

& ZONING COMMISSION April 11, 2011 Meeting

Commission Members Present: Alan Gannuscio, Vincent Zimnoch, Janet Ramsay and Alternate Jim Szepanski

Town Staff Present: Temporary Town Planning Coordinator and Assistant Zoning and Wetlands Officer John Szczesny, and Town Engineer Dana Steele

Chairman Gannuscio called the meeting to order at 7:12 pm.

Commission roll call was taken.

Chairman Gannuscio moved to go into Executive Session and stated that Mr. Steele, Mr. Szczesny and First Selectman Steven Wawruck would be attending the session. At 7:13 pm the Commission members, Mr. Szczesny and Mr. Steele left the Conference Room and held the Executive Session in the Selectman's Conference Room.

Chairman Gannuscio called the meeting back to order at 7:47 pm

MINUTES:

Chairman Gannuscio referred to the March 14, 2011 meeting minutes and asked the Commission members and staff for any comments or corrections. Mr. Szepanski questioned whether the February 2009 date referred to in the second paragraph on page 7 was accurate. After a brief discussion Ms. Ramsay confirmed that the date was correct. Mr. Gannuscio moved to approve the March 14, 2011 meeting minutes, as published. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

PUBLIC HEARINGS:

- a. Continued public hearing on the application to amend Section 605 and add new Sections 607 and 602d to the Zoning Regulations.**

Chairman Gannuscio read the rules for conducting a public hearing. He then asked the Recording Secretary to read the legal notice. The Recording Secretary read the legal notice that was published in the Journal Inquirer on March 30 and April 7, 2011.

Chairman Gannuscio asked if there was anyone present for the public hearing on the application to amend Section 605 and add new Sections 607 and 602d to the Zoning Regulations. No one was present for the hearing.



Chairman Gannuscio moved to continue the public hearing on the application to amend Section 605 and add new Sections 607 and 602d to the Zoning Regulations to May 9, 2011. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

b. Continued public hearing on the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive.

Chairman Gannuscio asked the Recording Secretary to read the legal notice. The Recording Secretary then read the legal notice that was published in the Journal Inquirer on March 30 and April 7, 2011.

George Johannesen from Allied Engineering Associates, LLC and Attorney Michael Milazzo were present on behalf of the applicant.

Mr. Johannesen addressed the Commission and asked that any member of the public residing at Concorde Landing Condominiums and making comments that evening during the hearing state the building/unit where they resided. Chairman Gannuscio agreed that Concorde Landing residents should state their building/unit number before addressing the Commission.

Mr. Johannesen stated that during the first week of April he had found out that the parking easement that they had spoken about at the previous meeting was not allowed. He went on to say that they, therefore, had removed some seats and were proposing 141 seats which included the outdoor seating. He then noted that they were proposing 63 parking spaces.

Mr. Johannesen stated that they had received an email from the Margueritas Corporate Headquarters which stated that the number of employees would be 16. He then noted that they had also backed that number up with a report that had been completed by the National Restaurant Association.

Mr. Johannesen commented that they had sent the revised plans to the Town's Building Office, Town Planning Consultant and Town Engineer and that they had received comments back from them. He went on to say that Town Engineer Steele had suggested some conditions of approval and that they had no objection to any of those suggested conditions.

Mr. Johannesen referred to Town Planning Consultant O'Leary's comments and stated that Items 1 through 3 were really just statements and that they agreed with those statements. He went on to say that the second half of Item 3 contained a suggested condition of approval limiting the number of seats. Mr. Johannesen noted that it would be up to the Commission to require that condition of approval or not.

Mr. Johannesen read the remaining items from Mr. O'Leary's April 9, 2011 memorandum and commented on them as follows:

4. "As previously noted in my report, Section 705.F.6 requires sidewalks along all street frontages. The applicant has shown an extension of the existing sidewalk on Loten Drive into the site and connecting into the sidewalk along the building entrance. This is provided in lieu of a sidewalk along the entire frontage of Loten Drive, but appears to be more useful placement of walks. The Commission should provide some direction." Mr. Johannesen stated that the proposed sidewalks really had not changed throughout the entire process.

5. "Landscaping requirements are generally found in Section 705F.6, 7 and 8. This includes street trees, the 15% landscaping area in the parking lot, and foundation plantings. A combination of canopy trees, flowering trees and ornamental trees are shown within the parking lot. Upon maturity, I believe that this plan satisfies the intent of the Regulations. As long as this combination of landscape elements is acceptable to the Commission, the number of trees is in compliance."

6. "The plan shows a 25 foot buffer area in locations as required and in addition, some buffer plantings are provided in these areas (3 clusters of 2 white pines each). I would suggest that the number of plantings be increased, or a berm be installed with a supplemental solid cedar board screen fence, as the Commission may require under Section 705.F.3."

Mr. Johannesen stated that they had provided the 25 foot buffer for the residential use even though it was not zoned as a residential property. He went on to say that they had also added the plantings in order to provide more of a visual buffer. He pointed out that they had already proposed more buffering that was required and that they would prefer to keep the plan as it had been presented. Mr. Johannesen then commented that if the Commission were to require additional plantings they would do so, but that they would prefer not to have to provide the berm and/or cedar fence because it would be a much greater expense.

7. "At the public hearing, concerns were expressed about possible outside speaker systems and the impact on residential properties. The Commission could consider excluding these with an appropriate condition."

Mr. Johannesen stated that they felt that that would not be fair, since it was a permitted use for the property in question. He then reiterated that the music was low key and for ambiance.

