that should be brought into Town. He also mentioned that he is not in favor of paving/developing every parcel of open space in Town.

Gwynne Scanzi, 363 Goff Road, a Wethersfield resident for thirty-two (32) years, indicated she is in favor of new businesses coming to Town. She has experienced Town trucks passing by her residence over many past years and is in favor of the business proposed. She noted the proposed business will add needed tax revenue to the Town.

John Console, 38 Ivy Lane, appeared before this Commission as a private citizen and noted he has spoken with parties on both sides of this issue (the DiCioccio family and members of The Great Meadows Conservation Trust, Inc.), as well as with residents of Elm Street. He indicated the facts of the entire situation relative to the Application have to be considered. He believes the Applicant is doing the right thing and from the people he has spoken to, the Applicant's character/word is credible. He indicated his initial doubts when reviewing both sides of the issue, coupled with his experience in reviewing the ongoing sustainability efforts pertaining to the Morris Farm, with the conclusion that the proposed business is a good addition for the Town. In terms of the agricultural component/commitment described in this Application, he indicated there is confidence in the Applicant's reputation of following through on said commitment. As such, Mr. Console believes this Application should move forward.

Frank DiBacco, 126 Col. Chester Drive, indicated the Applicant is imposing restrictions on his own business by way of this Application. He questioned where in Town businesses like the Applicant's can be located other than the site proposed. He noted the eight (8) acres of preserved land mentioned in this Application makes no sense to him, as the Town already has the Wilkus property. He also noted the amount of money the Applicant's business would produce and add to the tax base is substantial. He mentioned that growth of the Applicant's business would positively affect the tax base. He encouraged more businesses in Town to add to the tax base of the Town. He noted there are too many restrictions for businesses to operate in this Town.

Vice Chairman Roberts explained that the process during this meeting, and what the Commission will actually be discussing, is that this Application is to amend the zoning regulations to allow the Applicant to come back at some time and later date to apply for the special permit. Assuming the text amendment is passed, everyone will have the same opportunity at that point to come back and talk about site specific, business specific, and activity specific restrictions that, hypothetically, can be appropriate at that time. Vice Chairman Roberts mentioned that according to the Applicant's Attorney, this Application is basically a text amendment to the zoning regulations that applies to what is the presently configured four (4) pieces of property in the Town.

The following persons spoke neutrally, in opposition to, in curiosity of, or questioned, this Application:

Betty Heller Rosania, 88 Desmond Drive, former Mayor of Wethersfield, former Chairperson of the Economic Development Commissions, and member of many Committees and Commissions over the years. She has been a Wethersfield resident for fifty (52) years. She indicated she is not questioning the reputation of the Applicant or his family, as they have a pristine reputation. She referred to a book from author, Rachel Carson, entitled *The Silent Spring* and noted the initial comment from that book was quoted from Carlisle: "in nature's chain, whichever link you strike, tenth or ten thousandth, strikes the chain alike." She spoke the Meadows as a pristine piece of land and as a treasure of the Town. An incursion of that land will lead to more incursions. Once there is one (1) exception made, it is very easy to make the rest. She noted that the Economic Development Commission approved to have this Application go forward to the Planning & Zoning Commission. She also noted that as a seated Board member of the Economic Development Commission for the past twelve (12) years, the charge of that Board is to balance economic development and preservation. She reiterated the necessity to preserve the Meadows as a component to the balance. She asked that the Application be tabled if this Application could not be denied at this time.

Commissioner Homicki inquired of Ms. Rosania if the primary concern is for the use of the physical building. Ms. Rosania explained her concerns are multi-faceted. She indicated that once an exception is made due to the result of the text amendment proposed, it would be much easier to make other exceptions and more difficult to deny future exceptions going forward. She indicated that the EDIC's finding regarding this Application reflects the in viability of the Meadows. She believes the Meadows, as well as wetlands, should be left alone. She noted there is plenty of property in Town, other than the Meadows, where additional stories/floors can be added to accommodate the need to grow business in Town.

T. William Knapp, 171 Collier Road, has been a Wethersfield resident for seventy four (74) years. He explained that he is not critical of the DiCioccio family. He is not in favor of changing policy to accommodate a business proposal, noting that he considers it poor public policy to adopt a law to favor a particular Application. He disagrees with Counsel that the roadway interchange in proximity to the site

proposed is not of issue, as there was a massive public effort to reject the interchange zone proposal made in 1998 ("Save The Meadows"). He noted that this proposal has not gone through the Conservation Commission or the Zoning Board of Appeals. He believes the DiCioccio business is a contracting business and noted that if the Applicant was to solely grow arborvitae and hemlock trees/shrubbery at the proposed site, there would be no need to present a text amendment and/or make this Application. He provided a photocopy of a picture from googleearth.com which provides and aerial view of the Applicant's current business location in Newington, CT. He in position he held for many years, he observed flooding activity on at least four (4) occasions wherein a boat was needed to get beyond Maple Street from Elm Street. He requested a continuance of this public hearing Application for purposes of responding to the Applicant's rebuttal.

