

Wallingford Planning & Zoning Commission
Wednesday, October 13, 2021
7:00pm
Robert F. Parisi Council Chambers – Town Hall
45 South Main Street
MINUTES

Acting Chair Venoit called the meeting to order at approximately 7:05 p.m.

Pledge of Allegiance was recited by all.

Roll Call: Present: JP Venoit, Acting Chair; Steven Allinson, Secretary; James Fitzsimmons, Regular Member; Jeff Kohan, Regular Member; Jaime Hine, Alternate; Kevin Pagini, Town Planner.

Absent: James Seichter, Chairman; Armand Menard, Alternate

Consideration of Minutes –July 12, 2021, and September 13, 2021

Commissioner Fitzsimmons: Motion to approve the minutes of the July 12, 2021 meeting and the September 13, 2021 meeting of the Planning and Zoning Commission as submitted.

Commissioner Kohan: Second

Vote: Unanimous to approve

Acting Chair Venoit noted that the following agenda items will not be heard this evening at the request of the applicants. This application has been withdrawn

3. PUBLIC HEARING: Special Permit/Choate Rosemary Hall/356 Christian Street

PUBLIC HEARINGS

1. Special Permit Revision/Hall Avenue, LLC/238 Hall Avenue #409-21

Commissioner Allinson read the legal notice and noted the correspondence. Legal Notice 409-21 Special Permit Revision for Hall Avenue LLC located at 238 Hall Avenue to remediate a non-compliant site and to add/delete landscaping and correct/reconfigure parking areas from the previously approved plans. Zone R-6. Inter-Departmental Referral from the Environmental Planner; memorandum from the Department of Engineering; Inter-Departmental Referral from the Fire Marshal received September 28, 2021; a Revised set of Site Plans received September 24, 2021.

Christopher Juliano, licensed land surveyor and professional engineer with the firm of Juliano Associates, 405 Main Street, Yalesville, presented. He explained that the purpose of the application is to bring the site into compliance. This project was approved in 2010 and 2011 with certain improvements to parking lots that were not made. The project was developed as an apartment complex. When the former owner received the building permit sign-offs he was able to rent the units without Planning and Zoning sign-off and no certificate of occupancy. Now in 2021, the bank discovered there are no certificates of occupancy. The new owner intends to bring the property to what was approved in 2011. This includes minor modifications to the westerly parking lot. They will add the necessary island and maintain the

proper number of spots. On the eastern side, we will reconfigure it so it matches what was approved. He noted that he spoke with the Town Engineer and came to an agreement to accommodate snow removal. They will also put in the no parking line striping.

Commissioner Hine stated that he was not happy to find that the property owner didn't comply with the improvements. He appreciates the new owner looking to do the right thing.

Commissioner Fitzsimmons asked if Mr. Juliano was involved in the application in 2011. Mr. Juliano confirmed that he was. Commissioner Fitzsimmons asked what action brought this situation to light. Mr. Juliano explained that they did an As Built in 2017. He suspects that was to get the Water and Sewer bond back. He stated that when they did the As Built in 2017 he already had tenants. He noted that there is no line in the sand for rentals, so as soon as he got his building permits and the units were habitable he moved people in. He stated that the bank is willing to close but held \$75,000 in escrow to make sure the applicant got the COs. The bank did its due diligence. The new owner worked with the Town Planner and is willing to comply with the original plan. Commissioner Fitzsimmons asked how garbage removal is handled. Mr. Juliano replied individual collection. Commissioner Fitzsimmons asked that a snow removal area be indicated on the plan. Mr. Julian agreed. Commissioner Fitzsimmons thanked Mr. Juliano for bringing this forward and bringing a non-conforming property into compliance. He asked about the current bond. Mr. Pagini replied \$5,000 and it's a Planning and Zoning Sedimentation and Erosion bond. He noted that it is sufficient for the site. He added that the bond was signed over to the new owner. Commissioner Fitzsimmons asked when the Town became aware that there was no certificate of occupancy. Mr. Pagini replied that in March of 2021, Mr. Talbot receive the bond release request and visited the site. The owner sold the property instead of doing the work. Commissioner Fitzsimmons suggested that going forward, a Certificate of Occupancy be required on all Special Permit applications for residential use due to the liability to the Town. He suggested working with the Town Attorney to build in a check on Certificates of Occupancy somewhere in the process.

Mr. Pagini thanked the applicant for being so cooperative throughout the process.

Hearing no public comment, Acting Chair Venoit called for a Motion to close the public hearing.

Commissioner Venoit: Motion to close the Public Hearing for application #409-21 Special Permit Revision/Hall Avenue, LLC/238 Hall Avenue

Commissioner Fitzsimmons: Second

Vote: Unanimous to approve

Commissioner Fitzsimmons: Motion to approve the Special Permit Revision for Hall Avenue, LLC located at 238 Hall Avenue to remediate a non-compliant site and to add/delete landscaping, and to correct / re-configure parking areas from the previously approved plans as

shown on plans entitled "Proposed Site Plan" dated 8/13/2021 revised to 9/24/2021 subject to the following conditions:

1. **Comments in Interoffice Memorandum from the Department of Engineering to the Planning and Zoning Department dated 8/31/2021;**
2. **Addition on final plans to show snow removal area.**

Commissioner Kohan: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.
The application is approved.

