I. **Call to Order**

Chairman Gannuscio called the meeting to order at 7:04 pm.

II. **Roll Call**

Commission roll call was taken. Chairman Gannuscio seated Peggy Sayers for Vincent Zimnoch, and Alexa Brengi for Cindy Cooper.

III. **Approval of Minutes from the February 10, 2020 Regular Meeting**

Chairman Gannuscio pointed out that at the last meeting the commission voted to postpone the approval of the January 13, 2020 minutes, so this needs to be added to the agenda tonight.

It was MOVED (Wilson) and SECONDED (Gannuscio) and PASSED (Unanimous, 3-0; Sayers and Brengi Abstaining) that the Planning and Zoning Commission approves the January 13, 2020 and the February 10, 2020 minutes as published.

IV. **Public Hearings**

Mr. Wilson read the rules for conducting a public hearing.

The Recording Secretary read the legal notice that was published in the *Journal Inquirer* on February 26, 2020 and March 4, 2020.

A. **Zone Change for 64 South Elm Street from Residential A and AA to MFSD Zone (property owner M&L Development Corporation)**

Chairman Gannuscio explained that the first public hearing being held tonight would be for a zone change for the property at 64 South Elm Street from Residential A/AA to a newly revised MFSD zone, Multi-Family Special Development.

Chris Smith, Land Use Attorney with Alter Pearson, LLC in Glastonbury, and representing the applicant, M&L Development Corporation, addressed the commission. Attorney Smith stated he sent out notices to both the CT Department of Public Health (CT DPH) and CT Water Company of the filing of both of these
applications within seven days, as provided by statute. He spoke with a representative from CT Water who assured him they were not over any aquifer or watershed. He thanked the commission and staff for working with them over the past several months. There are two proposals before the commission; the first for the request of a zone change from A/AA to MFSD, and the second for a site plan/special use permit for a 22-dwelling residential community use of the subject property. The first hearing concerns the request for change of zone. As part of that they have a conceptual plan which is the actual permit site plan which will be reviewed in detail at the next public hearing, but as part of this hearing they will provide a short summary and overview of it. Attorney Smith introduced the members of the team: Gary and Dan Merrigan and Daryl LeFebvre, the owner applicants of M&L Development Corporation; Kevin Johnson, Landscape Architect from Close Jensen & Miller of Wethersfield; and Robert Morawski, the architect from RPM Architects, Southwick, MA.

Attorney Smith proceeded to provide an overview of the request for the change of zone. The legal standard of review is threefold. A request for a change in zone or a zone text amendment (1) must be consistent with your comprehensive plan, which is your zoning regulations and your zone map for the town; (2) must be consistent with your Plan of Conservation and Development (POCD); and (3) must not result in an adverse impact to the public health, safety, and welfare. This request for a zone change is permitted by your zoning regulations, and his client’s property is located in a zone that does permit this. In the 2007 POCD there are not a lot of findings concerning housing, but it does indicate that the town has predominately single family homes, and there are not a lot of options for multi-family use. The proposed community is multi-family, promotes community interaction, is a walkable community, and is located in a neighborhood where the proposed community will be compatible with and enhance the existing uses in the neighborhood. The Town Planner’s report refers to smart growth principles in the upcoming POCD that will be adopted this year, and this proposal meets many of those requirements of smart growth principles that the town is considering in its POCD. The third component regarding public health, safety, and welfare will be addressed by Kevin Johnson in his presentation. The specific details of the site development plan will be addressed in the next public hearing, where they will demonstrate that the application does comply with the various criteria in the regulations from Sections 404, 409, and 1103.

Kevin Johnson from Close, Jensen, & Miller gave an overview summary of the proposal. There are 22 units; 12 of those units are duplexes, so 6 buildings, 3 towards the back and 3 along South Elm Street. The remaining 10 units are town house units, 2 buildings, 5 units each. It’s a private road, horseshoe shaped, with 2 connection points with South Elm Street. There are internal sidewalks along the private road. There is a community recreation gathering area accessible from all units. The development will be serviced by existing utilities from South Elm Street.
Attorney Smith added that the property is in a split zone, A and AA, and described the location as it pertains to the zones. He concluded that this application for a zone change is permitted under the zoning regulations and zone map, that it is consistent with the existing POCD and the draft POCD, and there is nothing with this proposal that will result in an adverse impact to the public health and safety.