Commissioner Oickle inquired and Mr. Gillespie indicated there was a referendum for the interchange zone proposal made in 1998. Vice Chairman Roberts indicated Town Council decided that although the petitions regarding the interchange zone proposal were invalid, they decided there would be a referendum question on the ballot.

Rick Doran, 223 Main Street, immediate past President and current Board of Directors Member of the Great Meadows Conservation Trust, Inc. indicated that the Application represents more of a contracting than agricultural nature. He noted that covering the site seventy (70%) percent with arborvitae and hemlock is a significant improvement of what he initially envisioned at the site. He believes the site is not conducive to any type of structure. He mentioned that the current DiCioccio business consists of a contractor's yard and envisions that type of use as the principal use for the thirty (30%) of the site, as proposed in this Application. He stated that yellow iron equipment (front-end loaders, bucket loaders, backhoes) is the type of equipment that would be stored on the site and believes that an extension of that area would be applied for in the future and therefore concluded that the use and activity proposed is inappropriate for that area. He is concerned the flood plain elevation status of the site presents complications with having structures erected at, or additional materials introduced to, the site. He is also concerned with how the seventy (70%) agricultural crop cultivation (landscape nursery) enforcement would occur and what type of sanctions would be imposed if a violation was realized. He asked the Commission to consider the promotion of agricultural pursuits and the information stated herein when reviewing the proposed text amendment.

Joe Hickey, 28 Meadowview Drive, is concerned with what he considers a likely precedent impact and the possible development of a row of construction and trucking yards in an area that has what he considers the best soil in Town, which is in a high flood plain area along Elm Street. He noted his respect for what the Applicant is trying to do but urged the Applicant to find another location in Town.

Jim Woodworth, 5 River Road, spoke as a citizen and a representative of the Great Meadows Conservation Trust, Inc. He spoke favorably of Mr. Anderson and his family's successful corn growing operation. He spoke of how underestimated the value of Agriculture is in terms of Economic Development to Wethersfield. He spoke of a recent editorial in the *Hartford Courant* about farming loss occurrence for decades but agriculture enjoying a renaissance. He noted the site is in the Agricultural conservation zone, a zone that was set up by the Commission ("intended to allow for agricultural activities in keeping with Wethersfield's heritage and the character of these areas") as defined. He explained that to get above the flood level at the site, four (4') feet of material existing at the site (requiring bulldozing of existing material) would have to be hardscaped to entomb the thirty (30%) portion of the site for the proposed barn. He indicated that due to the hardscaping alone, this proposal should be denied. He mentioned the suggested archeological analysis, as indicated by the State, is optimally performed when the earth is undisturbed rather than being completed after the fact. He believes the Applicant has the ability to locate his business in a commercial zone by taking an existing commercial property and transforming it into a landscape. He indicated he spoke with Stuart Popper, Cromwell Town Planner, who noted that there is no agricultural conservation zone in Cromwell and that Millane Nurseries is located in a commercial zone. He mentioned an approval of this proposal translates into allowing a commercial building to be erected in the Agricultural conservation zone and questioned its appropriateness to the Commission. He mentioned he does not understand how surrounding neighbors are not allowed to build onto their respective existing residences (due to flood plain zone adoption) but then may allow a commercial structure to be erected right next door. He questioned town official involvement in drawing up a commercial exception to the agricultural zone. He indicated the Great Meadows Conservation Trust, Inc. would buy this site and conserve it forever if it had the opportunity to do so. He read a brief statement into the record which noted that the soil in the Meadows

(identified by soil scientists as Occam fine sandy loams and Winooski silt loam) is among the best in the world. Should the Application be approved, he suggested there be a requirement added to require the Applicant to allow the state archeologist to study the site carefully after the overgrown nursery stock is removed and before and during all excavation work. He recommended that wording be added, provided by Nicholas Bellantoni, State Archeologist, as a permanent text amendment to the zoning regulations to protect the archeology remains of the "Pyquag" Wangunk summer encampment and farming area from disturbance by future construction of agricultural buildings that conform to the Agricultural Zone that you created a decade ago.

Tom McLaughlin, 138 Elm Street, is new to this issue and has no opinion at this time. He noted that in his twelve (12) years as an Elm Street resident, he has not been allowed to put up anything with four (4) walls. Zoning requirements presented many difficulties when he placed a second story on his existing home. He cautioned of ramifications resulting from altering the existing zone, as many properties, large and small, will be affected. He noted he will get better acquainted with the issues in preparation for future hearings regarding this issue.

David Caruk, 149 Broad Street, indicated he doesn't know enough about the text amendment changes to be for or against this Application. He believes that the seventy (70%) percent agricultural component to the plan is good, and that the use is suitable for the environment and appropriate for the area. He does not want the outcome of this Application to adversely affect Mr. Anderson's farm operation.

David Anderson, 165 Broad Street & 156 Elm Street, indicated his family has been farming in the Meadows since 1852. His thirty (30) acre property abuts the site. He owns approximately one hundred thirty (130) acres in Town. He is not in favor of the zone change because a great deal of the site is under the 490 Act. He indicated that approximately twenty six (26') feet of water is taken in at the proposed site. He noted that in 1955(as well as in 1936, 1937 (houses had water on the second floor of every home), 1983 and 1984), the site was in over ten (10') feet of water. He noted that Elm Street (eighteen rods) is not the width of a street by today's standards.