2. Special Permit/B. Cleveland for WHA/2 Wharton Brook Drive #410-21

Commissioner Allinson read the legal notice and noted the correspondence. Legal notice 410-21, Special Permit for Wallingford Housing Authority located at 2 Wharton Brook Drive to change the use from convenience store/Laundromat/apartments to a municipal office. Zone R-18. Inter-Departmental Referral from the Fire Marshal date of submission August 10, 2021; Inter-Departmental Referral from the Environmental Planner dated August 10, 2021; Inter-Departmental Referral from the Town Engineer, date of submission August 10, 2021, and Interoffice Memorandum from Thomas Flannery, Engineer, Water & Sewer Divisions dated October 5, 2021.

Commissioner Hine recused himself from the application as his property abuts this property.

Kelly McDermott, Executive Director, Wallingford Housing Authority, and Brian Cleveland, an architect with Silver/Petrucelli & Associates at 3190 Whitney Avenue, Hamden presented the proposal.

Mr. Cleveland explained that they are asking to change the use to office in the downstairs and maintain the apartments on the second floor. He noted that that is just the use change, the application for the renovations will be done separately. He explained that the new use is a better fit for this location. The Wallingford Housing Authority will be relocating to this location. This will result in reduced traffic, sewer usage, and transient traffic. The proposal is in conformance with the Plan of Conservation and Development.

Commissioner Fitzsimmons asked that a handicapped parking spot be added to the site plan. Mr. Cleveland agreed. Commissioner Fitzsimmons asked if there is enough room since there are only 13 spots and 13 are required. Mr. Cleveland replied that the existing sidewalks are ramped to the entries, so they will put the space near where the ramp comes down to the driveway. Commissioner Fitzsimmons asked who maintains the grounds. Ms. McDermott replied that the Housing Authority is responsible for the upkeep and maintenance of all its sites so they do their own snow removal and contract out the lawn care. Commissioner Fitzsimmons asked that they add a snow removal location to the site plan. He also asked about the location of the dumpster. Ms. McDermott replied that it is in the

rear and will be reduced to one. She agreed to add it to the plan. She noted that their goal is to clean up the property, promote some neighborhood revitalization and replace the fence.

Hearing no public comment, Acting Chair Venoit called for a Motion to close the public hearing.

Commissioner Fitzsimmons proposed refunding the \$550 application fee since the Housing Authority serves Wallingford residents and received consensus from the Commission.

Commissioner Fitzsimmons: Motion to close the Public Hearing for application #410-21 Special Permit/B. Cleveland for WHA/2 Wharton Brook Drive.

Commissioner Kohan: Second

Vote: Unanimous to approve with one abstention.

Commissioner Fitzsimmons: Motion to approve the Special Permit request for Wallingford Housing Authority located at 2 Wharton Brook Drive to use an existing building for a municipal office and to renovate existing apartments for use by the Wallingford Housing Authority on plans entitled "Wallingford Housing Authority Use Change" dated 8/10/2021 subject to the following conditions:

- 1. Comments from the Town of Wallingford Fire Marshal's office dated 9/16/2021;**
- 2. Comments in Interoffice Memorandum from Environmental Planner, Erin O'Hare to the Planning and Zoning Department dated 9/14/2021;**
- 3. Comments from Alison Kapushinski, Town Engineer, dated September 27, 2021;**
- 4. Comments in Interoffice Memorandum from Tom Flannery, Engineer/Planner, Water & Sewer Divisions to the Planning and Zoning Department dated 10/5/2021; and**
- 5. Planning and Zoning Department to return the \$550 Special Permit fee paid as part of this application since this applicant serves Wallingford residents.**

Commissioner Kohan: Second

Vote: Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.
The application is approved.

4. Special Permit/Church of the Resurrection/115 Pond Hill Road #412-21

Commissioner Allinson read the legal notice and noted the correspondence. Legal notice 412-12 Special Permit for the Church of the Resurrection located at 115 Pond Hill Road to construct the Parish Center for parish community activities. Zone R-18. Inter-Departmental Referral from the Fire Marshal, date of submission September 10, 2021; memorandum from the Department of Engineering, dated September 29, 2021; Interoffice Memorandum from Scott Shipman, Junior Engineer, dated October 7, 2021; Interior architectural design plan, date of receipt September 29, 2021; site plan dated September 8,

2021; a project narrative dated September 10, 2021; correspondence from CCA LLC dated October 6, 2021; a stormwater management report with a revised date of September 30, 2021; and a site plan received October 12, 2021.

Peter Kosinski, Jr., with Kosinski Architecture, explained that they propose a 6,656 sq. ft. building as a parish center. This will create a parish campus with the existing church and the rectory and office building. This is a large site with a large proportion dedicated to wetlands. The front façade of the church leads into the parking lot. The church was built in the '60s and the rectory was added in 1989. The plans from that era imply the addition of a parish center on the east side to mirror the rectory and office building. The Uses are anticipated to be suppers, education, after mass gatherings, and groups like Choir. This is a vibrant parish. The building will be a single-story, slab on grade. It is within the setbacks of the property. No additional parking will be needed. They only need 50% of their existing parking to meet the needs of the facility. They are adding a fire lane and shared those plans with the Fire Marshal, the Building Official, and had a Wetlands review. He explained the planned landscaping including visual buffers for the condenser units and placing plantings on the south side to soften the view and mask the building. He explained the building materials will match the height and exterior of the existing buildings. Mr. Kosinski explained the stormwater management plan which was approved by Inland Wetlands.