Chairman Gannuscio asked the Town Engineer if he had any general comments. Mr. Steele stated that the zone change map was stamped by a surveyor as to its accuracy.

At this time Chairman Gannuscio opened up the public hearing for comments from the public in support of this application. There were none. The floor was then opened up for comments in opposition. The following people spoke in opposition:

1. Ed Sabotka, 23 South Elm Street
2. Eric Marsh, 94 South Elm Street
3. Tiffany Tisler, 94 South Elm Street
4. Ed Pyznar, 78 South Elm Street
5. Darlene Langan, 95 South Elm Street
6. Sandy Colletta, 139 South Elm Street
7. John Hoynoski, 91 South Elm Street
8. Chris Mann, 11 Pershing Road
9. Joe Minde, 83 Pershing Road

Concerns that were discussed include the following: This development will increase traffic in an area that has had pedestrian accidents in the past and is already dangerous. Of particular concern is the crosswalk across from Veteran’s Park, as there are many kids who ride their bikes to the park. Many of the residents in this neighborhood are lifetime residents, with family history dating back 50 or more years. This is a quiet, charming, friendly residential neighborhood with single family homes, and a development such as this will change the historical character and profile of the neighborhood and decrease property values. Many residents were agreeable to 3 or 4 single family homes being built on this property but opposed to multi-family units. This multi-family development has no place in the middle of a residential neighborhood. South Elm Street is an old road with many patches—increased traffic and the heavy equipment of the developer would further damage the infrastructure. There have been car break-ins in this neighborhood, and this increase in homes would put a bigger target on the neighborhood. There would be an increase of noise and littering. This is one of the last properties able to be developed, but why develop every last piece of property just to make a buck? Animals will have no place else to go. Lastly, Ms. Tisler commented that this is spot zoning which the courts frown on.
Ms. Tisler asked if 64 South Elm Street was included in the farmland inventory which was done in the 2017 amendment to the POCD and stated that to change it now to multi-family would be a further distancing from what the character of the neighborhood has been historically and continues to be now. She filed a protest petition with this commission pursuant to Section 8-3(b) of the Connecticut General Statutes which says that if a protest against a proposed change is filed at or before a hearing with the zoning commission and is signed by the owners of 20% or more of the lots within 500 feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of 2/3 of all members of the commission. They tried to get the signatures of the local property owners within the 500 foot distance.

Chairman Gannuscio asked Attorney Smith if he had any response to these comments. Attorney Smith reiterated that multi-family is a permitted use in this zone. He respectfully submitted that this is not a case of spot zoning and cited a State Supreme court case called Campion out of New Haven. Regarding the protest petition statute, Attorney Smith stated that it is 20% or more of the area of lots within 500 feet of the subject property.

Chairman Gannuscio commented that there were 325 people in his high school class, so there was probably more traffic at that time. Gary Merrigan pointed out that there are two entrances/exits at the high school. Chairman Gannuscio stated that there was misinformation going around that this development was apartments and asked Gary Merrigan to briefly explain what they would be looking to build there with this zone change. He replied that each home ranges from 1,200 to 1,800 square feet, each with a garage.

Chairman Gannuscio stated he received several emails regarding this zone change application, but one email was not signed. There was a brief discussion on whether it should be recognized if it wasn’t signed with a name or address of a resident. It was decided that the chairman would read all correspondence he received. Gary Merrigan responded by saying that the opposition that he is hearing is nothing new. Every development that has ever been proposed has neighborhood opposition, and he gets that. But residential use belongs in a residential neighborhood, and it’s been proven throughout town with Pine Meadow, Glenbrook, Old County Village, and the Elms condos. They envision this development being absorbed by town residents. Attorney Smith added that there is sewer and water available, and they have confirmation that there is capacity in the sewer to accommodate this development; therefore, there is public infrastructure here to service this proposal relative to the zone change request.