Ed Murphy, 215 Elm Street, questioned the term "primarily" used in the definition of Landscape Contracting Business, asked for it to be quantified and asked how it will be monitored. He provided a copy of the Applicant's business card and noted that nothing on the card reads "landscaping". He noted that the Applicant's business license is classified as "Major Contractor", and the statute reads as follows:

"A major contractor or subcontractor is any person who, under the direction of a general contractor, performs or offers to perform any work that impacts upon the structural integrity of the structure or addition, including repair, alteration, dismantling or demolition of a structure or addition that exceeds the threshold limits contained in

[Section 29-276b of the Connecticut General Statutes.](#)

[pertains to buildings with over four (4) stories; sixty (60') feet in height; with a clear span of one hundred fifty feet in width; containing one hundred fifty thousand square feet of total gross floor area; or with an occupancy of one thousand persons.]

Such work shall include, but not be limited to, roofing, masonry, and structural frame. Structural frame means supporting members essential to the integrity of a structure, including but not limited to the foundations, beams, columns, floor slabs, sheeting, shoring and underpinning."

Mr. Murphy reiterated he is concerned that the proposed site will become too small for the activities stemming from the license described above, and he believes the aforesaid description is where the business is headed. He noted that two to three (2-3) acres of the site is swamp like/permanently wet. He also noted that moving then relocating said topsoil at the site will create a swale or gulley which would in turn make the land not farmable. The non-arable land should be excluded from any calculations

associated with the passing of this proposed text amendment. He thinks this proposal is a losing proposition for the Town, as it is spot zoning. He indicated that perhaps two (2) properties lend themselves to the proposal. The Discenza property floods regularly, the turf farm also floods and is difficult to reach regularly (often each Spring). The water (every two to three years) then extends to the property of which the Applicant currently has an option to purchase (the proposed site of this Application). The water continues to extend to the Dowd and Frechette properties. He spoke of access to and from the site being limited from the south, north and east and will require passage through Old Wethersfield. He noted that Elm Street is likely the worst plowed street in Town and that Mr. DiCioccio's would likely improve that situation. Two-way traverse is difficult with or without the presence of snow.

James Dowd, 21 Halfpenny Lane, owns the abutting property to the north for the past twenty-five (25) years, and was told back in the early 1990s that he could not expand the footprint of his residence and that no soil could be moved or brought in. They kept the house and moved across Town to accommodate his family. He noted the property is a registered farm with the State of CT. He also noted the plan would adversely affect his property. He asked that the Commission to consider what he believes will result in erosion and flooding issues on his property. He indicated he would like to see the tree growing operation without the commercial vehicles utilized at the site.

George A. Ruhe, 956 Cloverdale Circle, indicated that over many years, the Meadows area has been under ceaseless attack. Early 70s, race track, interchange zone, Wilkus Farm, and this proposal. He noted that the integrity of the Applicant is not the issue of this Application. He indicated the impact on the Town regarding the text amendment is the focus of this Application. He also indicated that having trucks and construction materials at the site proposed subjects the land to contamination. He concurs with the statements made by Betty Rosania that an incursion of that land will lead to more incursions. He suggested the Commissioners keep in mind the importance of preserving land that cannot be restored to its rare, unique qualities if developed. He believes the Application should be denied at this point.

Betty Schmitt, 87 Tryon Street, South Glastonbury, CT, member of the Great Meadows Conservation Trust, Inc., indicated the Commission did the right thing several years ago in passing what is the current Agricultural Zoning ordinance. She mentioned the language in the ordinance is appropriate, as definitions of the appropriate uses are explained in the ordinance for the agricultural zone and no changes are needed at this time. She is not in support of the proposed text amendment. She described the soil in the Meadows as invaluable, as it started being laid down around 13,000 years ago when the Great Wisconsin Glacier began receding from Long Island Sound, which in turn, created the Connecticut River Valley. There was eventually enough education on the flood plain itself for the Native Americans to settle on both sides of the Connecticut River (Glastonbury and Wethersfield). Archeological digs have allowed this information to be learned. The highest and best use for this prime soil, which cannot be replicated, is to grow things on, just as the agricultural ordinance states. This prime soil was rated highest in the world by the U.S. Department of Agriculture. She noted her support of private enterprise and believes there are other locations for the Applicant's business. She inquired as to how many acres are in the subject zone and how many jobs will be created, relocated, etc., in relation to an economic development proposal. She also noted the Town of Glastonbury has purchased 1,500 acres of land for purposes of preserving open space agricultural land. There have been thirty three (33) parcels purchased over the course of eight (8) referendums agreed to by taxpayers, and an ongoing reserve for land acquisition has been established.

Commissioner Oickle inquired and Ms. Schmitt indicated that although she does not know whether Glastonbury allows commercial landscaping business in agriculture zones and in flood plain areas, she seriously doubts Glastonbury does.

