

**Wallingford Planning & Zoning Commission**

**Regular Meeting**

**Wednesday, October 16, 2024**

**7:00 p.m.**

**Robert F. Parisi Council Chambers – Town Hall**

**Town Hall – 45 South Main Street**

**MINUTES**

Chairman Seichter called the meeting to order at approximately 7:00 p.m.

The Pledge of Allegiance was recited by all.

**Roll Call:** Present: James Seichter, Chair; J.P. Venoit, Vice Chair; Stephen Allinson, Secretary; Jeffrey Kohan, Regular Member; Bryan Rivard, Alternate; David Parent, Alternate; Joseph Sanders, Alternate; and Kevin Pagini, Town Planner.

Chairman Seichter announced that Commissioner Rivard will be voting tonight.

Chairman Seichter noted that the following agenda items will not be heard tonight.

2. **Public Hearing:** Special Permit/Residential apartment building/166 Quinpiac St. #409-24

Consideration of Minutes – August 12, 2024, Regular Meeting

**Commissioner Venoit: Motion to approve the Minutes of Monday, August 12, 2024, Meeting of the Wallingford Planning and Zoning Commission as submitted.**

**Commissioner Rivard: Second**

**Vote: Unanimous to approve**

**PUBLIC HEARINGS**

1. **Special Permit/Carwash to a Dealer/Tow Yard – One Source Towing and Repair/Komal/130 Dudley Ave. Continuation #408-24**

Commissioner Allinson noted the new correspondence for the record. New correspondence included an email from Kevin Pagini to Yamin Rivera dated August 16, 2024.

Yamin Rivera, 89 Elm Street, North Haven explained that the facility will not be fully operating because he has no staff. The request is to allow him to get a towing license for the Town. The number of vehicles that can be parked is on the site map. If there are more, he will come back for a modification.

Chairman Seichter clarified that he needs to store vehicles to acquire a repair/dealer's license and enter into an agreement with the Town of Wallingford Police Department. Mr. Rivera responded that if he exceeds the 8 – 10 vehicles stored here they will go to his East Haven facility. He confirmed that one goal is to have an agreement with the Town of Wallingford Police Department. But he also wants to have a better location for his Tow business. Chairman Seichter clarified that he will only store towed

vehicles. Mr. Rivera confirmed. He stated that the office would not be staffed. To fully operate at this location, he would need to do modifications. He stated that this would simply be a tow yard. He clarified that though he is a U-Haul dealer, there is not enough space at this location to offer that. Chairman Seichter asked for verification that this property would be used only to store a maximum of 10 – 12 towed vehicles. Mr. Rivera replied yes. If there are more vehicles, he will store them in East Haven. He clarified that the maximum would be 10 vehicles.

Commissioner Parent asked if the whole site is the old Scrubbing Bubbles or beyond that. Mr. Rivera replied that he is not taking over the Scrubbing Bubbles business and will not be washing vehicles. He stated that he was not buying the site. Commissioner Parent asked about the location of the sign about the permit. Mr. Rivera replied that it would be taken down. Commissioner Parent asked if towing would be dispatched from this site. Mr. Rivera replied no, only from East Haven. Mr. Rivera confirmed that any overflow, over 10 cars, will go to the East Haven facility. He noted that his company also tows tractor trailers but they will not be stored here. Commissioner Parent asked if this was just because he needed a local property to get a towing agreement with the Town. Mr. Rivera replied yes and that he needed a secure location.

Chairman Seichter asked if he was leasing a piece of the property or the whole property. Mr. Rivera replied to the whole property. He added that he won't be using the car wash facility because it's not set up for what he needs. To acquire the license his physical location needs to be approved, secure, and fenced. He will be adding the fence.

Mr. Pagini noted that number 4 can be removed from the draft motion due to the applicant not doing the U-Haul rentals at this location.

#### **PUBLIC COMMENT**

None

Hearing no public comment, Chairman Seichter called for a motion to close the public hearing.