Commissioner Allinson asked if the fire lane can be striped for no parking. Mr. Kosinski agreed to do so. Commission Allinson asked about the sightline from the road and if the drainage structures would be visible. Mr. Kosinski explained that they will revisit the site plan and add more landscaping and noted that all the drainage will be below ground. He explained the flat roof over the area closest to the church. He also explained the roofing material and explained how the mushroom vent will be masked with a louvered system.

Commissioner Kohan asked if the primary days of use are Saturday and Sunday. Mr. Kosinski replied that there is more activity on weekdays with morning mass and groups and education. He stated that there is some evening activity for group meetings. He noted that the design of the large gathering hall makes it dividable.

Commissioner Fitzsimmons asked where the front door is in relation to Pond Hill Road. Mr. Kosinski replied that the front door faces the courtyard which opens to the parking lot. Commissioner Fitzsimmons noted that the intent was to complete a horseshoe-shaped cluster of buildings to form a three-sided courtyard opening to the south towards the parking lot. He noted that on page 217 of the Town Zoning Regulations, in Section 6.33 on building orientation, it requires that the front of any building be orientated parallel to the lot frontage and not be blocked by walls or buildings. So this doesn't comply because the front door is not facing Pond Hill. He noted that he supports the proposal but that it is important to note that the back of the building faces the street. He also asked why there is so much impervious surface along the frontage on Pond Hill. Mr. Kosinski replied that it is the required fire lane that includes a turnaround. He noted that the egress doors on the back of the building are large glass storefront openings and Mr. Talbot felt that they help resolve this issue. He stated that it will not look like the back of a building and added that you will still see the church from Pond Hill Road. The

building will block the view of the courtyard. Commissioner Fitzsimmons asked if they explored using landscape brick pavers along the drive on the Pond Hill side. Mr. Kosinski agreed to look into that.

Commissioner Hine agreed with the concern of what is visible from the street. He wants to be sure that the applicant has done all that they can to make sure that the building is presentable from the street. He noted that he supports the application.

Mr. Pagni asked for clarification whether that the building size is actually 6,656 sq. ft., not 7,700 sq. ft. as it's mentioned in the stormwater report. Mr. Kosinski confirmed that it is 6,656 sq. ft. Mr. Pagni noted that for the motion.

Commissioner Allinson asked if pavers are to be used and striping is not possible, could signage be used indicating it is a no-parking area.

Hearing no public comment, Acting Chair Venoit called for a Motion to close the public hearing.

Commissioner Fitzsimmons: Motion to close the Public Hearing for application #412-21 Special Permit/Church of the Resurrection/115 Pond Hill Road.

Commissioner Kohan: Second

Vote: Unanimous to approve

Commissioner Fitzsimmons: Motion to approve the Special Permit request to add a detached 7,700 sq. ft. parish community center to an existing church property on plans entitled "New Parish Center" dated 9/8/2021 including all revisions made, up to and including plans dated 10/4/2021 subject to the following conditions:

- 1. Comments from Alison Kapushinski, Town Engineer, dated September 29, 2021;**
- 2. Comments in Interoffice Memorandum from Scott Shipman, Junior Engineer, Water & Sewer Division to the Planning and Zoning Department dated 10/7/2021;**
- 3. Comments from the Wallingford Fire Marshal's office dated 9/17/2021;**
- 4. An erosion and sedimentation control bond to be posted in the amount of \$3,000.00 as required by the Town of Wallingford; and**
- 5. Applicant to explore the addition of landscapes pavers to replace pavement along the frontage of the building along Pond Hill Road as discussed at this meeting.**

Commissioner Kohan: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.
The application is approved.

- 5. Zoning Text Amendment/PZC/Data Centers by Special Permit in IX and I-5 Zones #903-21**

Commissioner Allinson read the legal notice and noted the correspondence. Legal notice 903-21 Zoning Regulation Text Amendment to add data centers as an allowed use by Special Permit in the IX and I-5 zoning districts. Andrew and Eugenia Mays, received September 9, 2021; correspondence from the Wallingford Town Planner to the City Clerk of Meriden mailed September 9, 2021; memo and correspondence to Eugene Lipschitz South Central Regional Council of Governments from Kevin Pagini, Town Planner, September 8, 2021; Inter-Departmental Referral from the Fire Marshal, date of submission September 10, 2021; Inter-Departmental Referral from the Town Engineer, date of submission September 10, 2021; and Revised text of the proposed amendment, revised October 12, 2021.

Mr. Pagini announced that copies of the proposed text amendment were available and explained that the Town received many comments at the October 5th Workshop that are still being reviewed. He recommended no action this evening.

Acting Chair Venoit agreed that the Commission is not ready to vote this evening but is open to more comments.

