

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION REGULAR MEETING HELD IMMEDIATELY FOLLOWING THE 7:30 P.M. PUBLIC HEARING HELD ON MONDAY, FEBRUARY 24, 2014, IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Earl Kurtz, Chairman; Sean Stollo, Vice Chairman; John Kardaras, Vincent Lentini, Gil Linder, Louis Todisco. Absent: Lelah Campo, S.Woody Dawson, Edward Gaudio and Jon Fisher.

Alternates: Diane Visconti; Leslie Marinaro

Staff: William Voelker, Town Planner; Alfred Smith, Town Attorney; Robert Ceccolini, Parks and Rec Director; Sheila Adams, Pool Coordinator.

**I. CALL TO ORDER**

Mr. Kurtz called the meeting to order at 8:16 p.m.

Mr. Kurtz read the fire safety announcement.

**II. ROLL CALL**

Mr. Stollo called the roll.

**III. DETERMINATION OF QUORUM**

Following roll call a quorum was determined to be present.

**IV. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**V. ACCEPTANCE OF MINUTES – Public Hearing 2/10/14 and Special Meeting 2/10/14.**

MOTION by Mr. Stollo; seconded by Ms. Marinaro.

MOVED that the Planning and Zoning Commission approve and accept the minutes of the Public Hearing of 2/10/14 and Special Meeting of 2/10/14 subject to corrections, additions, deletions.

VOTE           The motion passed 6-0-2; Kurtz and Lentini abstained.

**VI. COMMUNICATIONS**

- 1. Letter from Attorney Joseph B. Schwartz dated 2/20/2014  
RE: Consolidated Industries, Inc. 677 Mixville Road, Cheshire CT**  
Town Planner Voelker read the letter into the record of the meeting.

Mr. Voelker reported that a meeting was held with Consolidated Industries representatives, who did a power point presentation for Town staff.

Attorney Alfred Smith stated that the Commission was previously advised that no zoning approval is needed to replace equipment as long as the representations made by Consolidate Industries are correct. The company has stated they are not using more hammers at any one particular time, and there will be no additional impacts in terms of noise and vibration. Neighbors questioned the validity of these representations, and the legal issue is that we will not know whether they are true until the equipment is operational. This is the key legal issue as to whether there is expansion of a non-conforming use. Attorney Smith explained that the recommendation is to have the Zoning Enforcement Officer (ZEO) monitor the impacts of the new equipment once it is operational, and take appropriate actions, as necessary. Information has been received about the base line conditions which were measured, noise levels at each of the boundaries, and impacts will not be known until the new equipment is operational.

The question of whether there are existing violations with the current hammers was raised by Mr. Kurtz.

In response, Attorney Smith noted there are State noise regulations, and in checking these regulations the company seems to be in compliance at this time. If the new equipment is noisier there could be an increase in the non-conformity use.

Ms. Visconti noted Cheshire does not have a noise regulation, so the company cannot be in violation of a local ordinance. She commented on the new machines which will be quieter during operations, and said the tripping point is whether the noise is louder than what was measured today, and the company would be in non-conformity.

If there is a significant impact from the new equipment, Attorney Smith said this is an expansion of the non-conformity.

With the recommendation for the ZEO to go out to the site, Ms. Visconti asked how the impacts would be monitored and how often the ZEO would visit the site.

Once the new hammers are in use, Attorney Smith said the ZEO can go out and make observational assessments as to impacts, take actual measures, and compare them to the current stated noise levels.

According to Mr. Voelker the Planning Department receives noise complaints. With regard to the increase in the noise levels, he said there will be indication more intense than before, and this will be the flag that the non-conforming use has increased. The company will be informed about complaints; they will be required to contact the State and determine noise levels; if there is an increase they will be in violation. A cease and desist letter will be issued, and the company must seek a solution to stop the noise.

Ms. Marinaro said that the neighbors have legitimate issues with the noise levels from the company site.