**Commissioner Venoit: Motion to close the public hearing for application #408-24 for Special Permit, car wash to a dealer tow yard, One Source Towing and Repair, Komal, 130 Dudley Avenue.**

**Commissioner Rivard: Second**

**Vote: Kohan – yes; Rivard – yes; Allinson – yes; Venoit – yes; Chairman Seichter – yes.**

**Commissioner Venoit: Motion to approve application #408-24 for a Special Permit request for One Source Towing LLC at 130 Dudley Avenue for Change of Use by Special Permit to convert a car wash facility to a tow yard facility on received documentation dated June 10, 2024, subject to:**

1. **Comments from the Fire Marshal's Office**
2. **A Location of Use being approved by the Zoning Enforcement Officer**
3. **That any cars are limited to the southern portion of the property and are screened according to Section 6.12 – Outside storage**
4. **Increased landscaping on site as approved by the Town Planner**
5. **Specifically for storage of up to 10 vehicles.**

**Commissioner Rivard: second**

**Vote: Kohan – yes; Rivard – yes; Allinson – yes; Venoit – yes; Chairman Seichter – yes.**

The application is approved.

### **3. Zoning Text Amendment/WI Zone – Data Center/Charter Development LLC #501-24**

Commissioner Allinson read the legal notice and noted the correspondence. #502-24 Text Amendments for Charter Development Group, LLC to amend Sections 4.10.C; 6.11 and 2.2 to add Data Centers as an allowed use by Special Permit – WI (Watershed Interchange) District (Full text available in Planning and Zoning office). Correspondence included: Application for Zoning Regulation Change; letter from Economic Development Commission to Wallingford Planning and Zoning Commission dated October 2, 2024; letter from Wallingford Electric Division to Kevin Pagini, Town Planner dated October 7, 2024; Inspection Report from the Wallingford Fire Marshal dated October 2, 2024; email from Alison Kapushinski, Town Engineer to Kevin Pagini, Town Planner dated October 10, 2024; and email from Nick Montenino to Kevin Pagini, Town Planner, dated October 14, 2024.

Donald Gershman and Eric Brown, Principals of Charter Development Group LLC, in West Hartford, and Dwight Merriam, Land Use Attorney, 80 Lateral Lane, Simsbury, presented.

Mr. Gershman gave his presentation using PowerPoint. Hard copies of the slides were shared with the Commission. He stated that this change would allow limited development in the WI district only if approved by a special permit. He reviewed the purpose of the district and referenced the POCD. He stated that Data Centers are low-intensity and fit the definition of emerging technological development. He stated that Connecticut will benefit by attracting Data Centers. The State has incentives for data centers, which have a growing demand. Mr. Gershman added that they are aware of the proposal made two years ago and heard the concerns. This proposed language will meet the need but not open the door to unbridled development. It will enable limited data center development that fits in the community. It would permit the Commission to consider a special permit for a data center of not more than 350,000 sq. ft. Applicants must comply with all of the zoning regulations. He noted that the current regulations permit several uses for site plan approval that are more impactful than data centers, with more traffic and noise. Data centers are much less impactful. A Data Center will not harm the watershed and there will be only minimal water usage and no discharge of pollutants. He described Data Centers as a warehouse housing computers and telecommunications equipment. They are the physical embodiment of the Cloud. The product goes in and out through fiber optic cables. There is no

truck traffic and there are few employees. The noise comes from commercial air conditioning equipment and emergency backup generators. This equipment can be designed, mounted and acoustically insulated for minimal sound transmission beyond the property. He stated that they have engaged a national acoustical engineering firm that will ensure they comply with noise regulations. He added that all the required utilities are available and sufficient power is available. The physical appearance can be anything. They will design it to meet the site and will preserve trees and vegetation. The focus of today's discussion is on the proposed change in the regulations, not the location. If the text change is approved, they will come back with a proposal for a single data center building. This will allow the Town to try a modest proposal without committing to more.