Jim Zagroba, 263 Meadow Road, Rocky Hill, CT, member of the Great Meadows Conservation Trust, Inc., indicated he was impressed with the outpouring of support from neighbors, friends and members of the community regarding the Applicant and his family. He values the Meadows greatly, as he resides at the buffer of the Meadows and Rocky Hill as a 4th generation family member, and has resided ferry side across from Glastonbury. He disagrees with assertions made by DEEP that no natural diversity is present in the Meadows, as he has seen bobolink, savannah sparrow, hawks, etc. He believes the Town of Rocky Hill likely regrets allowing the motor cross track. Developers are currently looking into bringing in 462,000 cubic yards of toxic waste material to place in the old landfill and urged Wethersfield to learn from those mistakes. He indicated that land in the Meadows is vital to our health,

and urged the Commission not to pass the proposed text amendment. He also indicated that he is confident there are other suitable locations for the Applicant's business.

Rebecca Zalznock, 965 Folly Brook Boulevard (LEP @ AEGIS Environmental) has resided in Wethersfield for twenty-five (25) years and indicated that her professional experience in the environmental consulting and environmental regulation business for thirty (30) years. She owns an environmental consulting business here in Town, does consulting work for the Town, and has been (and currently is) on the Conservation Commission for eighteen (18) years. She, as a CT licensed environmental professional, is concerned about conducts environmental assessments, cleanup soil, and groundwater remediation of commercial and industrial properties in CT and several other states. She has two (2) ongoing remediation projects on Kelsey Street, which is directly across the street from the Applicant's existing business in Newington, two (2) projects on Christian Lane and three (3) on John Downey Drive to the north. She indicated she is very familiar with the groundwater quality, the commercial industrial use, and its impact to the groundwater quality. In the state of CT, the DEEP defines two classes of groundwater: 1) Class-GA is pristine considered potable water without the need for treatment. She noted that if you're in a Class GA zone (Class and Zone are on a map that the State provides) that water must remain pristine no matter what your use is at the site. If you pollute said water, you must clean it up to drinkable quality. The second zone is Class GB is presumed or known to be degraded due to historic urban development, industrial commercial use. This water is not considered potable. If you pollute it, you cannot make it worse. You must clean it up to Class GB standards, which are a bit more lenient than Class GA. The use of this contracting facility is high risk, as she has completed assessments for the type of business described in this Application. At assessment, she looks for: what is the class of the ground water and what is its use so that it can be ranked for degree of risk. Parking, washing, maintenance, and fueling of trucks, storage of materials, spills, spill control, pollution prevention, storm water quality and run off, all of which are issues that the subject business is exposed to. She noted that if this Application is approved, the pristine Class GA zone will be at risk for being polluted by inherent use. She mentioned she has investigated enough properties to arrive at this conclusion. State regulations become more stringent every six (6) months to a year. She is opposed to the use of the site as noted and described in this Application.

Commissioner Hughes asked if the graphic provided from Attorney Romano at this meeting could be staked out for purposes of viewing the site to note where the impact line (1,000 foot line) is located.

Attorney Romano thanked everyone who spoke on both sides of this Application. He noted that anytime there is change, there is risk. He noted that Ms. Zalznock did not mention she did an environmental analysis of the site and figured she was speaking as a citizen rather than a professional. He indicated that Regulations are the controls for mitigating risk and understands no one wants their neighborhood ruined. He mentioned that the Great Meadows Conservation Trust, Inc., is free to buy any land that is for sale and the Trust is free to propose a referendum that all the taxpayers in Wethersfield finance twenty to thirty Million (\$20,000.00-\$30,000.00) Dollars and buy all this land, which is not practical. The amendment tries to preserve as much as possible while not destroying the utility of the site for the Applicant's business or any site. He noted that the proposal is an amendment to the zoning regulations and not a zone change. It provides a possible special permit use with many restrictions.

Commissioner Oickle inquired and Attorney Romano indicated that Jack Guilmartin of JL Surveying would have to answer questions regarding the appropriateness of Elm Street in terms of vehicle circulation and dealing with the snow shelf.

Commissioner Oickle inquired and Jack Guilmartin of JL Surveying indicated that the four (4) properties are as follows: the very last property depicted at the very end is Discenza's Farm (one parcel); turf farm; individual parcels and some combined parcels of Anderson Farm. Water and sewer are located at the site.

Commissioner Hughes inquired and Mr. Guilmartin indicated that the back portion of the site slopes gently down toward a ridge and then drops off into the marshes.

Commissioner Standish explained that with 7.5 acres, thirty (30%) percent of that amount is 2.4 acres, and fifteen (15%) percent of 2.4 acres is roughly a 1/3 of an acre. He inquired that if the wetlands area was set aside as a conservation easement and the amount of that area were subtracted from the total calculation; would the project still be feasible. Mr. Guilmartin said he would have to guess it would not

be a feasible project.

The copy of the site of the business as depicted from the googleearth website shows the yard where the Applicant shares space with another tenant.

Mr. DiCioccio indicated that the business he currently shares space with buys trucks and repairs them for resale. He elaborated on the business card and contract license issues brought up with members of the public. He indicated the license he has is necessary, per the State of Connecticut, in order to complete installation work on customer property. He noted that members of the public did not mention other language relative to his licensure, nor is it realized that he has many legal documents he can produce that show he is a landscape contractor. He is insured as a landscape contractor and his advertisement in the phone book is under Landscape Contractors.