Ms. Quagliaroli asked if any traffic studies had ever been done. Gary Merrigan responded that no traffic study was done because they ran it through the police commission and received approval from the police department for the traffic, and the sight line distances are as far as you can see either way. Ms. Quagliaroli pointed out that almost everyone who spoke in opposition to this application expressed concerns about the traffic. She asked if there is anything that can be done to alleviate some of
their issues with speeding traffic. Chairman Gannuscio commented that even the signs telling you what your speed is don’t make a difference and maybe we should put a camera up.

Ms. Rodriguez commented on one of the questions that was asked by a resident regarding keeping the land undeveloped or agricultural or whether it was on the preservation list. At the time they did the agricultural inventory anybody who had their property classified as farmland, was using it as farmland, and had registered that with the assessor would have been on that list. She does not have that list with her and does not have the answer to that. Ms. Sayers commented that this is not the last developable piece of property in town. Gary Merrigan added that the property has not been farmed for close to 30 years and has been a derelict rental property since the early 1980’s.

Mr. Wilson shared his calculations with the commission. He did a calculation of the area of the 500 foot zone and came up with 24.6 acres, so anything over 4.9 acres would be the 20%. The properties of the owners who signed the petition total 7.5 acres, so it would appear that we do have a petition in excess of 20% of the area of the zone, which changes the required level of the vote which would be a 2/3 vote, or 4 members, as opposed to a plain majority.

It was MOVED (Sayers) and SECONDED (Wilson) and PASSED (Unanimous, 5-0) that the Planning and Zoning Commission closes the public hearing on the zone change for 64 South Elm Street from Residential A and AA to MFSD zone.

Chairman Gannuscio asked commission members if they were ready to make a decision on this application. Ms. Brengi responded that she is not in favor of approving this application. She does not feel they are taking the neighborhood into consideration, they are trying to get the most bang for their buck, and it’s a single family area that should be preserved. Twenty-two units is too many. They don’t have to do it on such a large scale. Mr. Wilson is in favor. The commission spent a great deal of time with public hearings revising the MFSD regulations and we did not get this kind of public input from those meetings. We had a great deal of consideration provided from staff, the commission, and even CRCOG. They were all supportive of this kind of development. The walkability, the decreased cost in the infrastructure, the overall land and energy consumption that is lowered as you get more dense communities, and green space were all factors that were considered as the commission approved the change to our zoning regulations to allow the density that is being proposed under this development. Ms. Quagliaroli said she understands what all the neighbors are saying and “kind of agrees with” Ms. Brengi, but this request for a zone change is permitted by the zoning regulations, so she is in favor of the zone change. Ms. Sayers commented that there is very little housing available in Windsor Locks, and we need this type of housing in town. She supports this application.

Chairman Gannuscio agrees that there is a need for this type of housing. This development could offer an opportunity for mixed age as well as mixed use. The property is a blight to the neighborhood. Under our POCD we have a responsibility
to allow for some compact building design and to create a range of housing opportunities and chances. This fits within the POCD, particularly the one that is in the works and hopefully will be approved in the next month or so. It allows for a new type of housing in town, it is using new engineering and development ideas and thoughts, and he does not see how this is a detriment to the neighborhood.