Commissioner Kohan asked about the limitation of 350,000 sq. ft. Mr. Gershman stated that they intend to plan on developing somewhere between 300,000 and 350,000 sq. ft. The figure can be adjusted. Commissioner Kohan stated that if the maximum is two stories, what will the footprint be? Mr. Gershman replied that they didn't have a proposal yet, but expected it to be 150,000 to 160,000 sq. ft. Atty. Merriam noted that it will be the size of a Home Depot with a garden center and added that the footprint will be approximately 420 ft. x 420 ft. or 175,000 sq. ft. Mr. Gershman added that he can provide the preliminary drawings. He reiterated that this would be the maximum. Commissioner Kohan asked why there has only been one Data Center built in Connecticut since the State's incentive was initiated. Mr. Gershman replied that there is one pending in East Lyme and he's heard about other proposals. He expects there to be more soon as the demand is growing. He noted that the location is limited by the need for power. Commissioner Kohan asked about the low-level rumbling noise generated by Data Centers and the adverse impact. He asked what remedies would be used. Mr. Gershman replied that the answer is in the technology for mounting and acoustically insulating the equipment. He stated that newer equipment has reduced noise. They will be within the current noise regulations. He believes the Data Center will be quieter than the other permitted uses. He stated that they are not aware of any rumble issue. Commissioner Kohan stated that it is still a concern with proposed and existing data centers across the country.

Commissioner Rivard asked how this will benefit the community and other businesses. He also asked about the high level of electrical power needed and if Wallingford has the fiber optic needed. Mr. Gershman stated that he has talked with Wallingford Electric and Eversource. They will need redundant power and redundant fiber. There are multiple sources or pathways available to provide power to the site. Assuming the amendment is approved, they will proceed to work with Eversource to enhance any weak links and get the power from Eversource through Wallingford Electric and the site. He added that tech companies operating data centers want to be distributed and not all in one place due to latency or calamities. There is not much direct benefit to local businesses. Mr. Brown added that there will be a benefit to Wallingford Electric due to the fees they will receive.

Commissioner Allinson asked about sound. He stated that a prior zoning change application had a sound impact study with a peer review required. He also asked if an environmental impact study could be included. The more data we have the better our ability to determine applicability. Mr. Gershman stated that he believes the ramifications of acoustics and the environment will be no issue. The burden is on us

to prove that it will be beneficial not detrimental in the special permit application. Commissioner Allinson clarified that the Special Permit would give the Commission the ability to ask for studies. Mr. Pagini agreed, but if it is put into the text amendment it can be required. Commissioner Allinson suggested wording it as "may request". Atty. Merriam stated that it would be fine with the applicant. They have no problem with a peer review. They are okay with adding wording to provide a detailed acoustic report, a peer review, and an environmental impact review. They will have updated wording for review before the next meeting. Commissioner Allinson asked about the cumulative floor area in Section 2A. The definition of Data Centers allows for substation and accessory uses. Is the 350,000 sq. ft. maximum inclusive of these? Mr. Gershman replied no. They are not part of the maximum square footage. Commissioner Allinson asked them to clarify that in the amendment.

Commissioner Sanders asked if Wallingford had the necessary fiber optic capacity. Mr. Gershman confirmed that the capacity is available nearby using several different providers. Commissioner Sanders asked about including something on the constitutional protection from unreasonable search and seizure. Data has become part of that. He asked if there are ways to put safeguards into the regulations. He suggested a list of approved uses or customers or perhaps restrictions on the types of data the centers can handle. Mr. Gershman stated that they are developers and will not be operating the data center. Another company will lease the space or buy the building. He doesn't think anything they propose can influence what the users decide to do. Atty. Merriam stated that he looked for regulations on data centers across the country and has not seen a provision like that. It would be very difficult to enforce. He suggested consulting with the Town attorney about what can be done in terms of oversight and restrictions. He suspects it is beyond the Commission's authority.

Chairman Seichter stated that they should be aware of the concerns of sound and vibration affecting the surrounding residential areas. He noted that screening and setbacks were not mentioned in the proposal. If we are going to consider this as a use, the wording should include things the Commission would want. He suggested taking a closer look at what the Commission was proposing for the regulation and incorporating some of those requirements in a more comprehensive application.

Commissioner Seichter stated that there would be no action on this application tonight.

#### **PUBLIC COMMENT**

Ed Bradley, 2 Hampton Trail, stated that he knows where this will be going if it's passed. He asked who authored this amendment. Chairman Seichter replied that the applicant authored it. Mr. Gershman confirmed. Mr. Bradley stated that the EDC had a meeting on September 23<sup>rd</sup> and the agenda didn't mention Data Centers but they were discussed. He stated that he had difficulty getting a copy of those meeting minutes. He suggested that Commission members read those minutes. He stated that the Muddy River flows through there and provides 94% of the Town's drinking water. He mentioned flooding downstream. He added that it is well known that Data Centers are beasts when it comes to resources and the hum is very well documented. He suggested Commission members look at the website 'What's all the noise about and the neighbors complaining'. It includes a graphic of a DB sound wave. He asked about the location of the proposed Data Center. Chairmen Seichter replied that the

amendment is looking at the entire WI zone. There is no specific location right now. Mr. Bradley recommended that the Town purchase the land as open space to protect our drinking water.