Mr. Pagini reviewed the proposed text amendment which will add a definition to Section 22, Specific Terms. The proposed amendment is entitled Data Center. The proposed language will be added as a new section to the existing industrial expansion district, to Section 4.9.C.5, as a special permit use. This would include data centers with accessory electrical substations. This will require the submission of sound and vibration impact analysis. It establishes an environmental noise level baseline for the area, potential noise impacts and mitigation if required as well as seasonal scenarios and hours of operation to be considered. It allows for peer a review of the applicant's sound and vibration impact analysis. In addition to 6.14 landscape requirements for the IX district, it requires a setback of no less than 150 ft. if it abuts a residential district and that setback can go further if the sound and vibration impact warrants it. It recommends landscaping for the accessory electrical substations including locating them a minimum of 400 ft from a residential property. He stated that the same language is proposed for the current I-5 district. This also adds a parking requirement for data centers under 6.11.

Commissioner Hine noted that at the workshop there was a discussion on diesel emission limits. Mr. Pagini replied that he hasn't received that language yet. So the proposed language distributed tonight may change.

Commissioner Kohan noted that a lot was presented at the workshop and he noted that some of his comments may already be incorporated. He stated that he didn't know if his comments would be going to specific regulations or design items/conditions of approval.

- The definition should include something to differentiate between hyper-scale data centers vs. regular disaster recovery data centers. There is a magnitude of difference.
- We should be requiring builders to use green data center design and operation. Additionally, due to the enormous electrical requirements, we should require carbon credits to be purchased.

- There should be regulations on peak shaving. They should be required to generate some of their own power and not take it off our grid. There should be a minimal requirement for peak shaving with some type of battery usage.
- There should be regulations for when diesel generators can be fired up and the duration. This needs to be scheduled at non-disruptive times.
- We need to be more specific about sound and vibration impact. For example the use of chillers, will they be water or electric, internal or external? We should state that any potential hum or vibration is not audible offsite.

Commissioner Fitzsimmons agreed with Commissioner Kohan. He asked if Sound and Vibration Impact Analysis is the correct name. Mr. Pagini replied that he hasn't seen other towns requiring anything like this so this is the best way to describe it at this point. Commissioner Fitzsimmons stated that he is in favor of making this analysis a requirement. He suggested changing the 'may require' to requiring the applicant to pre-fund a peer review of the sound so there is a fair understanding of the expectations.

Acting Chair Venoit agreed.

Commissioner Allinson agreed with Commissioner Fitzsimmons. He is concerned with the title of the study and wants to make sure that we are not allowing anyone to play with semantics. Mr. Pagini replied that he will come up with a solid definition. Commissioner Allinson added what we are looking for in the study, such as radius and impact. Commissioner Allinson encouraged care with the definitions and stated that he appreciated the work done on this so far.

Commissioner Fitzsimmons stated that the peer reviewer reviews the applicant's traffic study. He suggested we ask the applicant to pay for the town to have our own sound and vibration impact analysis instead.

Acting Chair Venoit agreed.

Public Comment

Danielle Conway, 78 Tankwood Road, stated that her property abuts the proposed site. She suggested adding an environmental impact study because they have a lot of wildlife. Right now it's a lot of open space. She also suggested a review of the sound six months to a year later. She asked who would be responsible if the sound had increased and what the consequences would be. This project has the potential to severely impact their lives as it runs 24/7. She encouraged the Commission to consider strong language in the regulations

Acting Chair Venoit noted that the regulations that were shared tonight don't have all the changes that were discussed at the workshop.

Ken Lloyd, 110 Washington Street, stated that he appreciated the work of the Town Planner and the Commission. He stated that he is the President of the Wallingford Community Farmers Group with about 1800 members from Wallingford and surrounding towns. He stated that no matter how strong the regulations, these are massive. They are going to affect all of us. This group would like no data centers in the IX zone. He asked if Got Space Data is a real estate company or a data center. The Commission needs to know who they are and who they represent. He asked why they are going after the farms instead of using existing empty structures.

Acting Chair Venoit noted that our responsibility is regulations. Mr. Lloyd added that these issues are important as they affect everyone's lives. We need to make it so it's not easy for them to come in. He stated that his group opposes the data centers coming in at all.

Eugenia Mays, 76 Tankwood Road, asked if research has found an example of a significant size data center in midst of neighborhoods with successful noise mitigation. Mr. Pagini replied that has not seen any but has been focusing on regulations and how they were written, not zoning and placement. He did talk to Lauder County in Virginia. Ms. Mays stated that they feel like guinea pigs. She noted that the data center on Barnes Road doesn't bother anyone. What is proposed here is different. There is no assurance that anyone has found examples of these centers done safely. She pointed out the proposed text and said they need to understand the intent of phrases like "does not substantially raise the established baseline". Substantially is a vague term. It should be the environmental level of noise. The nature of noise of these facilities is incessant. She agreed with establishing background noise which would be done by the town. Testing compliance with established noise levels is implied in the wording. This needs to be made a condition of their Certificate of Occupancy. In regulation point B, the wording dwells on setbacks being established based on sound and vibration impact analysis for side and backyards. There is nothing about front yards. Mr. Pagini replied that 4.9.F.3 is the front yard setback in the current IX regulation.