8. "There have been discussions about access points to this site and the proposed exit-only curb cut onto Halfway House Road. Apparently the Police Chief believes that having this access point is preferred to a single Loten Drive access. Perhaps the Commission might consider a sign that advises truck drivers to only turn left toward Route 75." Mr. Johannesen stated that they had no problem with Mr. O'Leary's suggestion.
9. "The plan shows a free standing sign and two building mounted signs. The freestanding sign sketch contains calculations showing a sign area of 97.5 square feet. This is not in compliance with the Sign Regulations that limit such signs to 32 square feet (see Section 606.2). Also the Regulations require 20% of the freestanding sign area to be devoted to the address of the premises; and no address is shown on the sign. No dimensions are provided for the attached sign which is shown on the building elevation on Sheet A-3. My calculations show the maximum length is 14 feet and the maximum height is 3 feet, resulting in a 42 square foot sign. Two of these are proposed. None of these dimensions (97.5 square feet or 42 square feet) coincide with the proposed sign size information provided on the Zoning Data Table. The proposed sign sizes (97.5 + 42 + 42) totals 181.5 square feet which exceeds the maximum allowable area of 160 square feet." Mr. Johannesen pointed out that they were required to get a separate sign permit. He then noted that he had modified the plan to show the sign at the maximum 32 square foot area and a 20 foot maximum height. He went on to say that the two building signs would be limited to 64 square foot each for a total of 160 square feet which they were allowed under the Regulations.
10. "Chapter V provides the Liquor Regulation requirements and specifies that a Special Permit application is required. A distance of 200 feet is required from churches and educational uses which appears to be in compliance. Also a 1500 foot distance is required from other restaurants that serve alcoholic beverages, although the Commission can decrease this distance based on the standards found in Section 503. The applicant is requesting such a reduction. I previously suggested that the applicant should provide a written statement addressing the criteria of Section 503 and why the Commission should waive this requirement in this instance." Mr. Johannesen stated that he had submitted a letter containing their written statement addressing the criteria of Section 503 and why the Commission should waive the requirement. He then noted that he had sent the letter to Mr. O'Leary a second time as well. He went on to say that they had also revised the letter to reflect the 141 seats being proposed.

Mr. Johannesen stated that Mr. O'Leary had concluded his memorandum by providing a list of suggested conditions for the Commission's consideration.

Chairman Gannuscio asked the Commission members for any questions. They had none.



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Chairman Gannuscio asked Mr. Steele to go through his comments. Mr. Steele stated that he had received revised plans on Friday, April 7, 2011 as well as revised drainage calculations. He went on to say that the revised drainage calculations addressed his concerns; he was satisfied with those calculations. He then commented that he felt that the revisions that had been made to the drainage design were an improvement.

Mr. Steele stated that there were still a number of construction details that did not meet the Town's standards. He went on to say that he had included those as suggested conditions in his letter to the Commission dated April 11, 2011.

Mr. Steele pointed out that he had submitted a letter dated March 14, 2011 at the previous meeting and that he had not referenced the items listed in that letter in his most recent April 11th letter because they were comments rather than suggested conditions. He then referred to some of those comments as follows:

1. Dealt with the access onto Halfway House Road
2. Dealt with the survey

Mr. Johannesen stated that he did have the survey with the stamp on it with him that evening.

Mr. Steele asked the applicant to explain who HMH Properties was. Mr. Johannesen replied that they were the original developer of the property. He then explained that in the deeds those utility easements went with the property. Mr. Steele clarified that the current owner of the property controlled the easements. Mr. Johannesen stated that that was correct. Mr. Johannesen stated that they would execute the 30 foot drainage easement and that a revised drainage easement map would be provided.

Mr. Steele noted that he had suggested an E & S bond in the amount of \$5,700 and a Site Restoration Surety bond in the amount of \$45,000. He then pointed out that the site had been cleared and gravel laid without a permit and that there had been some concerns regarding restoration of that site if there were to be any delays in construction. Mr. Johannesen stated that they had no objection to the suggested conditions. He went on to say that they had added the note on the plan regarding the timeframe for removing the gravel if the construction of the site was delayed.

Chairman Gannuscio asked Mr. Steele if there was anything in Mr. O'Leary's memorandum that he wanted to highlight. Mr. Steele stated that Mr. O'Leary had made reference to the sidewalks that were required around the cul-de-sac. He then pointed out that the applicant was not proposing such sidewalks. Mr. Steele commented that he and Mr. O'Leary had felt that sidewalks around the cul-de-sac would not serve as useful a purpose as a sidewalk connecting the public walk to the walk system on the site, therefore the plans were designed



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accordingly to connect those walks. Mr. Steele pointed out that Mr. O'Leary had stated that the Commission should provide some direction as to whether the sidewalk design was acceptable.

Mr. Steele stated that Mr. O'Leary was recommending additional plantings in the buffer. He noted that the wording in Mr. O'Leary's memorandum had come right out of Section 705.f.3 of the Regulations. Mr. Johannesen stated that, if the Commission wanted more plantings, they would be happy to do so. He then explained that they had trees in the islands and that they were going to be filling in between those islands with trees. Mr. Steele pointed out that that Section of the Regulations was pretty specific with regard to the number of trees and the spacing of those trees, but that the Commission had the discretion to modify it.

Chairman Gannuscio asked the Commission members for any questions. Mr. Zimnoch referred to the potential outdoor speakers and asked Mr. Johannesen to show on the plans where those speakers would be located. Mr. Johannesen stated that there would be two speakers by the entrance door and a few in the patio area in the back of the restaurant. He then reiterated that they would only be playing soft, mood music; not jarring or loud music.

Chairman Gannuscio asked the Commission members for any further questions. They had none.