Joan Rinkavage, 51 Grieb Trail, stated that she has lived there for 44 years. She asked where it will be. She likes the woods and stream there. They already have enough trouble with flooding. We don't need more technology in our neighborhood. She added that there are empty buildings on Research Parkway and asked why they can't use one of those. This doesn't fit in the neighborhood. She asked if the electricity and sound waves could cause cancer.

Annmari Russo, 656 Williams Road, thanked the Commission for what they do. She asked them to keep in mind the wildlife. She is in favor of having a data center in Wallingford but not necessarily in a residential area. There are probably good locations on Research Parkway.

James Sibley, 3 Eaton Trail noted that in the wetlands, water goes south to Mackenzie Reservoir. If you take away all that area of natural sponge and natural filtration, there will be problems. He asked if there would be retention ponds and filtration systems. He reminded everyone how Bristol Myers ruined Spring Lake. The environment is important.

Mary Lopresti, 16 Grieb Trail stated that the area has great environmental resources. She has seen eagles nesting. This is a large residential area. Zoning regulations are in place to protect our community. Making changes to the regulations sets precedents. She thanked the Commission for what they do.

Sonia Wulff, 14 Oxford Trail agreed with others that the wetlands are dear to us. There is a lot of wildlife. A building of this size will disturb the watershed. She is concerned about the environment and property values. They should use one of the industrial sites on Research Parkway. She noted that other data centers are located away from population centers and flood zones. She is concerned with security around data centers. Yale is conducting a study on global energy use and data centers. She added that this is almost the same language that was turned down a couple of years ago. We already did this. It's not just the data center building, but there are accessory buildings. Where does it end? Just say we said no and we meant no.

Gerry Lombardo, 18 Oxford Trail asked if they have considered a property on Research Parkway. Mr. Gershman replied that they talked to the owner of the Bristol Myers property but they are not interested in selling.

Jack Arrigoni, 18 Martin Trail, asked for clarification of the square footage and if it is one story or two. Mr. Gershman replied two stories with a footprint of half the 350,000 sq. ft. Mr. Arrigoni asked about the extra equipment, the substation, and what fuel would be used. He is concerned about storage in the watershed. Mr. Gershman replied that that would be addressed in the context of an application. Mr. Arrigoni asked if they would be using geothermal heat. Mr. Arrigoni stated that Spring Lake is still filling up with silt. He noted that the focus of the applicant seems to be on the area between Muddy River and Rt 91. There are many houses there. He told of a recent experience with a humming noise that

bothered everyone in the neighborhood for several months. Just the decibel is not the key to noise. He asked about the exceptions to the noise ordinance mentioned in Ordinance 144, Section 6. He asked if that includes data centers. Chairman Seichter replied no, data centers would not be exempt. Mr. Arrigoni referred to the likely parcel and stated concern for the consequences when they try to level it and the effect on the river.

Scott Gray, 14 Oxford Trail stated that he finds this frustrating. Data Centers don't belong in this part of town. We make a rule and someone tries to change it. He encouraged the Commission to say no. The last application was denied for a good reason. He noted an example of a project approved with stipulations and the stipulations have been ignored. He stated that the constant low-frequency ambient noise is more of a vibration so it can't be measured. It has been proven that it causes stress in people and animals. There is no way to monitor that. Property values will decline. Regarding tax revenue, the State offers incentives that include a significant postponement of tax. Mr. Gershman replied that the State program allows certain tax savings through development. Equivalent payment to the town is regulated under a negotiated hosting agreement that provides revenue to the Town. Wallingford Electric will also receive revenue. Mr. Gray noted that climate disruption is here. To put an industrial facility in the watershed is not smart. He stated a concern that the excessive power usage would overwhelm or compromise our electrical system. Data centers consume huge amounts of water. He noted that Charter Development is asking for the change so they can purchase the land and lease it. We can't be sure what will happen there. The best thing the Town can do is purchase this property and set it aside as open space to protect it. Charter should look for an appropriate place. There are several vacant buildings on Research Parkway. They should put it where there are no residents. Mr. Gray added that he is angry that we are doing this again.