James Wolfe, Economic Development Commission, stated that he is not going to talk about the Data Centers. He stated that the regulations as proposed under the schedule of lot and building requirements for the IX have a minimum open space of 40% and maximum building coverage of 30%. He believes those should be reversed. Look at buildings in the IX. It doesn't encompass the requirements for the data center. We've had several buildings that have been expanded under special permit. The Town financial statement says the grand list has increased by 1.19% over last year due to taxable property from industrial and commercial accounts. We need that growth. He noted that the education department takes 125,608 and our general property tax revenue is 125,303. It's important to have that expansion. These are already companies that are already there that would grow with the times. He is aware of companies that can't expand until they get a special exemption. He suggested tabling the discussion for a workshop.

State Representative Mary Mushinsky, 188 South Cherry Street, asked the Commission to include standards for emergency use of diesel generators and energy efficiency as a condition of locating data centers in Wallingford. She explained that this wording was in an amendment that didn't make it into

the data center legislation that was passed in the recent session. She supports data centers because they allow the expansion of the technology-based industry in Connecticut. They are key to economic growth. But there should have been language in the legislation that protects residents from diesel exhaust. There were also supposed to be energy-efficient design requirements for data centers in the same legislation. That section was struck from the bill before the final vote. She is submitting the text based on the amendment with additions requested by the data center industry. She has modified the language because it is now going to be a town regulation. All towns should be protected. She asked that this language be made a condition on the permit. She noted that State law is silent on data centers. There are no environmental standards in Statute right now. She apologized for being unable to fix that. The industry says it will be able to meet the steady-state non-transient conditions, but when the diesel generators startup there is a puff of smoke. As far as she knows they can also meet the energy efficiency standards in the second paragraph. She stated that she hoped the Commission can add this to the data center requirements as it will protect public health and still allow data centers in Wallingford.

Tim Ryan, Economic Development Specialist for the Town of Wallingford representing the Economic Development Commission, shared why the Commission supports data center use by special permit. He stressed by special permit. He stated that he shares the concerns of the neighbors. One of the single largest contributors to Wallingford's economic resiliency is diversity in the grand list. This is a great opportunity. This is part of the plan of conservation and development, chapter 2, page 14. It states that "Wallingford may need to adjust its economic development strategy in industrial land use to keep pace with changing needs in the business community." The changing needs in the business community revolve around technology, so we believe strongly that there is a significant market opportunity for Wallingford. He stated that the EDC unanimously supports allowing data center uses in the IX and I-5 zones by special permit.

Bruce Cwirka, Northrop Road, lifelong resident, stated that as a town we should oppose the entire project. He asked the Commission to look at the impact Data centers have had around the country. The infrastructure of Rt. 91 and Rt. 68 can't handle the traffic. When the power goes off they will start the generators no matter what time of day or night. He asked about the noise abatement of all those buildings. He asked how we can have a Green town when you will impact the only farmers left in the north end of the town. He stated that the traffic is already tremendous. What will the impact be on wildlife when we fence in the facilities and cut down the trees? We give up all that open land and put in buildings with noise and air pollution. What's going to happen when all the land is bought up and there's nothing left. Wallingford won't gain anything. He asked the Commission to look at how big the structures are going to be. It will be like adding an airport.

Kathy Palmer, 18 Tankwood Road thanked the Commission for what they do to preserve the quality of life for the town. She asked if the IX zone maximum height of 30 feet will pertain to the data center buildings. Mr. Pagini stated that for the Got Space proposal buildings are capped at 45 ft through the host agreement. For standalone data centers in the IX zone, it would be 30 ft and they have to step back another 5 feet for every foot over that. Palmer noted that one of the buildings in the Got Space proposal is 100 ft from the property line. Mr. Pagini replied that according to the Got Space hosting

agreement they have to be at least 350 to 400 ft. from the property line. Ms. Palmer noted that the data center would be across the street from her and she has a concern with the diesel emissions and air quality. She asked that the language be tightened up a little. She also stated that the sound analysis sounds vague and needs to be quantified to differentiate the ambient noise and the potential impact. She is concerned that this is all new territory and it's in their front yard, in the middle of the neighborhood. She acknowledged that it's an industrial zone and they should have expected something like this, but this is different. The rules you put down are going to affect our quality of life. We feel like a test case. She also stated that the fencing language was vague. These are high-security facilities. She asked if the type of fence would be part of the special permit. Ms. Palmer asked how they would be notified so they can participate in the process for a special permit. Mr. Pagini replied that they would receive official notification and a sign would be posted. Ms. Palmer added that the language about the backup generators is vague. She asked about adding a time frame, when, and how long can they be run to the language. She asked how long the construction it would take and if the hours and days of operation can be included in this language.

Acting Chair Venoit stated that the hours of operation and construction are part of the special permit.