Regarding vibration levels, Mr. Linder asked if the State has a regulation on vibrations.

Attorney Smith said vibrations are something different, and he does not believe there are any standards in place. In this case the measurable standard is what exists today. Any increase in noise or vibration levels will be considered a violation and enforceable by the Town. He advised that the Consolidated presentation did include noise and vibration statistics.

Mr. Lentini asked about the Consolidated numbers for the levels. Attorney Smith advised that a noise engineering company took the levels.

The Commission was informed that Consolidated cannot run more than 8 machines at one time. Mr. Voelker said it would be awhile before the new machines are fully operational. The company has reported that it rarely runs 8 machines at the same time.

**2. Connecticut Federation of Planning and Zoning Agencies, 66<sup>th</sup> Annual Conference.**

Commissioners were requested to inform Ms. Patrignelli in the Planning Department if they want to attend this conference.

**VII. UNFINISHED BUSINESS**

**Chairman Kurtz moved items 2 and 3 to current status on the agenda.**

**2. Earth Removal, Filling or Regrading Permit  
Krista Ostuno  
Sindall Road**

**PH 2/10/14  
PH 2/24/14  
MAD 4/30/14**

MOTION by Mr. Kardaras; seconded by Mr. Lentini.

MOVED that the Planning and Zoning Commission finds that the proposed Earth Removal, Filling and Regarding activity proposed on Map 30, Lot 157 Sindall Road, as shown on plans entitled "Site Development Plan, Ostuno Parcel, Assessor's Map 30, Lot 157, Sindall Road, Cheshire CT" revised through January 14, 2014 and prepared by Milone and MacBroom, 99 Realty Drive, Cheshire CT is consistent with the requirements set forth within Section 25 of the Cheshire Zoning Regulations, and hereby approves this application conditioned upon compliance with the comments recommended by the Connecticut Department of Energy & Environmental Protection dated February 24, 2014.

VOTE The motion passed 7-01; Strollo abstained.

**3. Special Permit Application  
William C. Sherman  
10 Willowbrook Drive  
In-Home Professional Business Office  
Section 30, Sch. A. #18B**

**PH 2/24/14  
MAD 4/30/14**

MOTION by Ms. Marinaro; seconded by Mr. Kardaras.

MOVED that the Planning and Zoning Commission finds that the proposed application to establish an in-home professional business at 10 Willowbrook Drive is consistent with Section 30, Schedule A, Item 18B of the Cheshire Zoning Regulations as shown on plans prepared by the applicant, and hereby approves this application.

VOTE           The motion passed 7-0-1; Strollo abstained.

1.     **Site Plan Application** **MAD 02/24/14**  
      **Cheshire Route 10 LLC**  
      **1953, 1973, 1989, 2037, and 2061 Highland Avenue**  
      **Dickerman Road and I-691**  
      **Final Development Plan for the Outlets at Cheshire**  
      **I-C S.D.D. and Interchange Special Development**  
      **Project.**

Mr. Voelker stated that the Commissioners were provided all the information received, to date, from the applicant.

Lou Masiello represented W.S. Development for the Cheshire Route 10 LLC application. Mr. Masiello stated that the information to be presented at this meeting is in response to comments and questions from the Commissioners at the last public hearing. There were questions about the architectural design/vernacular of the buildings, whether they were varied enough, whether they emulated the New England architecture, the types of amenities, extent of public walkways, the nature walk, work around the Ten Mile River, encouragement of pedestrians to cross and connect to the nature areas.

An updated rendering of the Cheshire Outlet Center was displayed, along with photographs of the Clinton CT Shopping Center.

Mr. Masiello pointed out the similarities between the two centers – varied roof lines, use of materials such as clapboard, brick, stone treatments, and sections of building walls broken up with small to large elements. In the Canton photographs there is a sense of vibrancy and action; tenants expressing themselves with individualized stores, color schemes, signage patterns. The Canton Center shows a living space.