Commissioner Standish inquired and Mr. DiCioccio indicated that the storage trailers depicted in the googleearth aerial photograph are not his or used by him. Mr. DiCioccio indicated there are two (2), twenty (20') foot storage trailers he is currently using (one, in trailer and the other, an out trailer) due to his business outgrowing its current space. He noted that if he needs a truck that is located in the back of a trailer, he moves the cars in front of it first. He then has to back in the trucks he is not using and then proceed with his business.

Commissioner Oickle inquired and Attorney Romano indicated that in terms of conforming to the Town's Plan of Conservation and Development, the proposed amendment allows for business to be brought into Town with restriction while conserving a significant portion of the site.

Commissioner Fazzina inquired and Mr. Gillespie indicated that the photographs depicted in the Commissioners' packets are generally characteristic of conditions existing in Town. The listing of the uses provided depicts those that, theoretically, are permitted uses and subject to Zoning Officer approval or approval by this Commission.

Commissioner Fazzina inquired and Mr. Gillespie indicated that future Applicants may use approved proposed amendments as a mechanism for pleading their case. However, matters are reviewed on a case by case basis and judged on their own merit. Other conditions may be imposed as well.

Attorney Romano indicated that the pictures of the boatyard and the shooting range were not taken in Wethersfield.

Commissioner Homicki inquired and Mr. Gillespie indicated that details regarding the specifics of a special permit would be ironed out at the time in which a special permit is being applied for.

James Dowd, 21 Halfpenny Lane, indicated that the proposal mentioned in this Application, although not decided in this Application, is for a multi-use office and a barn and that there is an area of three (3) acres of swamp in the back of the site.

Motion: Commissioner Homicki made a motion to continue the public hearing (to Tuesday, September 18, 2012) of **PUBLIC HEARING APPLICATION NO. 1775-12-Z Thomas A. DiCioccio** Seeking a Zoning Text Amendment in accordance with Section 10.1.F of the Wethersfield Zoning Regulations to permit and define landscape contracting business in the Agricultural (AG) Zone.

Second: Commissioner Oickle seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Public Hearing Application was continued to Tuesday, September 18, 2012.

3.2 PUBLIC HEARING APPLICATION NO. 1778-12-Z LEE MCNELLY Seeking a Special Permit in accordance with Section 3.6 of the Wethersfield Zoning Regulations for an accessory building that exceeds the maximum square footage and height permitted at 120 Valley Crest Drive.

Paul Randazzo of Percon, Inc., appeared before the Commission on behalf of the Applicant.

Mr. Randazzo indicated that Mr. McNelly has resided at the site since 2005. Previously, the six (6) pitch ranch-style house had been vacant for approximately fifteen (15) years. He noted there is no existing garage on the property.

The proposed thirty-five by thirty-seven (35' x 37') foot garage is just short of twenty-one (21') feet high and has two (2) twelve (12') foot doors. The garage will store the Applicant's sedan, work van, pickup truck and boat. There are no stairs and there is no second floor for the proposed garage. The garage is 27 feet away from the property line, and the site plan includes a plot plan of the property. The fence along the south side of the property to the neighbor is eleven (11') feet at one end and eight (8') feet at the other end. The proposed garage will not have a view from the street.

Electrical outlets and lighting will be installed. It is unknown as to whether plumbing will be installed. Mr. Randazzo noted that the proposed garage is not for the operation of a business. He noted that the installation of a truss roof is to allow for the work van to be parked indoors, as the van is equipped with a rack. The garage will not have an apartment.

PUBLIC COMMENTS:

Martin DeFilippo, 97 Waters View Drive, whose property is directly behind the Applicant's, appeared before the Commission and made an inquiry regarding the height of the proposed garage. Mr. Randazzo indicated the proposed garage will be at least five (5') feet lower than the Applicant's existing residence.

Karen Feeney, 156 Valley Crest Drive, appeared before the Commission and spoke in favor of the Application.

Motion: Commissioner Oickle made a motion to close the public hearing of **PUBLIC HEARING APPLICATION NO. 1778-12-Z LEE MCNELLY** Seeking a Special Permit in accordance with Section 3.6 of the Wethersfield Zoning Regulations for an accessory building that exceeds the maximum square footage and height permitted at 120 Valley Crest Drive.

Second: Commissioner Hughes seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Public Hearing was Closed.

Motion: Commissioner Oickle made a motion to approve, as submitted, **PUBLIC HEARING APPLICATION NO. 1778-12-Z LEE MCNELLY** Seeking a Special Permit in accordance with Section 3.6 of the Wethersfield Zoning Regulations for an accessory building that exceeds the maximum square footage and height permitted at 120 Valley Crest Drive.

Second: Commissioner Hughes seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Application was approved.