Jessica Gannon Polanski, North Farms, stated that she sent a letter to the Mayor and Janis Small and promised to get it to the Town Planner as well. She stated that lots of numbers had been mentioned tonight regarding the distance from residential areas. She specifically asked Mr. Quinn of Got Space and Len Fasano what the numbers are based on and asked for scientific evidence that it would be okay for residents. There is no scientific evidence to back up the numbers. Mr. Pagini replied that Got Space has to comply with the data center agreement from the Town Council. Ms. Gannon Polanski stated that needs to be looked into. She quoted Mr. Pagini as saying that towns don't require these sound studies. This is because most Towns are not reckless enough to put them in neighborhoods. She noted that in one town in Arizona that has done this, even with protections built, there are lawsuits due to health concerns from the high frequency and low-frequency sound. She stated that you have to use your due diligence and make an effort. She quoted Mr. Ryan saying it's pro but he doesn't have to live with the consequences. You have to care about the residents. If you've done your research, you can see that everyone says it's a living hell, a nightmare that doesn't end. She asked that between the environmental impact and the impact on residents, to do your due diligence and don't vote yes to put data centers there. It is well documented that they are not neighborhood friendly. These data centers do not belong around human life.

Stephanie Massimino, North Farms Road supports her neighbor's statement about paying attention to health concerns and the possibility of being surrounded by this 24/7 noise. They now have fear of health concerns and the noise and being around this much power. How does it affect well water? She mentioned the environmental impact. They knew when they purchased the land that it was industrial land behind them but didn't know it would be of this magnitude. She asked the Commission to please keep residents in mind.

Acting Chair Venoit stated that the public hearing will be continued at the next meeting.

Tony Hayes, 1083 North Farms Road, thanked the Commission and Mr. Ryan for what you do. He stated that at the September 13th meeting, the Mayor was very passionate about what was going on here. He quoted the Mayor, "How much money justifies taking the risk. There's not enough money in the world to offset the harm done. We have an obligation to protect public health regardless of who makes money and how many people it will employ. Public health outweighs those concerns." Mr. Hayes stated that he did some research on public health and sound and has about 142 articles from journals and university studies that should be reviewed about the effect of noise on the human body. He read some quotes from the articles. He noted that low-intensity sound causes immediate problems for those living nearby. They propose putting a Hyperscale data center within 150 ft of a house which is not workable. You have an obligation to protect the health and well-being of residents. He asked if the health department could be involved when discussing the impact of placing these buildings and in the sound study. He stated that he's not looking to do away with data centers and economic development, but we need to look at ways to abate the problem. He shared a study from a sound abatement company. He stated that the Commission should have looked at the Got Space proposal before Town Council signed the host agreement. He noted that the towns of Montville and Norwich are involved in similar processes. He urged the Commission to oppose this.

Commissioner Kohan thanked the public for their comments. He agreed that Town Council should not have been involved before Planning and Zoning reviewed it. He asked Rep. Mushinsky for an explanation of why her amendment didn't make it into the State's data center agreement. Rep. Mushinsky explained that the vote was held on the last day of the session and different versions were going back and forth and she understood that they were hung up on the diesel regulation and whether the plant could meet the 'at all times' standard. The data center folks said that when the diesel generator starts, there is a puff of smoke, so they wanted different language. In the end, it was decided to strike it because it wasn't fully negotiated. She stated that it's likely that not everyone knew what the final wording was. She attempted to run it as an amendment but it didn't get in. Commissioner Kohan asked if there was a consideration at the State level of mitigating sound and vibration impact. Rep. Mushinsky replied that regulations for data centers don't exist. She explained that there is a big rush now to get data centers is because the Economic Development specialists feel data centers are the key to the future. She agreed that environmental regulation needs to accompany it. She feels it's going too quickly. She can resubmit the amendment when they are back in session in February, but it will be too late. She shared her amendment and asked for its inclusion in the Town agreement, but it didn't happen. She asked the Commission to put it in as a condition. She noted that there is nothing in the bill on vibration but she can look for language from another state.

Commissioner Fitzsimmons noted that residents should send letters to Planning and Zoning as they don't have town email addresses. He explained that the Commissioners do both planning and zoning and that this regulation change is planning. He is uncomfortable when everyone talks about Got Space. This is a regulation change. He asked for clarification that the regulation changes are for data centers and don't apply to Got Space. Mr. Pagini explained that the regulations wouldn't supersede the host

agreement for Got Space. Got Space has to comply with everything in their host agreement first and then everything that was not in the agreement, these regulations would fill in.

Acting Chair Venoit asked if our regulations are stricter. Mr. Pagini stated that if these regulations are stricter, they go by these regulations and not the agreement. He gave the example that as far as the setback goes, they have to comply with the 350-foot setback but if it goes through the Planning and Zoning Commission and the sound and impact vibration analysis decide that it needs to be an 800-foot setback, then that could be applied.

Commissioner Fitzsimmons stated that it is unusual. The Commission does not have the Got Space agreement or an application before us, just the regulation change. That regulation change would apply to anyone doing a data center. Mr. Pagini confirmed. Commissioner Fitzsimmons stated that Got Space should not be discussed here. This is our regulation change. He suggested that the text amendment should be formatted with bullets like the rest of the zoning book. He noted that the workshop was for the IX and the creation of a new wetlands zone. He asked if this would remain a separate track from the I-5 zone?