Chairman Seichter stated that the suggestion to purchase the land should go to the Town Council.

Don Crouch, Economic Development Specialist and resident stated that a discussion of setbacks definitely needs to happen. He stated that this is a good use for the WI district. It is low impact. He added that this is a long game. This is the first inning. If the change is allowed, there needs to be a host agreement, state agreements, Wetlands approval, and Sighting Council as well as Planning & Zoning again.

Thomas Ringrose, 675 Williams Road stated that 20 years from now, this facility will provide money for the Town. He added that the future of Connecticut is housing. As for toxicity and harmonics, long-range gas pipelines have to baffle. This facility will be built with nevitia chips, which aren't even designed now, that are optical. That's the future. It won't be as we think of it today. If Wallingford doesn't get it Meriden will.

Chairman Seichter stated that there was no action tonight. There can be further discussion at the next meeting. The application will be continued to next month.

Mr. Gershman thanked everyone who came and expressed concerns. He states that he genuinely believes that they have something that will work well and be innocuous.

Commissioner Kohan stated that he would like to see comments from the acoustic firm on what low-level frequencies they feel data centers produce. These low-level frequencies should also be part of the amendment. Maybe they can include design measures and setbacks. He would like to see that as part of the text as well as the standards are and the design specifications. He would also like to see a definitive statement from the Water Division on the 350,000 sq. ft. building and the additional ancillary buildings in this district. He noted that this Commission does not take into consideration financial concerns or benefits to the Town. The building and land will be taxed. As a citizen, he asked if the servers and disk drives internal to the data center would be taxed. He assumes some of the business equipment will be. Mr. Pagini replied that he could ask the Assessor's office.

Hearing no further public comment, Chairman Seichter called for a motion to continue the public hearing.

**Commissioner Venoit: Motion to continue the public hearing for application #501-24 Zoning Text Amendment/WI Zone/Charter Development, LLC/Data Center to the November meeting.**

**Commissioner Rivard: second**

**Vote: Unanimous**

#### **NEW BUSINESS**

##### **4. Site Plan/5 Technology Drive/Bio-Techne – Addition to existing building #215-24**

Commissioner Allinson read the correspondence into the record. Inspection Report from the Wallingford Fire Marshal dated September 5, 2024; Interoffice Memorandum from Scott Shipman, Senior Engineer, Water, and Sewer Division to Kevin Pagini, Town Planner dated October 3, 2024; Memorandum with packet from David Ziaks, P.E. to Kevin Pagini, Town Planner dated October 8, 2024; Memorandum from Department of Engineering to Planning and Zoning Commission dated October 11, 2024; Memorandum from Erin O'Hare, Environmental Planner, to Kevin Pagini, Town Planner dated October 11, 2024.

David Ziaks, P.E. with F.A. Hesketh and Associates, East Granby, Richard Kaizer & Karen Pannone, Architects, with CHK Architects in Simsbury, presented. Mr. Kiaks explained that the property is 14.20 acres in the WI zone. This is for an addition to an existing building owned by Bio Teche. The proposal is for a 54,989 sq. ft. addition to the east side of the building. This will bring the total square footage to 107,657 sq. ft. There will be 210 parking spaces. The loading area and parking lot will be redesigned. This is in the Watershed Interchange and one of the primary concerns is the handling of storm water. They went through the Inland Wetlands process and will build a 5<sup>th</sup> water quality basin. Wetlands approved the project. They have a thorough erosion control plan due to cutting into the slope on the east side. There will be little disturbance to the woods. A third-party review of the site will be done and monthly reports provided during construction. There will be little landscaping changes and little change



to the sight lighting. Mr. Kiaks noted that this is part of a much larger Midway Business Park. He noted that they expect under 100 trips per day and that they have provided information on traffic to staff. They expect possibly 40 additional trips during peak hours. He noted that they received staff comments and had no problem with the conditions of approval.

Ms. Pannone reviewed the changes to the building. The new space will house offices, laboratories, a clean room, and a warehouse with a loading dock. She showed the exterior elevations, materials, and how they will blend into the existing building. She noted that it will be partially buried into the slope.