Chairman Gannuscio asked Mr. Szczesny for any comments or questions. Mr. Szczesny noted that the signage would have to be reviewed much more closely, but that Mr. O'Leary's memorandum had covered everything.

Mr. Steele commented that they had discussed the number of employees for the restaurant and some data to back that up at the previous meeting, but that he had not seen anything in writing. Attorney Milazzo stated that they had submitted a corporate email as well as figures based upon industry standards which indicated that due to the size and nature of the restaurant, 16 employees would be sufficient. The Recording Secretary then distributed that information to the Commission and staff.

Attorney Milazzo referred to the concern regarding the proposed outdoor music and pointed out that the Residential Condominiums were actually located in a Business-2 Zone. He went on to say that they would not like to see their business suffer because someone chose to build the condominiums in a Business Zone and others chose to buy in a Business Zone.

Chairman Gannuscio asked the Commission members and staff for any further questions. They had none.



Chairman Gannuscio asked for any public comments in favor of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application.

Gina Pastullo addressed the Commission and then submitted a petition containing approximately 125 names. She then pointed out that the condominium residents were there first and that the applicant needed to accommodate the residents. Ms. Pastullo referred to the number of seats and commented that it had constantly been changing. She went on to say that she still had not seen a schematic of the interior of the building to prove that the number of seats was true. She then pointed out that the number of employees had also changed, but that the square footage of the building was staying the same at 6,400 square feet. Ms. Pastullo stated that she had looked at the applicant's first two applications and that she could follow their calculations for the first application, but after that it appeared as though they had just taken out what needed to be removed and plugged in the numbers accordingly to come out with the exact number that they needed. Ms. Pastullo stated that the Skyline Restaurant had been a taxpayer to the Town of Windsor Locks for the past 72 years and that they donated to many local causes, scholarships, groups and individuals in town. She went on to say that two meetings prior to that evening it had been said that she was not a resident of Windsor Locks. She then acknowledged that she did not reside in Windsor Locks, but that she did work there and spent more of her waking hours in Windsor Locks than the town that she resided in. Ms. Pastullo concluded by stating that she was definitely a part of the Windsor Locks community and had been for the past 25 years. She went on to say that the decisions that the Commission made affected her, her family, her employees and her customers.

Chris Boyd of Concorde Landing, Building 10, Unit B4 addressed the Commission and stated that he still had not seen any resolution to the traffic safety on Halfway House Road. He was concerned that people unfamiliar with the area leaving the restaurant would go down Halfway House Road and the cul-de-sac where there could be children playing. Mr. Boyd stated that he was a CDL driver and that there was no way that a truck could turn out of the proposed driveway safely without interfering with traffic. He pointed out that there was recently a child that had been killed in town by a drunk driver and that if the Commission allowed the proposal it would be a very bad move. Mr. Boyd stated that he would like more information regarding the outdoor speaker system. He then noted that the outdoor music at the Margueritas in Massachusetts was quite loud. He went on to say that he was representing the residents of the 132 units at Concorde Landing and that they had been taxpayers for many years. He commented that it was not fair to those residents to plunk something on the property in question; they needed to abide by their neighbors. Mr. Boyd stated that he was curious about the drainage system. He went on to say that Concorde Landing had a drainage ditch and that not too long ago they had a sink hole as a result of Town water draining onto



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their property. He then pointed out that the drainage ditch abutted the property in question and that it was a total disaster with fallen trees, rocks, etc. He then stated that the Town had fixed part of it, but that they had left the remainder in the hands of Concorde Landing. Mr. Boyd asked what was going to happen when that drainage ditch got hammered even more with the drainage from the property in question. He also noted that the applicant had not even considered any type of barrier or buffer fence. Mr. Boyd stated that the applicant had no consideration for their neighbors and that they were not a wanted business in town. He went on to say that any business coming into town should appease their neighbors, but that the applicant had done nothing for them. He concluded by stating that he represented the entire Concorde Landing complex and that nothing was being done for them. He went on to say that if the Commission were to approve the application they would have 132 people very displeased with them.

Chairman Gannuccio asked Mr. Steele for any response to Mr. Boyd's questions. Mr. Steele referred to the traffic issue and stated that he, the Police Chief and the Town Planner had discussed it extensively. He went on to say that they believed that the turning movements were adequate for trucks to make left turns out of the site. He explained that it was extra wide in that area, because it was tapering up toward the intersection where there were several lanes for turning. Mr. Steele stated that they had directed the applicant to make a change to reduce the radius to the right so that trucks could not make a turn to the right, although it would not stop passenger cars from making a right-hand turn. He then noted that the Planning Consultant had recommended that a sign be posted to trucks indicating that they could not make a right-hand turn out of the site.

Mr. Steele referred to the drainage and stated that the Town was aware of the erosion problems in the ditch and that they were working on a solution to it. He went on to say that they had prepared plans to address and stabilize it so that problems would not occur again in the future. He then referred to the Margueritas site and stated that they had required the applicant to provide stormwater detention and groundwater infiltration to reduce both volume and peak flow of runoff. Mr. Steele stated that the submitted calculations showed that Margueritas would not increase peak flows from the site. He went on to say that he was satisfied that the proposed development would not have an impact on the downstream drainage. Mr. Steele again acknowledged that there was an existing problem and reiterated that the Town had taken steps to resolve it. He then noted that they were hoping to resolve the problem this season. He also mentioned that he needed to meet with the Concorde Landing Condominium Association to go over the Town's plans.

Mr. Steele referred to the fencing and stated that the Planning Consultant had mentioned a few different options; a double row of evergreens, 10 feet on center, staggered or a berm with a fence. He went on to say that the applicant had indicated that cost was a consideration and that that was why they had not proposed the fence.