Ms. Brengi stated that it’s hard to hear him say that when you have a petition and a room full of people. Chairman Gannuscio pointed out that 15 or 20 years ago when Chapman Chase was proposed, the commission did not approve the development. They were then taken to court and lost, and the judge told the commission they had to approve the development exactly as it was proposed. With this proposed development, the commission is giving itself an opportunity, should this zone change go into effect, to consider the site plan. We’ve got a Town Engineer and Town Planner with a number of thoughts and ideas on this. We should make an effort to move into the 21st Century, realizing the aging of the population and the likelihood that there are more people not wanting single family homes. There has been no evidence that it offers any drain on the utilities. He thinks the commission should look at the plans, and if there are things with public input that may need to be changed to make this more acceptable, let’s hear it. Ms. Brengi still believes this is too much in too small of a space. Ms. Sayers noted that the state is really looking at Smart Growth and believes there is a need for this type of housing in a cluster for our aging population. Ms. Brengi reiterated that she is not against this type of development; it’s the density that she is having an issue with. Chairman Gannuscio pointed out that this development fits within the criteria of Section 404 of the regulations. Discussion continued among commission members regarding the pros and cons of this development and the Adaptive Reuse regulation.

It was MOVED (Gannuscio) and SECONDED (Sayers) and PASSED (4-1; Brengi Opposed) that the Planning and Zoning Commission approves the zone change for 64 South Elm Street from Residential A and AA to MFSD zone with an effective date of ten days after publication of notice of this decision.

CHAIRMAN GANNUSCIO CALLED A FIVE-MINUTE BREAK AT 8:50 PM. MEETING RESUMED AT 9:00 PM.

B. Special Use Permit with Site Plan Review for 64 South Elm Street for a 22-Unit Residential Development in a MFSD Zone (property owner M&L Development Corporation)

The Recording Secretary read the legal notice that was published in the Journal Inquirer on February 26, 2020 and March 4, 2020.

Attorney Chris Smith spoke on behalf of M&L Development Corp. He submitted a copy for the record of the two letters sent to CT Water Company and the CT Department of Public Health. These letters were sent within the required seven days. A CT Water representative indicated that there were no issues with this proposal because there was no watershed area over the proposed area. Attorney Smith
introduced again the members of the team: Gary and Dan Merrigan and Daryl LeFebvre, the owner applicants of M&L Development Corporation; Kevin Johnson, Landscape Architect from Close Jensen & Miller of Wethersfield; and Robert Morawski, the architect from RPM Architects, Southwick, MA. Attorney Smith provided an overview for this application for a special use permit and site plan review. He referenced various uses immediately to the north and east of a school, a church, an apartment complex, a convenience store, and a retail store. The property does not contain wetlands. They have sewer capacity and water service. Reports from Police and Fire were received. This application does comply with criteria provided by Sections 409, 1103, and 404 of your regulations.

Kevin Johnson, Close Jensen & Miller, addressed the commission. The site is approximately 3.1 acres and is predominantly wooded with deciduous vegetation. It is relatively flat with a slight drop of 10 feet. There are no wetlands. The soils are sandy loam. The layout is 22 units: 6 buildings, 2 units each, for a total of 12 duplex units. Three are along South Elm, and 3 are across the back. The town house buildings have 5 units each for a total of 10, for a grand total of 22. The road will be horseshoe shaped with two intersecting points on South Elm. The community gathering area will be paved with some tables, chairs, benches, a flagpole, and two connecting sidewalks. Each unit has one garage. All units will have a patio, and one unit will have a deck. Mr. Johnson went on to discuss the grading, swales, storm drainage, hydrant locations, lighting, erosion and sedimentation controls, and landscaping. It is his understanding that gas service will probably be extended to this site. Mr. Johnson stated that they met with staff last week but did not have time to revise all the plans and submit them in advance of this.

Bob Morawski from RPM Architects addressed the commission. He commented that when he started to work with M&L they had some specific requirements; first, the streetscape had to blend with what exists now on South Elm Street, and second, the units could not look like apartments or condos. He went on to describe in more detail how the units will be built to emulate the character of the neighborhood.