Commissioner Sanders asked about the impact on the wetlands. Mr. Ziaks replied that they had the option of digging down further and cutting down trees or encroaching on the manmade detention pond. Commissioner Sanders asked if it is possible to adjust the plan to avoid encroaching. Mr. Ziaks replied that is not intended to be a pure buffer and that Wetlands agreed to the plan.

Mr. Pagini clarified the condition in the motion is for weekly inspection reports for erosion and sediment control.

Commissioner Seichter asked if the traffic analysis had been reviewed by the Town Engineer. Mr. Pagini replied yes.

#### **PUBLIC COMMENT**

None

Hearing no further public comment, Chairman Seichter called for a motion on the application.

**Commissioner Venoit: Motion to approve application #215-24 Site Plan Approval Request for 5 Technology Drive for Bio-Techne to construct a 54,989 sq. ft. addition at an existing manufacturing facility on plans entitled "Bio-Techne Corp. – 5 Technology Drive" dated 3/22/2024 and revised to 8/9/2024; subject to the following conditions:**

- 1. Comments from Environmental Planner, Erin O'Hare dated 10/11/2024**
- 2. Comments from Senior Engineer, Scott Shipman, Water and Sewer Division dated 10/3/2024**
- 3. Comments from Town Engineer, Alison Kapushinski dated 10/11/2024**
- 4. Comments from the Fire Marshal dated 9/5/2024**
- 5. Final versions of Operations & Maintenance Plan, Stormwater Report, and Traffic Information Memorandum are to be printed and submitted to the Department of Engineering for filing.**
- 6. Operation & Maintenance Plan, or Notice of said Plan, to be filed on Wallingford Land Records.**
- 7. Weekly inspections of the sediment and erosion controls shall be conducted throughout the construction process and reports of those inspections shall be submitted to the Town Planner. Additional erosion and sediment control measures shall be implemented and/or**

installed throughout the course of construction as/if deemed necessary and directed by the Design Engineer and/or Wallingford Town Officials.

8. Erosion and sediment control bond in the amount of \$15,500.00
9. Six (6) copies of the final plans forwarded to the Planning and Zoning office.

Commissioner Rivard: Second

Vote: Kohan – yes; Rivard – yes; Allinson – yes; Venoit – yes; Chairman Seichter – yes.

The application is approved.

#### **BOND RELEASE**

5. Kapoor/905 North Colony Rd./7 Brew #403-24

Mr. Pagini recommended that this bond be released. The site looks good.

Commissioner Venoit: Motion to release the bond for Kapoor, 905 North Colony Road, 7 Brew #403-24.

Commissioner Rivard: Second

Vote: Kohan – yes; Rivard – yes; Allinson – yes; Venoit – yes; Chairman Seichter – yes.

#### **REPORTS OF OFFICERS AND STAFF**

6. Administrative Approvals – noted as approved
  - a. 251 Ivy. St. Reasonable Accommodation – dwelling unit #RA24-3
  - b. 528 S. Cherry St./Above-ground tank farm/approved with conditions #216-24
7. ZBA September Decisions – no comment
8. ZBA Notice of October 21, 2024 – no comment

Mr. Pagini explained that a zoning appeal will be heard at the October ZBA meeting regarding 386 Williams Road. He noted that a vote of support from the Board is required to deny the appeal. This is regarding a permit to rebuild an illegal dwelling unit. The property is currently in violation for illegal dwelling units. He reviewed the key facts.

Commissioner Kohan stated that he believes the due diligence was done by the Zoning Enforcement Officer.

Chairman Seichter asked what is needed from the Commission. Mr. Pagini replied in support of the denial.

Commissioner Venoit: Motion to approve the report out to the Zoning Board of Appeals to support the Zoning Enforcement Officer's denial of the appeal.

**Commissioner Rivard: Second**

**Vote: Unanimous**

**ADJOURNMENT**

**Commissioner Venoit: Motion to Adjourn the Wallingford Planning and Zoning Commission  
for Wednesday, October 16, 2024, at 9:35 pm.**

**Commissioner Rivard: Second**

**Vote: Unanimous**

Respectfully submitted,  
Cheryl-Ann Tubby  
Recording Secretary