3.3 PUBLIC HEARING APPLICATION NO.1779-12-Z: 1160 Silas Deane Co, LLC & Bernstein Family, LLC Seeking a Special Permit in accordance with Section 6.2 of the Wethersfield Zoning Regulations for a parking waiver in the amount of ten parking spaces, modifications to existing parking areas, landscaping and access easement at 1160 Silas Deane Highway and establishment of a paved fire lane at 1178 Silas Deane Highway.

Kevin Johnson of Close Jensen & Miller, P.C., the Landscape Architect who prepared the site plan for the project, appeared before the Commission. He noted that 1160 Silas Deane Highway property is situated on the southeast corner of Silas Deane Highway and Mill Street. 1178 Silas Deane Highway (f/k/a Fun Zone) is the building immediately to the south of 1160 Silas Deane Highway. The purpose of the proposed site improvements to 1160 Silas Deane Highway is to facilitate improvements to 1178 Silas Deane Highway. There are egress restrictions from the 1178 Silas Deane Highway site to the Silas Deane Highway, as a left hand turn from the site onto the Silas Deane Highway is not possible due to the egress of Silas Deane Highway in proximity to Mill Street. The access easement was created in the rear of the 1160 Silas Deane Highway property. The access easement has often been a deal breaker when trying to lease 1178 Silas Deane Highway. After discussions with Town Staff, a plan was created to reconfigure the parking lot and islands at 1160 Silas Deane to allow for the reconfiguration of an L-shaped parking lot from a rectangular-shaped parking lot to interconnect with a twelve (12') foot wide paved fire lane behind 178 Silas Deane Highway, as planned at the request of the Fire Marshal. In addition, the site improvements will result in the relocation of the existing dumpsters at 1160 Silas Deane Highway and will require the modification and reconfiguration of several landscape islands and curbing. There will be new pavement markings, directional and no parking signage, removal of some existing landscaping and installation of new landscaping. He noted the above site improvements will result in the loss of ten (10) parking spaces at 1160 Silas Deane Highway. A parking study was done by Close, Jensen & Miller, P.C. from April 24-26, 2012 to document parking demands at 1160 Silas Deane Highway. The study observed the greatest amount of cars (57) on Thursday morning and at that time approximately eighty four (84) existing parking spaces were unused. Calculating the parking by requirement by actual square footage or that floor area actually leased by the various tenants results in sufficient parking being provided at the site.

Mr. Richard Bernstein, owner of 1178 Silas Deane Highway and partial owner of 1160 Silas Deane Highway indicated it took some time to convince the co-owner of 1160 Silas Deane Highway to agree to this plan, as the current access easement has prevented the sale/leasing of 1178 Silas Deane Highway. He noted that he cannot reveal the name of the tenant at this time, as he has signed an agreement with the prospective buyer of 1178 Silas Deane Highway indicating that he (Mr. Bernstein) cannot enter into a lease with the prospective tenant (thus taking away the prospective buyer's tenant) because if he did, he would have to pay to prospective buyer of the site a certain percentage of the lease for a certain amount of time.

Motion: Commissioner Hughes made a motion to close the public hearing of **PUBLIC HEARING APPLICATION NO.1779-12-Z: 1160 Silas Deane Co, LLC & Bernstein Family, LLC** Seeking a Special Permit in accordance with Section 6.2 of the Wethersfield Zoning Regulations for a parking waiver in the amount of ten parking spaces, modifications to existing parking areas, landscaping and access easement at 1160 Silas Deane Highway and establishment of a paved fire lane at 1178 Silas

Deane Highway.

Second: Commissioner Homicki seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Public Hearing was Closed.

Motion: Commissioner Homicki made a motion to approve, **PUBLIC HEARING APPLICATION NO.1779-12-Z: 1160 Silas Deane Co, LLC & Bernstein Family, LLC** Seeking a Special Permit in accordance with Section 6.2 of the Wethersfield Zoning Regulations for a parking waiver in the amount of ten parking spaces, modifications to existing parking areas, landscaping and access easement at 1160 Silas Deane Highway and establishment of a paved fire lane at 1178 Silas Deane Highway. Note: This approval includes a waiver in the parking requirements that will allow for the elimination of ten (10) parking spaces at 1160 Silas Deane Highway.

Second: Commissioner Hughes seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Application was approved as noted.

Discussion:

3.4 PUBLIC HEARING APPLICATION NO. 1780-12-Z: THE ART INSTITUTE OF CONNECTICUT, LLC Seeking a Special Permit in accordance with Sections 6.2 & 6.2 of the Wethersfield Zoning Regulations for a change of use from office to an educational institution and sit-down restaurant and a parking waiver at 100 Great Meadow Road.

John J. Murphy, Esq., local Counsel for the Applicant, The Art Institute of Connecticut, LLC, appeared before the Commission regarding this Application. He mentioned that Robert Grady, Esq., representing 100 Great Meadow Road Associates, LLC, P. Christopher Henney, Principal of 100 Great Meadow Road Associates, LLC and Kevin Johnson of Close Jensen & Miller, P.C., the Landscape Architect who prepared the site plan for the project, were also present.

Attorney Murphy indicated The Art Institute of Connecticut, LLC, is a subsidiary of Education Management Corporation, a publicly traded company out of Pittsburgh, PA. Education Management Corporation has been in existence for over forty (40) years managing privately operated post-secondary schools throughout the country and world with fifty (50) of the Art Institute Schools in operation throughout the country. This Application represents school number fifty one (51) and the only Art Institute school in CT.