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Chairman Gannuscio asked the Commission members for any questions for Mr. Steele. They had none.

Roger Ignazio of 95 Suffield Street addressed the Commission and referred to the trucks making a left-hand turn to go to Route 75. He then asked how they would prevent them from making a right-hand turn and going down Kennedy Road when their GPS told them that that was the shortest distance to get to Route 20 or Route 91. He noted that he lived on Suffield Street and that there were a lot of tractor trailers that went up that street, even though there was a sign there requesting that they not use that road. Mr. Ignazio asked if the road could carry the weight of the tractor trailers on Kennedy Road or Halfway House Road. He pointed out that a few years prior the tractor trailers had made indentations on Suffield Street and that it had cost the taxpayers a fortune to rebuild that road. He then reiterated that the GPS would tell the truck drivers that the shortest way to Route 91 was to turn right. Mr. Ignazio concluded by stating that he was opposed to the restaurant because of the traffic and the trucks.

Chairman Gannuscio clarified that the revised set of plans were designed to make it difficult for trucks to make a right-hand turn out of the site in question. Mr. Steele stated that the measures that were being proposed would effectively minimize that concern. He went on to say that trucks would be able to make left-hand turns, but that right-hand turns would be very difficult.

Dave Vitunas of 68 Webb Street addressed the Commission and commenting that making it difficult for a truck driver to make the right-hand turn would not actually make it so that he did not do it. He went on to say that the truck drivers knew that turning right would be the quickest way to get to Route 91 and that that was the way that the truck drivers were going to turn. He then suggested that the Commission members go down to Walgreens to watch the trucks use the wrong entrance and proceed to block the street while trying to turn into the Walgreens site from Route 159 instead of using the Elm Street entrance. Mr. Vitunas then stated that the area on Route 75 from Halfway House Road to Route 20 was already way too congested. He then commented that, because Zoning had allowed it, the development on Webb Street had gone in with three houses in a spot where there should only have been one or two houses. He pointed out that all of those houses currently had issues. Mr. Vitunas stated that anything that was done should be an improvement to the area, not something that took away from the area. He then asked the Commission to think carefully.

Michael Johnson of 2B4 Concorde Way addressed the Commission and stated that two meetings prior he had asked if there was going to be any live bands and that he had been told that there would not be any live bands. At that same meeting he had also asked if there was going to be outdoor music and that he had been told that there would be no outdoor music, but that now there was going to be outdoor music. Mr. Johnson stated that he had also been

concerned about what qualified as an exception to the 1,500 foot rule and that it had been stated that alcohol would be incidental to the business. He then commented that a business that would have alcohol that was incidental to that business would be a place like Seven-Eleven where they sold a lot of different items and also beer and wine coolers. He went on to say that it had been mentioned that alcohol sales made up 45.5% of Margueritas's sales and that he did not feel as though that was incidental. Mr. Johnson pointed out that he had been in the restaurant business for 21 years, but he had never sold a \$14.00 drink as was indicated by the applicant. He then proceeded to say that he did not feel as though it fit the rule of alcohol being incidental to the business. He then noted that there were other pads available to build on.

Barbara Borsage of Concorde Landing addressed the Commission and stated that she was opposed to the restaurant because of the traffic; she felt that it was a safety issue. She went on to say that someone going to the restaurant who was unfamiliar with the area would go out the same way that they came in and would turn right and end up turning into Concorde Landing to turn around. Ms. Borsage pointed out that there were a lot of elderly people who lived in Concorde Landing and who walked in there. She concluded by saying that she did not think that it was a good area to put a restaurant on the site in question.

Nicole addressed the Commission and stated that she was at the meeting that evening to seek approval of an outdoor horseshoe league for the Polish American Club of Windsor Locks. She went on to say that she had come before the Commission for the same thing the previous year and that the main question that she had been asked was about outside noise (radios, bands, etc). She then pointed out that the Polish American Club was located in a neighborhood. Nicole commented that even though the Club was there first, they still respected their neighbors and have had no music or bands outside. She stated that the one time that they held a benefit for another local business owner and had outdoor music they had gone around the entire neighborhood asking the neighbors if it would be okay. Nicole stated that the Commission had asked her about outdoor music and noise for a bar that had been in town since the 1930s, but that they were going to allow a new bar coming into town to have an outdoor patio and music. She went on to say that the Skyline Restaurant already had an outdoor patio and music and now Margueritas might as well. She then asked what would happen when one restaurant could hear the music from the other and proceeded to turn their own music up a little louder; it could end up being a battle of the outdoor music between the two restaurants. Nicole pointed out that no other bar in town had outdoor music and that once the Commission allowed one to have it the others would want it. She then referred to the traffic and stated that she had lived in town for 32 years. She went on to say that she had only ever seen a truck actually pull into Seven-Eleven twice in her life; they typically just parked on the side of the road (who was to say that they would not do the same thing at Margueritas).



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John D'Amato of 304 Russell Avenue in Suffield addressed the Commission and stated that the old, abandoned Albert's building recently had some graffiti painted on the front door and that it was an eyesore. He then asked if they needed more eyesores in town. He went on to say that he was the landscaper for Concorde Landing. Mr. D'Amato stated that there were erosion problems (a sink hole) on that side of Concorde Landing. He went on to say that he did not understand how the Commission could pass the proposed restaurant without fixing that problem first.

There were no further public comments in opposition; therefore Chairman Gannuscio gave the applicant a chance to address the public's concerns and questions.