A discussion took place regarding Section 409C.4.E as it relates to distance between buildings and the provided number of attached dwellings. Attorney Smith stated that this regulation is not absolutely clear as to how that would be applied. For example, for this development in the northern part they have a duplex on South Elm and right behind it are the 5-unit duplexes. There is a 20-foot requirement between the duplex, and if this were to be another duplex located immediately to the east of it. You have a 40-foot distance requirement when you have a building comprising more than four dwellings (for instance Bradley Court). When you have size with openings you want to have these distance requirements. So relative to the duplexes, it’s only because it’s faced perpendicular to the duplexes out at the front, and this is the same commentary that would apply in the right hand or the southerly side of the site development. We’ve applied a 20-foot distance requirement for the duplex because there’s only one side of this building which is basically the western side of this one particular unit that would face the duplex. That’s why they have applied the 20 foot there as opposed to the 40 foot.
Chairman Gannuscio asked Ms. Rodriguez if this is an interpretation that she would agree with. She noted that this was a difficult one in staff’s discussion and review of the application. She read aloud that particular section of the regulations and commented that this was one regulation she thought the commission should consider the interpretation of. She recalls when the regulation was amended and the original intent was to consider these vertical buildings that had multiple units on top of each other. This one is confusing, so she is not sure. Attorney Smith stated that they respectfully submit that this would be a reasonable interpretation because this is within your discretion to interpret and apply your regulations in light of the fact that they don’t have 2 five- or four-unit buildings or greater than 4 units, they’re actually abutting one another, or within a certain distance. It’s actually a duplex and then the five-unit.

Ms. Sayers asked if there would be a community sign and if they know the name of the street. Mr. Merrigan replied that the name of the development will be Heritage Farm but they will not have an identification sign because they want the development to look like it’s part of the existing neighborhood. They will have two street signs and corresponding individual house numbers. The name of the street will be Heritage Lane.

Jennifer Rodriguez, Town Planner, discussed her report dated March 3, 2020. In addition to the received documents listed in her report, a lighting fixture picture, a summary regarding unit sizes, and architectural plans were also received. Favorable comments were received from the Police Chief on March 2, 2020 and were read into the record. Water Pollution Control comments were received on January 31, 2020 and read into the record. Comments from Public Works were received on March 3, 2020 and read into the record.

Dana Steele, Town Engineer, discussed his report dated March 4, 2020. He stated that he worded his comments so they could be incorporated as conditions of approval. He noted that when he uses the words “provide,” “show,” “include,” “modify,” and “needs,” these are things that are required to be done, and when he uses the word “consider,” these things are optional. Mr. Steele asked the applicant for more information on mailboxes and trash pickup and noted that another condition of approval should be added that sidewalks conform to town standards. Mr. Merrigan explained that mailboxes will be determined by the postal service and would probably be located in the community area, and trash will be picked up through the town system. He added that they are good with all the other items as conditions of approval and they can be put on the final site plan.

Mr. Wilson stated that the radius on the private road coming into South Elm Street is odd and has a weird angle and makes the pedestrian crossing across the driveway longer than it needs to be. Mr. Johnson replied that this is a discussion they had with the Town Engineer and is one of the things they are going to modify. A discussion followed regarding the radius of the road. Mr. Wilson commented that a stronger
emphases should be made to show the remaining vegetation in the protected area of the southeast corner on the grading plan. He would like to see them do the best they can to preserve that corner.

Mr. Wilson asked about the gas extension and what the backup plan is if this negotiation does not go through. A lengthy discussion took place. Mr. Merrigan said they are negotiating with Eversource to run the gas down South Elm Street to the site. It’s already down to the north side of the church to the convenience store. The backup plan is electric or propane, with underground tanks of propane for each unit. Mr. Wilson said in the landscape plan they should be studying the interaction between the plantings and the utility lines. He strongly emphasized that this should be planned out now. You need a coordinated plan. They need to actually implement the changes that Mr. Steele brought up, make sure the hydrants and infiltration are where they’re supposed to be, make sure the electrical is run where it’s supposed to be, the provision for having the underground propane gas tanks is allowed in there, and then see what you’ve got to determine if you can hit the landscaping that you’re expecting to. The landscaping plan is not complete. There is a significant amount that they don’t show on the plan like smaller foundation type planting. It’s not a full representation of what’s going on. He wants to see a fully coordinated plan. It’s too dense, based on utilities. In addition, the existing fence that surrounds this parcel is not aesthetically pleasing and is not in great shape. Mr. Merrigan replied that it is not their fence, it is the town’s, but they will address this. Mr. Wilson stated “work by owners” and “flagpole installed by owner” should not be on the plan. Mr. Merrigan said they will clarify this.