Attorney Murphy indicated the site proposed in this Application is currently in a business park zone, and both an educational use and a sit-down restaurant use are currently being sought by the Applicant by way of a special permit. A waiver of the parking requirements is also being sought given the shared use of the site. A total of ninety-three (93) parking spaces are requested in said waiver. The initial program offered by The Art Institute of Connecticut will be limited to culinary arts and management and design (including industrial design, graphic design, fashion design and management, computer animation and multimedia design). A dining lab (restaurant run by students and overseen by faculty) is planned for the third (3rd) floor of the building, and the tenant would occupy approximately twenty-seven (27,000) square feet (first and third floors).

Commissioner Oickle inquired and Attorney Murphy indicated that of the total one hundred thirty (130,000) square feet of the building. Christophy Henney, owner of the building, indicated sixty (60%) percent of the building is currently leased with roughly fifty (50%) percent occupancy rate. He noted that with the addition of the Applicant as a tenant occupying twenty-seven (27,000) square feet, the building occupancy rate would increase to approximately seventy-seven (77%) percent.

Attorney Murphy noted the dining lab is an important element when considering the parking waiver, and that the parking usage is spread along a thirteen (13) hour day of operation. He indicated the proposed restaurant will be initially operating two (2) days per week and not open to the public. The year round hours of operation are in three (3) shifts, Monday through Thursday, from 8:00a.m. to 9:00 p.m. The three (3) shifts are: 8:00 a.m. to 12:00 p.m.; 12:30 p.m. to 4:30 p.m.; and 5:00 pm. to 9:00 p.m. The school will close at 6:00 p.m. on Friday, and there will be one (1) session on Saturday (9:00 a.m. to 3:00 p.m.). Enrollment projections, pending State of Connecticut Department of Higher Education approval, after preparation of the site and building, as presented to the State are: twelve (12) students the first year, two hundred ten (210) students the second year, and a sustained enrollment of four hundred five (405) students by the third year.

Attorney Murphy indicated that as classes run in the three (3) shifts mentioned above, it is expected that approximately a third of the students will be on campus plus a percentage of the staff and faculty at any given time. In year one (1) an approximate total of forty two (42) individuals will be at the school. In year two (2) approximately one hundred fifteen (115) individuals will be at the school. In year three (3) approximately one hundred ninety (190) individuals will be at the school. He noted that these projections do not include absenteeism, public transportation use, or car pooling, which would further reduce the projections.

Attorney Murphy indicated that of the six hundred, sixty-nine (669) spaces are required under the regulatory framework, the Applicant is short ninety-three (93) spaces.

Attorney Murphy indicated that an Application to the Zoning Board of Appeals has been filed to allow a variance for the installation of an additional elevator, which will be located on the southern side of the building, and that is dedicated to serve the first and third floors of the building and will not encroach on the fire lane. The landlord and tenant agree the additional elevator installation is in their best interests to segregate the Art Institute use from the office use of the building. Dedicated doorways and signage will be utilized. The proposed elevator would be located within the existing curbing extending fifteen (15') feet from the building and would encroach on the side yard setback by approximately six (6') feet but would not encroach on existing lanes. He asked that if the ZBA approves the variance, he is requesting the Commission allow Town Staff to approve the revised site plan that would incorporate the variance details. He also noted that a waiver is sought for the sign logo, because the logo exceeds twenty-five (25%) of the space allotment for a logo on a sign, as noted in Town Regulations. The ZBA has approved the signage plan with said parapet signs planned for the west and southern sides of the building. The logos and the aggregate are thirty-three (33%) percent of the sign.

Attorney Grady of Logan, Grady & Mancuso, LLC, appeared before the Commission representing Chris Henney, the owner of the building. He noted the property owner is exciting to have The Art Institute, the second largest tenant this building has had in its twenty-seven (27) year existence, as a tenant in the building. He indicated that the owner of the building is familiar with the parking uses of past and present tenants at the site. He described the parking allocation of seventeen (17) spaces for the customers of the dining lab as an overstatement because students and staff will already be parked at the site due to the curriculum of the program. When taking the overstated amount into account, the parking deficiency is seventy-six (76) spaces. He mentioned that student parking would not be as regular as

parking generated from office tenancy. He also indicated that the seventy-six (76) parking space deficiency assumes a one hundred (100%) percent occupancy rate and that this rate has only been nearly achieved once (97% in the 1990s) for the subject building, and no more than three quarters of the parking lot was filled at that time. He noted that the occupancy rate in good economic times fluctuates from eighty-five to ninety-three (85%-93%) percent. Presently, the building is at about fifty (50%) percent occupancy and Mr. Henney has indicated that over the last few months, he has observed between one hundred thirty-five and one hundred forty-five (135-145) of the five hundred ninety (590) parking spaces at the site have been used. This would equal two (2) spaces per every one thousand square feet. Tenants of the building tend to be users of large office space with less intense density in the number of people located at the offices. The restaurant will not operate at all hours (solely lunch and dinner) with a majority of in-house customers.