Mr. Johannesen addressed the public comments sequentially as follows:

With regard to Gina Pastullo's comments, Mr. Johannesen stated that they had included a floor plan with every application that they had submitted which showed the number of seats and where they were to be located. He went on to say that the building size had not changed, because it was more economical to have a little more materials for the building than it would be to redesign the entire building. Mr. Johannesen referred to their calculations and stated that their numbers always came out exact, because obviously that was how they designed the site. He explained that they put in the 16 employee parking spaces, then saw how many spaces they had left and that they then determined how many seats they could have in the restaurant. Mr. Johannesen commented that he appreciated all that the Skyline Restaurant had done for the local community, but pointed out that they had also documented some of the things that the Margueritas Corporation did in the communities where they were located. Attorney Milazzo stated that they had submitted information documenting what Margueritas did educationally as well as holding charitable events. He went on to say that Margueritas planned on being an active participant in the neighborhood. Attorney Milazzo referred to the earlier comment that had been made regarding trees and stated that they were willing to do whatever the Commission recommended in order to protect the buffer.

With regard to Chris Boyd's comments, Mr. Johannesen stated that Mr. Steele had already dealt with the safety issues. He explained that they had basically let Town staff direct what they had done with the access to Halfway House Road. He went on to say that Mr. Steele had also already addressed the drainage concerns. He then reiterated that they would not be putting any additional runoff into the swale. Mr. Johannesen referred to the buffer and stated that they had spent a lot of time designing the buffer and had actually proposed additional trees and buffer. He also reiterated that they would be happy to do whatever the Commission recommended with regard to the buffer.



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With regard to Roger Ignazio's comments, Mr. Johannesen commented that the applicant could not be responsible for those individuals going ahead and doing something that they were not supposed to do (i.e. trucks making a right-hand turn onto Halfway House Road). He then noted that the roads were designed to carry the weight of trucks.

With regard to Dave Vitunas's comments, Mr. Johannesen pointed out that Mr. Steele had already addressed Mr. Vitunas's concerns with regard to the trucks making a right-hand turn. He then reiterated that they were not "cramming in a restaurant", they were putting in a business that was a permitted use and that met all of the Zoning requirements. He then referred to the homes that Mr. Vitunas had spoke about and stated that they now had far more regulations and requirements to meet than when those homes had been approved.

With regard to Michael Johnson's comments, Mr. Johannesen commented that they had said all along that there would be no bands. He went on to say that at the first meeting when he had been asked if there was going to be any outdoor music he had responded that he did not know and that since that time they had determined that there would be low key music, similar to what was at Ruby Tuesday's. Mr. Johannesen then referred to Mr. Johnson's comments regarding alcohol sales and stated that they would talk about that during the public hearing for the Special Use Permit.

With regard to Barbara Borsage's comments, Mr. Johannesen commented that they could not be hindered because someone might get lost and drive into the Condominium complex. He went on to say that they were providing a traffic pattern that had been reviewed by the Police, Fire, Engineering Department and the Town Planner and that they had all agreed that what was being proposed was the best way to allow the traffic to enter and exit the site.

With regard to Nicole's comments, Mr. Johannesen reiterated that they would not have any bands outside. He explained that they were proposing an outdoor patio for eating with some music on the patio which would be the same music that would play at the front door to the restaurant.

With regard to John DeAmato's comments, Mr. Johannesen stated that they were not putting up an eyesore; they were proposing a very attractive new building.

Mr. Johannesen concluded by saying that they had addressed everything that everyone had asked of them and that their proposal met the Commission's requirements and Zoning Regulations.

Chairman Gannuscio asked the Commission members for any questions. They had none.



Chairman Gannuscio asked Mr. Steele and Mr. Szczesny if they had any further questions. They had none.

Chairman Gannuscio moved to close the public hearing on the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

A brief discussion followed regarding whether or not the Commission members were ready to vote on the application that evening and it was agreed that they would not make their decision that evening.

Chairman Gannuscio moved to table the decision on the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive to the May 9, 2011 meeting. Ms. Ramsay seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

c. Continued public hearing on the special use permit/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive.

George Johannesen of Allied Engineering Associates, LLC and Attorney Michael Milazzo were both present.

Mr. Johannesen presented a large version of the vicinity map that showed the businesses within 1,500 feet of the site that already had liquor licenses. The map showed numerous businesses, including four uses that were all basically touching each other. Attorney Milazzo pointed out that at the previous meeting someone had said that they did not want the Commission to set a precedent, but as shown by the map they were just asking the Commission to continue a pattern that was already ongoing in town.

Mr. Johannesen stated that the proposed Margueritas would be 439 feet from the Skyline Restaurant and 228 feet from Ruby Tuesday's. He then proceeded to point out that Ruby Tuesday's was 297 feet from the Skyline Restaurant. Mr. Johannesen reiterated that Margueritas was a family-style restaurant and not a bar.

Chairman Gannuscio referred to the vicinity map and asked if either of the restaurants in the Corporate Drive complex (the buffet restaurant and the pizza restaurant) had a liquor permit. Mr. Johannesen replied that, based upon the information that he had received from Ms. Rodriguez, they did not.

Chairman Gannuscio asked the Commission members for any questions. They had none.



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Attorney Milazzo stated that anyone who was going to work in the bar area or manage the bar area was required to go through twelve weeks of training and that every employee would be Tips certified. He went on to say that they had also submitted several letters, including one from the East Hartford Police which stated that they had never had any alcohol-related incidents with regard to Margueritas. He then pointed out that the Margueritas that was located in East Hartford had been there for about five years.