At this time Chairman Gannuscio opened up the public hearing for comments from the public in support of this site plan application. There were none. The floor was then opened up for comments in opposition. The following people spoke in opposition:

1. Paul Wrabel, 33 Pershing Road
2. Ed Sabotka, 23 South Elm Street
3. Eric Marsh, 94 South Elm Street
4. Tiffany Tisler, 94 South Elm Street

Concerns that were mentioned include the following: Where will the snow that’s plowed go? There’s not a lot of room there. You have an outpouring of dissent here, and this commission will have to decide if it is with the residents or with the developer. A number of commission members seem to have forgotten what your job is. Your job is to critically think about these proposals. Yes, in general it’s legal what they want to do, but IF you approve it. You’re supposed to be working for us. There are a lot of problems when you try to pack 22 units into this size lot. You have the ability to demand a site plan with less density in accordance with our wishes. You can require a traffic study. Ms. Tisler asked if all the units would be individually metered for all of the utilities. There are still loose ends to be tied up and this plan is not complete at this time. The applicant has argued that putting this community at
this location will increase community interactions, but is the rest of the community going to be able to go to that common area and enjoy it? Fences inhibit community interaction. The development is too dense and will create traffic problems. They need to go back and rethink their plans. Gary Merrigan stated that every unit will be individually metered for all utilities.

Chairman Gannuscio stated that he believes there is more work to be done and noted that the public hearing will continue this process. Mr. Wilson agreed. It will give them an opportunity to address the issues that came up and have answers for the commission to some of the questions that came up.

It was Moved (Wilson) and Seconded (Sayers) and Passed (Unanimous, 5-0) that the Planning and Zoning Commission continues the public hearing for the special use permit and site plan review for 64 South Elm Street for a 22-unit residential development in a MFSD zone to the April 13, 2020 regular meeting to allow time for plan edits and some answers to questions that came up at tonight’s meeting.

CHAIRMAN GANNUSCIO CALLED A SHORT BREAK AT 10:35 PM. MEETING RESUMED AT 10:42 PM. (At this time Ms. Brengi left the meeting.)

V. Reviews (none)

VI. Action on Closed Public Hearing Items (none)

VII. Old Business

A. Discussion with Commission and Staff (none)

B. Action Items (none)

VIII. New Business

A. Public Input (none)

B. Receive New Applications (none)

C. Informal Discussions

ii. 200 Old County Circle storage units

A discussion took place regarding the approved plan and the developer’s wish to make some changes to the approved plan. The association was not in favor of all proposed changes. No action was taken.
It was MOVED (Gannuscio) and SECONDED (Sayers) and PASSED (Unanimous, 4-0) that the Planning and Zoning Commission continues agenda items VIII.C i, iii, and iv to the April 13 meeting.

i. Signs on pre-existing buildings

iii. Conflict with zoning regs—invasive species 2.10

iv. Front yard setback reduction in Business 1 district

D. Action Items (none)

IX. Communications and Bills

Chairman Gannuscio stated he received a bill that needs to be paid for $110 for annual membership dues from the CT Federation of Planning and Zoning Agencies.

It was MOVED (Sayers) and SECONDED (Wilson) and PASSED (Unanimous, 4-0) that the Planning and Zoning Commission approves payment of $110 for annual dues from the CT Federation of Planning and Zoning Agencies.

X. Adjournment

It was MOVED (Gannuscio) and SECONDED (Sayers) and PASSED (Unanimous, 4-0) that the Planning and Zoning Commission adjourns the March 9, 2020 meeting at 11:09 pm.

Respectfully submitted,

Debbie Seymour
Recording Secretary