With regard to concerns about the walking spaces, the Canton sidewalks are concrete, brick and stone products. The photographs show several different material surfaces tied together, period style lighting, permanent and non-permanent plantings with seasonal variations, and a common area called Lowell Court. Looking at the Cheshire site plan there will be the same type of design; a decorative clock will be installed in the common area; extensive plantings throughout the center; the Bedding Capital theme will be emphasized at the center entrance and common areas.

Mr. Linder commented on the high quality of the Canton Center and asked if Cheshire's center will have this same high quality.

The similarities of the two centers (rendering and photographs) was pointed out by Mr. Masiello. He said the Canton center has store automobile access. The two centers have similar materials used throughout, shingled roofs, gables, etc.

Great Fall and Monument – Mr. Masiello pointed out these areas on the plans, and stated there will be crossing over the Ten Mile River. There will be a timber rustic style New England Crossing bridge, surrounded by an improved embankment of the river, a gathering lawn and plantings. The stone arch and culvert will be repaired. The “Center” will tie into this nature area with paths and walkways. People will see ecological and environmental amenities; there is a connection bridge between the Center and the Great Fall area. For parking and walkways a building was moved down and its size reduced; there are raised walkways, small service delivery yard, and parking area for employee use. In the Center there will be signage for people to be aware that the natural area exists. The bridge will be designed as another roadway bridge, but it is hoped it will not be used by loading vehicles. When the residential area is built, the bridge may get more delivery usage.

Mr. Voelker read the Fire Department comments dated 2/24/14 into the record.

On the master plan, Mr. Masiello pointed out the “emergency access”, and stated that the applicant has no objections to the Fire Department comments. For comment #10 Mr. Masiello said he believes this will function for the fire department equipment access.

Mr. Voelker read the comments from Weston and Sampson Engineering Co. into the record.

The Commission was informed by Mr. Voelker that staff has recommended Weston and Sampson be retained as consultants for the project, and the applicant has agreed to reimburse the Town for these services.

A correction on the elevation was cited by Mr. Masiello who said it will be about 30 to 35 feet, rather than 20 feet.

Attorney Anthony Fazzino represented the applicant, and stated that this is a site plan under the zoning regulations of the Town of Cheshire, and the application is to be processed as a site plan application. The applicant's role is to show the Commission that the final development plan conforms, substantially, to the site development plan as modified in 2013, and that it adheres to the special regulations approved in 2008. The cover sheet has a zoning table showing the comparisons between the special set of regulations and what is actually in the plans. A review would show that the final development plan strictly follows those regulations. This is also confirmed from the presentations by Milone and MacBroom.

Mr. Fazzone stated that the applicant is requesting approval of the final development plan. The applicant has prepared a motion for approval, with stipulations, and Mr. Fazzone introduced the motion to the Commission.

MOTION by Mr. Strollo; seconded by Ms. Visconti.

MOVED that in accordance with Section 45.B.9 of the Cheshire Zoning Regulations and after due consideration of the entire record, including the records of the January 28, 2008 and the July 22, 2013 approvals of the applicant's 1) Zone Map Change, 2) Combined Application for Zone Change to and Approval as an Interchange Special Development District and Approval as an Interchange Special Development Project, 3) Aquifer Protection Application, and 4) Earth Removal, Filling and Regarding Permit (the "Approvals") for properties at 1953, 1973, 1989, 2037 and 2061 Highland Avenue and I-691 and Dickerman Road, as shown on the current Assessor's Map No. 3, Lot No. 51, and Map No. 4, Lots 13, 9, 7, 6 and 4, which approvals and findings made by the Commission in support of the approvals are incorporated herein by reference, the Commission finds that: 1) that the Special Development Project shown in the applicant's Final Development Plan is not reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the State; 2) that the Final Development Plan conforms substantially to the approved Special Development Plan as approved January 28, 2008, as modified by approval dated July 22, 2013, and adheres to the Special Regulations adopted and approved by the Commission in conjunction with the Special Development Plan; 3) that approval of the Final Development Plan is in the best interests of the Town of Cheshire; and 4) the Final Development Plan complies with all of the conclusions and findings of the Commission in its January 28, 2008 and July 22, 2013 approvals. Furthermore, it is the opinion of the Cheshire Planning and Zoning Commission that this application for Final Development Plan approval meets all of the requirements of Section 45. b.9 of the Town of Cheshire Zoning Regulations and that it may be approved by the Commission.