Attorney Milazzo noted that margueritas were listed in the Margueritasø menu at \$8.99. He then mentioned that their meals ranged from \$10.29, \$7.99 and \$11.99; their most expensive meal was \$19.99. He then referred to the approximate 40% figure that had been mentioned and stated that the Margueritasø corporate headquarters had verified that that figure included the sale of all beverages, not just alcohol (it included milk, juice, sodas, coffee, tea, etc.). He went on to reiterate that they were a family-style restaurant with a childrenø menu and that they were definitely not a bar.

Attorney Milazzo referred to Section 502, Chapter 5 of the Regulations and noted that there were certain circumstances in which the Commission could waive the 1,500 feet. He went on to say that he had previously submitted a packet of information which he felt illustrated that Margueritas met the requirements set forth in Section 503 for decreasing the 1,500 foot distance. Attorney Milazzo stated that similar to their other restaurant locations, Margueritas intended to run a full-service restaurant having both a regular and childø menu. He went on to say that the sale of alcohol would be pursuant to a liquor permit and such sales would be ancillary to the core of the restaurantø business. He proceeded to note that the lounge portion of the restaurant would not have a separate entrance and was surrounded by restaurant seating. Attorney Milazzo pointed out that seating in the bar area would be primarily for those waiting to be seated at a table for dinner. He reiterated that only 19 of the 141 seats in the restaurant would be located in the bar area. Attorney Milazzo stated that the proposed site was within a Business 1 Zone and would not conflict with the general purpose of the Zoning Regulations.

Attorney Milazzo commented that, as could be illustrated via the materials that had been submitted to the Commission, Margueritas strived to become an active member of each community that they were located in through education, charitable donations and other community outreach programs. In addition, they attempted to contribute to educational outreach programs and local charities.

Attorney Milazzo stated that they had also provided Police reports which indicated that they had not had any alcohol-related incidents at any of the Margueritasø locations. Therefore they felt that the restaurant would not provide a health or safety issue to the community.



Attorney Milazzo stated that they had done everything within their power to make everything as safe as possible. He then reiterated that it was quite common, as illustrated by the vicinity map, to reduce the 1,500 foot radius requirement.

Chairman Gannuscio asked the Commission members for any questions or comments. They had none.

Chairman Gannuscio asked for any public comments in favor of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application.

Gina Pastullo addressed the Commission and stated that she had picked up a copy of the plans earlier that afternoon and did not see the schematics of the interior of the restaurant. She then commented that she would like to see them. Ms. Pastullo stated that they had regulations for a reason and that they did not know exactly when whatever had been approved previously or was currently in existence had actually been approved (how long ago they were approved). She went on to say that she felt that the Regulations needed to be followed.

Ms. Pastullo referred to Section 503 and stated that there were many reasons within that section why the application should not be approved. She then referred to Section 503.d which stated that it should not cause an additional traffic hazard. Ms. Pastullo pointed out that they had been talking about traffic all evening and that it would be an additional traffic hazard. She proceeded to note that the following fatal accidents in Windsor Locks: two in 2002, two in 2004, three in 2005, two in 2007 and two in 2008. She went on to say that three of those fatalities were on Route 75. Ms. Pastullo stated that the fatal accident in 2002 involved an elderly couple who got broadsided while leaving the valet parking facility located next to the Skyline Restaurant. In 2007 a pedestrian crossing Route 75 was hit and killed. She then pointed out that the lighting on Route 75 was not very good. Ms. Pastullo then referred to the fatal accident that had occurred in October of 2008 and stated that the individual had just stopped in at the Skyline Restaurant and that he had lost control when he was leaving the restaurant and hit a pole on the curve. She went on to say that that curve was a very dangerous part of Route 75 and that she did not know why they needed another large building there that would bring in even more traffic.

Ms. Pastullo referred to Halfway House Road and stated that there were many nice houses on that road where people were raising their families. She went on to say that the traffic exiting the proposed restaurant would not be required to turn right any longer. She then commented that a better traffic option didn't necessarily mean it was a good option. Ms. Pastullo pointed out that there were three driveways coming out onto Halfway House Road that were really



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close to each other. She then stated that she had drawn a schematic of what was being proposed in relation to the Mobile Station driveway and that she had also taken photographs of the area which she then submitted to the Chairman. She then stated that the proposed Margueritas driveway would cause a traffic hazard.

Ms. Pastullo referred to Section 503.c which stated that there should be no adverse effect on the health, safety or morals of any person residing in a nearby residential zone. She then commented that public safety came first and that that should be what was on the Commission members minds. She then questioned whether there would be any adverse effect on an individual; after all they were proposing a 6,400 square foot building that would attract a wide variety of patrons to an already congested intersection.

Ms. Pastullo stated that Section 503 stated that the 1,500 foot distance limitation may be decreased so long as the sales of alcoholic beverages were both subordinate and incidental. She went on to say that the name alone "Margueritas" said it all; alcohol first and then food. She then referred to their hours of operation and stated that she had researched the hours of operation for Margueritas, Red Robin, Outback Steakhouse, and Ruby Tuesday's which she then submitted to the Chairman. Ms. Pastullo stated that she ran the Skyline Restaurant which was a restaurant, banquet house and bar. She went on to say that Margueritas considered themselves a restaurant and a watering hole. She then submitted a copy of the flyer stating such to the Chairman. Ms. Pastullo stated that Margueritas hours of operation were Sunday through Thursday until 1:00 am, and Friday and Saturday until 2:00 am. She then noted that their kitchen closed at 10:00 pm from Sunday through Thursday and at 11:00 pm on Friday and Saturday. She went on to say that they were running a bar during those hours that the kitchen was closed. Ms. Pastullo then read through the hours of operation for the following other businesses:

- Ruby Tuesday's
 - Monday through Thursday, 11:00 am to 11:00 pm
 - Friday and Saturday, 11:00 am to midnight
 - Sunday, 10:00 am to 10:00 pm
- Red Robin -
 - Sunday through Thursday, 11:00 am to 10:00 pm
 - Friday and Saturday, 11:00 am to 11:00 pm
- Outback
 - Monday through Thursday, 4:00 pm to 9:30 pm
 - Friday, 4:00 pm to 10:30 pm
 - Saturday, 3:00 pm to 10:30 pm
 - Sunday, 1:00 pm to 9:00 pm

She noted that the liquor sales at those restaurants were subordinate and incidental; not for Margueritas. She then restated that alcohol sales were 45.9% of their gross sales. Ms. Pastullo commented that Attorney Milazzo tried to explain that away by saying that drinks could sell for as much as \$14.00 each. She then referred to the drink specials that were listed on-line for Margueritas as follows: Happy Hour from 4:00 pm to 6:00 pm; Moonlight



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Specials from 9:00 pm to 1:00 am (both of which bars had, but restaurants typically did not); drafts for \$3.00 and margaritas for \$5.00. Ms. Pastullo stated that Margaritas was a bar business where the sales of liquor was primary not subordinate or incidental to their business.

Ms. Pastullo referred to the number of seats in the restaurant and noted that in their first application they had 170 seats, twenty employees and 82 parking spaces for a 6,400 square foot building. She went on to say that the next application had less parking, less employees and less seating, but the exact same number of square footage. Ms. Pastullo commented that once approved they would run their business as they saw fit and that the neighbors would be the ones to deal with the consequences. She then commented that the applicant would say whatever it took to get their application approved.

Ms. Pastullo stated that she had spoken with someone in Mystic about the Margueritas located there and that she had been told that they attracted a very rowdy, loud crowd. She went on to say that the Commission did not have to give them approval. She then stated that she did not agree with what was being proposed and that the Commission needed to consider their vote very carefully.

Michael Johnson of 2B4 Concorde Landing addressed the Commission and acknowledged that exceptions had been made in the past, however it needed to be reviewed. He then referred to the Ramada Inn and the Doubletree which had been mentioned earlier in the evening and pointed out that their main source of income was lodging. He went on to say that the bulk of the money spent at those businesses was for lodging, then food and then alcohol.

Another gentleman addressed the Commission and stated that he did not believe that the application should be approved because of the traffic safety issue. He went on to say that he was concerned with the proposed Margueritas being next to Concorde Landing. He commented that they already had some problems with drunks coming into their back lot, breaking into vehicles and had even found them sleeping on doorsteps. The gentleman stated that the applicant had never made any consideration to the residents of Concorde Landing for any type of safety or barrier to their property. He went on to say that the rights of the Concorde Landing residents should be protected. He then stated that he felt that the Commission should do a traffic survey and make a recommendation that a fence be installed between the proposed site and the Condominiums. He was also concerned with the hours of operation. He concluded by saying that he hoped that the Commission made the right decision.

Dave Vitunas of 68 Webb Street addressed the Commission and stated that Ms. Pastullo had probably hit it all. He then referred to the 1,500 feet and stated that there was a regulation and that he felt that they should abide by it. He went on to say that part of the reason that



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Main Street had gotten torn down was because of all of the bars that were located there. He then asked if they were going to do the same thing on Route 75. Mr. Vitunas commented that he knew of three other spots right off Route 75 where the applicant could build their business and abide by the Regulations.

There were no further public comments.

Chairman Gannuscio asked the applicant for any rebuttal. Attorney Milazzo addressed the Commission and submitted menus listing 85 different homemade items of food requiring specific fresh ingredients. He proceeded to point out that the market for Mexican restaurants was well established. He also noted that they also opened up for lunch in the afternoon; they were not just opened in the evening. Attorney Milazzo noted that if someone were to spend just \$5.00 on a marguerita and had a meal for \$10.00 then the beverage figure would be 50%. He then reiterated that that figure was not just for alcoholic beverages, it included all beverage sales (coffee, tea, milk, juice and soft drinks). He then proceeded to say that as of right they had the right to operate a restaurant on the site in question with the Commission's site plan approval. Attorney Milazzo stated that traffic would already be permitted there with any restaurant and that no more traffic would be generated because of a liquor license. He went on to say that he had submitted letters from local Police Departments stating that there had been no alcohol-related incidents in the locations that they served in their communities. Attorney Milazzo again reiterated that Margueritas was not a bar; 19 of the 141 seats were in the actual bar area of the restaurant. He noted that it was no different than Ruby Tuesday's.

Attorney Milazzo commented that their hours of operation were dictated by locale, not by the franchise. Ms. Ramsay asked what their proposed hours of operation were. Attorney Milazzo replied that he would have to ask the operator. He then did so and stated that they would operate under whatever hours of operation that the Commission dictated. Attorney Milazzo concluded by saying that they did fit all of the requirements for the reduction of the 1,500 feet.

Ms. Ramsay commented that the hours of operation for Walgreens had been set because of the proximity to the neighborhood and then asked Chairman Gannuscio how it would apply in this case. Mr. Gannuscio replied that the Commission could impose the hours of operation for the Margueritas as well.

Chairman Gannuscio asked the Commission members for any further questions. Another brief discussion of the hours of operation, the kitchen hours of operation and the purpose of the bar area took place.



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Ms. Ramsay commented that she was getting the flavor that the applicant's attitude was that the condominiums were in a Business Zone and that they should have known that a business would go in. She went on to say that the applicant had said that they would do whatever they needed to in order to get approval, but that she felt that their attitude was that they really didn't care about the neighbors.