Commissioner Fazzina inquired and Attorney Grady indicated the variance may have to be revisited by the Commission if the building becomes nearly one hundred (100%) percent occupied, and Mr. Henney has looked at alternative proposals that can be reviewed at that time.

Chris Henney, Principal of 100 Great Meadow Road Associates, LLC, indicated he has looked at valet companies who have indicated they can take up to as many as one hundred (100) additional parking spaces.

Attorney Murphy indicated that any issue of lack of parking would be realized around three (3) years into the lease of the site and that historical data could be presented at that time to better articulate the issue.

Commissioner Fazzina inquired and Mr. Henney indicated the ride share lot use has ceased.

Motion: Commissioner Oickle made a motion to close the public hearing of **PUBLIC HEARING APPLICATION NO. 1780-12-Z: THE ART INSTITUTE OF CONNECTICUT, LLC** Seeking a Special Permit in accordance with Sections 6.2 & 6.2 of the Wethersfield Zoning Regulations for a change of use from office to an educational institution and sit-down restaurant and a parking waiver at 100 Great Meadow Road.

Second: Commissioner Homicki seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Public Hearing was Closed.

Motion: Commissioner Oickle made a motion to approve **PUBLIC HEARING APPLICATION NO. 1780-12-Z: THE ART INSTITUTE OF CONNECTICUT, LLC** Seeking a Special Permit in accordance with Sections 6.2 & 6.2 of the Wethersfield Zoning Regulations for a change of use from office to an educational institution and sit-down restaurant and a parking waiver at 100 Great Meadow Road, with the inclusion of a waiver of a percentage of the sign that constitutes the logo and with the condition that, pursuant to the requirements of Section 6.2. D.4, the Applicant shall provide a written agreement between the users indicating the terms of the Stipulated shared parking agreement.

Second: Commissioner Homicki seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

This Application was approved with an additional waiver and a condition.

Discussion:

Mr. Gillespie indicated the Stipulated shared parking agreement shall serve as a mechanism for Town Staff (i.e. Building Official, Town Engineer or Town Planner) to continue to review and monitor the location.

3.5 C.G.S. §8-24 Mandatory Referral – Wilkus Farm, Willow Street.

Jeff Bridges, Town Manager, appeared before the Commission and noted the purpose of the referral is to seek a recommendation from the Commission regarding: 1) the sale of the property known as the 1.86 acre Wilkus House and barn parcel; 2) the sale of up to 30,000 square feet of immediately adjoining land from the ten (10) acre parcel; and 3) the lease of up to the full ten (10) acres immediately adjacent to the house and barns for agricultural purposes.

Motion: Commissioner Oickle made a motion to make a positive referral to the Town Council regarding the **C.G.S. §8-24 Mandatory Referral** – Wilkus Farm, Willow Street.

Second: Clerk Margiotta seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

The Planning and Zoning Commission made a positive referral to Town Council.

4. OTHER BUSINESS:

There was no other business discussed during this meeting.

5. MINUTES – August 7, 2012 Planning & Zoning Commission Meeting Minutes:

Motion: Commissioner Hughes made a motion to approve the Minutes from the August 7, 2012, Planning & Zoning Commission Meeting, as submitted.

Second: Commissioner Edwards seconded the motion.

Aye: Roberts, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 6 – 0;

Commissioners Oickle, Homicki, and Standish, did not participate in the vote.

Minutes of the August 7, 2012 Meeting of the Planning & Zoning Commission were Approved as submitted.

6. STAFF REPORTS:

Mr. Gillespie indicated the draft of the Plan of Conservation and Development (POCD) distributed at this meeting to the Commissioners will be reviewed at the next Commission meeting with Mr. Chalder of Planimetrics. Mr. Gillespie and the Commissioners discussed the renewal of a special permit Application pertaining to a recreational vehicle (at 121 Brookside Circle), as well as the status of a continued special permit application hearing pertaining to 1330 Silas Deane Highway [**PUBLIC HEARING APPLICATION NO. 1769-12-Z: Jaimin Malaviya Seeking a Special Permit in accordance with Sections 5.2, 5.8 and 6.2.D.4 of the Wethersfield Zoning Regulations for the addition of restaurant, larger banquet facility, a shared parking agreement and for the sale and dispensing of alcoholic beverages at 1330 Silas Deane Highway (Comfort Inn).**]

7. PUBLIC COMMENTS ON GENERAL MATTERS OF PLANNING AND ZONING.

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

8. CORRESPONDENCE:

There were no items of correspondence discussed during this meeting.

9. PENDING APPLICATIONS TO BE HEARD AT FUTURE MEETINGS:

There were no pending applications discussed during this meeting.

10. ADJOURNMENT:

Motion: Commissioner Oickle motioned to adjourn the meeting at 11:24 PM.

Second: Commissioner Edwards seconded the motion.

Aye: Roberts, Oickle, Homicki, Hughes, Margiotta, Edwards, Fazzina, Vasel;

Nay: None;

Vote: 8 – 0;

Meeting adjourned.

Respectfully submitted,
Ellen Goslicki, Recording Secretary