Acting Chair Venoit stated that it is open for discussion. He noted that this is not the normal procedure. We would normally do the workshop and have a dialogue. Now we are doing this in the middle of our normal business. He suggested a separate discussion.

Commissioner Kohan agreed and asked how much time is needed to complete the process since this is a public hearing. Mr. Pagini replied three months from now. Commissioner Fitzsimmons noted that this is our own application and we could extend it. Acting Chair Venoit added that we usually hold a workshop to discuss. Now we are doing it in the midst of business.

Commissioner Hine agreed that this was more of a workshop. He suggested that we have the language incorporated and have another workshop. He stated that he doesn't know where we go from here.

Commissioner Allinson stated that if we have another workshop we would have to withdraw the application. He suggested continuing the public hearing to the next meeting to see what the language changes are and then decide what to do next.

Commissioner Fitzsimmons proposed continuing the Public Hearing to the next regularly scheduled meeting when the revised language, incorporating the workshop, from staff can be reviewed and we can also discuss the two tracks: IX/I-5 vs. just data centers. Acting Chair Venoit asked for the text amendments earlier for the next meeting and called for a Motion.

Commissioner Fitzsimmons: Motion to continue the Public Hearing for the Planning and Zoning Application for a Zoning Text Amendment to our next regularly scheduled meeting in November.

Commissioner Kohan: Second

Vote: Unanimous to approve

The motion carries.

Bruce Cwirka, Northrop Road, asked why not have a meeting to go over the regulation and the procedure in the zones ahead of time so it's better than what's out there.

NEW BUSINESS

6. Site Plan/1164-1174 North Colony Road, LLC/1164-1174 North Colony Road #213-21

Commissioner Allinson noted the correspondence. Correspondence from Kevin Pagini, Town Planner to Mr. John Orsini, dated July 16, 2021; Interoffice memorandum from Erik Krueger, Senior Engineer, to Kevin Pagini, dated August 20, 2021; Inter-Departmental Referral from the Fire Marshal date of submission June 25, 2021; Inter-Departmental referral from the Town Engineer date of submission June 25, 2021; correspondence from Christopher Juliano, Juliano Associates to Kevin Pagini, Town Planner, dated September 27, 2021; Inter-Departmental Referral from the Environmental Planner date of submission June 25, 2021; Inter-Departmental Referral from the Fire Marshal date of submission June 25, 2021; and site plans received October 1, 2021.

Christopher Juliano, licensed land surveyor and professional engineer with Juliano Associates located at 405 Main Street, Yalesville, asked if his application for the Aquifer Protection District could be heard at the same time.

Acting Chair Venoit called for a Motion to recess the Planning and Zoning Commission Meeting.

Commissioner Fitzsimmons: Motion to stand in recess so they can reconvene as the Aquifer Protection Agency.

Commissioner Kohan: Second

Vote: Unanimous to approve

The motion carries.

Acting Chair Venoit: Called the Wallingford Aquifer Protection Agency Meeting for Wednesday, October 13, 2021, to Order.

Agenda: 1164-1174 North Colony Road, LLC, permit modification 1164-1174 North Colony Road, application 704-B.

Commissioner Allinson noted the correspondence. Correspondence from Kevin Pagini, Town Planner to Mr. John Orsini, dated July 16, 2021; Interoffice memorandum from Erik Krueger, Senior Engineer, to Kevin Pagini, dated August 20, 2021; Inter-Departmental Referral from the Fire Marshal date of submission June 25, 2021; Inter-Departmental referral from the Town Engineer date of submission June 25, 2021; correspondence from Christopher Juliano, Juliano Associates to Kevin Pagini, Town Planner,

dated September 27, 2021; Inter-Departmental Referral from the Environmental Planner date of submission June 25, 2021; Inter-Departmental Referral from the Fire Marshal date of submission June 25, 2021; site plan received October 1, 2021; and a second site plan dated May 19, 2021, for the Aquifer Protection Agency.

Christopher Juliano, licensed land surveyor and professional engineer of Juliano Associates, 405 Main Street, Yalesville, explained the application and why there are two sets of plans. At their February 5, 2020 meeting, the Wallingford Planning and Zoning Commission approved a renewal of the Aquifer Protection application for Executive Kia. Since we are presenting a new site plan application we had to revise the existing application and resubmit it to the commission can reapprove it. For the Aquifer Protection District, nothing is changing. We are adding to the building and increasing the use but with respect to what's stored in the building, how it's stored, and how we're handling the Aquifer Protection District, everything is status quo as it was approved in February of 2020. The applicant is asking for the new application to be approved which will specifically deal with the additional square footage of the building.

Mr. Pagini noted that Water & Sewer reviewed the project and had no further comments about the aquifer.

Commissioner Fitzsimmons: Motion that the Wallingford Aquifer Protection Agency approves the aquifer protection permit revision request to add an approximately 1,654 sq. ft. addition to an existing car dealership located at 1164-1174 North Colony Road on plans entitled "Limited Property / Boundary Survey Improvement Location Survey land of 1164-1174 North Colony Road, LLC" dated 5/19/2021 and revised to 9/27/2021.

Commissioner Kohan: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.

Commissioner Fitzsimmons: Motion to adjourn the Aquifer Protection Agency meeting.