THEREFORE, the Planning and Zoning Commission approves the application of Cheshire Route 10 LLC for Final Development Plan approved for properties located at 1953, 1973, 1989, 2037 and 2061 Highland Avenue and I-691 and Dickerman Road, as shown on the current Assessor's Map No. 3, Lot No. 51, and Map No. 4, Lots 13, 9, 7, 6 and 4, and shown on the following plans entitled: The Outlets at Cheshire, Final Development Plan, Highland Avenue (Route 10) Cheshire, Connecticut Permitting Set October 22, 2013, latest revision February 24, 2014, Sheets 1 through 53, together with all architectural renderings and elevations submitted as part of the application.

With the following stipulations:

1. The Stormwater Management Plan shall be strictly adhered to during and after construction. Documented verification is required confirming that the installation of all Stormwater treatment areas have been constructed as presented in the approved plan. In addition, annual documentation is required for post development maintenance in

accordance with the "Operation and Maintenance Plan" (Post-Construction) on said plan.

2. Subject to State of Connecticut Department of Transportation approval, an emergency access drive shall be provided as requested by the Fire and Police Departments and offered by the applicant. On-site security shall be provided by the applicant in addition to square footage and parking within the facility for public safety personnel to use as needed.

3. All exterior lighting (including parking, building and signs) shall be done in accordance with Section 33.9 of the Zoning Regulations and shall be full cut-off fixtures. A detailed Lighting Plan and report on the exact fixtures to be used must be submitted as part of the Final Development Plan.

4. The applicant shall comply with comments of the Cheshire Fire Department in its memorandum dated February 24, 2014.

5. The applicant shall comply with comments of Weston & Sampson Engineers Inc. dated February 10, 2014.

#### Discussion

Chairman Kurtz stated that he has familiarized himself with the record of this application, can take action on the application, and commended the applicant for a very good application.

Mr. Lentini stated he has familiarized himself with the record of this application and can take action on the application.

VOTE The motion passed unanimously by those present.

4. **Zone Text Change Amendment** **PH 2/24/14**  
**Town of Cheshire** **MAD 4/30/14**  
**To amend Section 23, Definitions**  
**Add: Recreation Active and Recreation,**  
**Passive**  
**To amend Section 30 Schedule A, Permitted**  
**Uses, Item 29A**  
**To amend and add to Section 32, Schedule B,**  
**Item 7.**  
**CONTINUED TO MARCH 10, 2014.**
5. **TABLED APPLICATIONS**
- a. **Special Permit Application** **PH 2/10/14**  
**David G. Blakesle/Doreen Blakeslee** **MAD 4/16/14**  
**350 Fenn Road**

**In-Law apartment  
Section 30, Sch. A. Para #5.  
PUBLIC HEARING TABLED TO 3/10/14**

**VIII. NEW BUSINESS**

1. **Special Permit Application  
Core Development LLC  
589 South Main Street  
13 Unit Planned Residential Infill Development  
SET FOR PUBLIC HEARING ON MARCH 24, 2014.**
2. **Other Planning and Zoning Commission Business.**
  - a. **Monthly Report from Zoning Enforcement Officer**  
The report was accepted and approved.
  - b. **Other**

**IX. ADJOURNMENT**

MOTION by Mr. Todisco; seconded by Mr. Kardaras

MOVED to adjourn the regular meeting at 9:42 p.m.

VOTE        The motion passed unanimously by those present.

ATTEST:

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MARILYN W. MILTON, CLERK