Attorney Milazzo stated that that was not the case. He went on to say that they had addressed every concern and issue that had been raised over the past five months. He then stated that Margueritas cared about the neighborhood and children which was illustrated through the information that had been submitted previously. Attorney Milazzo concluded by reiterating that Margueritas wanted to be a good neighbor and were good neighbors in the other communities that they were located in.

Ms. Ramsay commented that Margueritas ambience was the neighbor's noise. Mr. Zimnoch asked if their business model required them to operate until 2:00 am. Attorney Milazzo replied that they would follow any rules and regulations that the Commission felt were necessary.

Chairman Gannuscio asked the Commission members for any further questions. They had none.

Chairman Gannuscio moved to close the public hearing on the special use/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

Chairman Gannuscio moved to table the decision on the special use permit/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive until May 9, 2011. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

REVIEWS:

There were none.

ACTION ON CLOSED PUBLIC HEARING ITEMS:

There were none.

OLD BUSINESS:

a. Discussion with Commission and staff

Chairman Gannuscio asked the Recording Secretary to carry those items for discussion over to the May meeting.

NEW BUSINESS:

a. Public Input

There was none.

b. Receive New Applications

i. Special use permit application of Khoa Nguyen for the property located at 6 National Drive.

Khoa Nguyen was present and addressed the Commission. He stated that he currently owned the nail salon located on Spring Street and that he had been there for the past seven years. He went on to say that he was asking the Commission for approval of a Vietnamese restaurant to be located at 6 National Drive.

Chairman Gannuscio asked Mr. Nguyen if he was looking to take over the spot at 6 National Drive that was closest to the Friendlyø restaurant. Mr. Nguyen replied that he was looking to move into that building, but the spot was actually an empty unit.

Mr. Nguyen presented a large floor plan of his proposed restaurant. He explained that there would be a very simple kitchen and that they cooked with a lot of fresh vegetables; never canned or frozen (very healthy food). He went on to say that 52 seats were allowed, but that they might reduce the number of seats. He then reiterated that it would be a very simple restaurant with mostly Vietnamese food.

Chairman Gannuscio asked if the unit had ever been used for a restaurant before. Mr. Nguyen replied that it had not; it had been a martial arts studio in the past.

Chairman Gannuscio asked Mr. Steele if there was enough included on the plans. Mr. Steele stated that the applicant was not proposing any site improvements. He went on to say that the only thing that he could see that might need to be looked at further would be parking, but that it probably would not be an issue because the site had a very big parking lot. Mr. Nguyen noted that the religious school was not allowed to park near the

building; they had to park far away from the building. Mr. Steele then asked Mr. Nguyen if he would be selling alcohol. Mr. Nguyen replied that he would not. Mr. Steele stated that the site was located in a Business 1 Zone and that it would not require a special use permit, but rather just a site plan review. A discussion followed regarding whether the site was actually located in a Business 1 or 2 zone and it was noted that if it were in a Business 1 Zone it would only require a site plan review, but that if it were located in a Business 2 Zone it would require a special use permit. Mr. Szczesny stated that he would verify the zone that the site was located in the following day.

Chairman Gannuscio asked Mr. Steele about grease traps and mechanicals. Mr. Steele stated that it would need to be addressed and that the Water Pollution Control Authority (WPCA) would probably require grease traps and a plan and that it would be a significant cost to the applicant. Mr. Nguyen stated that he had scheduled a meeting with Gary Kuzcarski from the WPCA and someone from the Health Department. He went on to say that they would be installing grease traps. Mr. Steele stated that the WPCA would require an engineered design plan.

Chairman Gannuscio asked Mr. Steele what he would need. Mr. Steele replied that there would need to be a condition of approval stating òa grease trap acceptable to the WPCA and that the zoning information would be needed.

Chairman Gannuscio asked Mr. Nguyen to do a count of the number of cars in the parking lot during the time he was planning on having his restaurant opened for business. Mr. Nguyen stated that he had already done so and that the count was very low.

The discussion continued briefly regarding the sign, number of employees and parking spaces.

Chairman Gannuscio moved to schedule a site plan review for Mr. Nguyen's application for the property located at 6 National Drive, if it was found to be located in a Business 1 Zone, for May 9, 2011 or schedule a public hearing on the special use permit application for Mr. Nguyen for the property located at 6 National Drive, if it was found to be located in a Business 2 Zone, for May 9, 2011. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

ii. Site plan review and special use permit application of Clean Energy for the property located at 80 Ella Grasso Turnpike.

Mr. Szczesny stated that they were proposing the following:

- some new equipment for the natural gas;
- to demolish the car wash that was currently located on the site; and

- to realign the drive aisle.

He then commented that they were not proposing any significant changes.

Mr. Steele pointed out that it might have been good if the applicant had sat down with Town staff, but that it was not required. Chairman Gannuscio asked Mr. Steele if he wanted to schedule the application for the May meeting or if he needed more time to review the application. Mr. Steele stated that he could give the applicant's engineer a call, because he thought that he would need a little more information. He went on to say that hopefully he would be able to get it resolved before the May meeting.

Chairman Gannuscio moved to schedule a public hearing on the special use permit application of Clean Energy for the property located at 80 Ella Grasso Turnpike for May 9, 2011. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.

COMMUNICATIONS AND BILLS:

There were none.

Chairman Gannuscio commented that Mr. Szczesny had done some incredible work for the Town taking care of the regular duties as well as dealing with Babylon while working a compressed work week. He went on to say that Mr. Szczesny had done a fantastic job.

Chairman Gannuscio moved to adjourn the meeting. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the meeting was adjourned at 10:20 pm.

Respectfully Submitted,

Diane Ferrari
Recording Secretary

THIS IS A DRAFT

Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.