Commissioner Kohan: Second

Vote: Unanimous to approve

The motion carries.

Acting Chair Venoit reconvened the Planning and Zoning October 13, 2021 meeting.

Christopher Juliano, Juliano Associates, 405 Main Street, Yalesville explained that he represents Executive Kia and Executive Auto Group. The proposal is for a small expansion at the northeast corner of the building. They want to square off the building to add additional service bays. He noted that they already have approval from the Zoning Board of Appeals for the variance for the setback requirement. There will really be no changes to the site. They will replace the bituminous surface with a building.

Commissioner Fitzsimmons: Motion to approve the Site Plan request to add an approximately 1,654 sq. ft. addition to an existing car dealership located at 1164-1174 North Colony Road on plans entitled “Limited Property / Boundary Survey Improvement Location Survey land of 1164-1174 North Colony Road, LLC” dated 5/19/2021 and revised to 9/27/2021 subject to the following conditions:

- 1. Comments in Interoffice Memorandum from Erik Krueger, Senior Engineer, Water, and Sewer Division to the Planning and Zoning Department dated 8/20/2021;**
- 2. Comments from the Fire Marshal’s office dated 7/13/2021; and**
- 3. An erosion and sedimentation control bond in the amount of \$2,000.00 as required by the Planning and Zoning Department.**

Commissioner Kohan: Second

Hine – yes; Vote: Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.
The motion carries.

8-24

7. Possible Purchase of Property – 79 Tyler Mill Road (Bordering the Tyler Mill Preserve)

Commissioner Allinson noted the correspondence. A set of documents including correspondence from the Mayor dated September 22, 2021; a Memorandum from Janis Small, Corporation Counsel, dated September 20, 2021; and a site plan.

Mr. Pagini explained that this is a small property bordering the Tyler Mill Preserve that the Town wants to purchase to increase the Tyler Mill Reserve and for public enjoyment.

Commissioner Kohan asked if the Town Council has already approved this at their last meeting. He noted that procedurally Planning and Zoning is supposed to approve it first. Mr. Pagini agreed that that is the procedure.

Acting Chair Venoit asked if they approved it contingent on Planning and Zoning approval.

Commissioner Allinson recused himself.

Commissioner Fitzsimmons: Motion to approve, pursuant to section 8-24 of the Connecticut General Statutes, the request from the Mayor’s office to review the possible purchase of property at 79 Tyler Mill Road bordering the Tyler Mill Preserve because the acquisition of this land is in support of the Town’s Plan of Conservation and Development.

Commissioner Kohan: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Acting Chair Venoit – yes.

The motion carries.

BOND RELEASES AND REDUCTIONS

- 8. Special Permit/Blichfeldt-Quality Subaru/711 North Colony Road #416-16**
- 9. Sunwood Development/3 Preston Drive**
- 10. Giabianna Construction, LLC/340 East Main Street**

Mr. Pagini noted that #8 has still not submitted an As-Built, but # 9 and #10 are all set.

Commissioner Fitzsimmons asked if there is a memo asking for the Commission's approval of the bonds ready for release. Mr. Pagini stated he would distribute it.

Commissioner Fitzsimmons: Motion to approve bond releases and reductions as recommended by the Town Planner for Sunwood Development at 3 Preston Drive and Giabianna Construction, LLC at 340 East Main Street.

Commissioner Kohan: Second

Vote: Hine – yes; Kohan – yes; Fitzsimmons – yes; Allinson – yes; Acting Chair Venoit – yes.

REPORTS OF OFFICERS AND STAFF

- 11. Administrative Approvals** Noted as approved
 - a. Change of Use/Small Animal Services of CT LLC/924 North Main Street Ext. #315-21**
 - b. Change of Use/S. Sargeant for Benhaven School/135 North Plains Industrial Road #316-21**
 - c. Change of Use/C. Hogan/1199 Old Colony Road #317-21**
 - d. Change of Use/Xiao Qun Chang/48 C North Plains Industrial Road #318-21**
 - e. Change of Use/Nicholas Imbrigilio/204R North Colony Street #319-21**
 - f. Survey Waiver/Richard Levesque/63 Brookview Avenue #815-21**
 - g. Site Plan/W. Hamilla/51 South Whittlesey Avenue #219-21**
 - h. Survey Waiver/D. Tomaszewski/22 Nicholas Road #814-21**

12. ZBA Decisions of September 20, 2021 – no comments

13. ZBA Notice for October 18, 2021 Meeting

Commissioner Fitzsimmons asked for clarification of agenda item #4 which appears to be for an entire new house. Are they creating a lot or is the lot there. Mr. Pagini agreed to look into it.

14. Zoning Enforcement Report

Mr. Pagini pointed out the new report format and stated that Mrs. Torre offered to go back to the spreadsheet format if the Commission prefers. The consensus was to return to the spreadsheet format.

ADJOURNMENT

Commissioner Fitzsimmons: Motion to adjourn the Wednesday, October 13, 2021, Planning and Zoning Commission meeting at 10:20 pm.

Commissioner Kohan: Second

Vote: Unanimous to approve

Respectfully Submitted,
Cheryl-Ann Tubby
Recording Secretary