

PLANNING & ZONING COMMISSION
July 9, 2012 Meeting Minutes

These minutes are not official until approved at a subsequent meeting.

Commission Members Present: Vincent Zimnoch, Alan Gannuscio, Jim Szepanski, Anthony Scarfo, and Peter Juszczynski

Commission Members Absent: None

Town Staff Present: Jennifer Rodriguez (Town Planning Coordinator and Assistant Zoning and Wetlands Officer), and Dana Steele (Town Engineer)

I. Call to Order

Chairman Zimnoch called the meeting to order at 7:07 pm.

II. Roll Call

Commission roll call was taken.

III. Approval of Minutes from the June 11, 2012 Meeting

An error was noted in the June 11, 2012 minutes on page 1. Janet Ramsey is a regular member of the commission, and “alternate” should be removed after her name on the list of members present.

It was **MOVED** (Zimnoch) and **SECONDED** (Szepanski) and **PASSED** (Unanimous) that the Planning & Zoning Commission approve the June 11, 2012 minutes, as amended.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission seat Peter Juszczynski as a regular member of the commission.

Mr. Gannuscio discussed imposing a moratorium on the approval and/or issuance of any new permits for the sale of alcoholic beverages, effective September 1, 2012. He felt it was important to mention this at the beginning of the meeting so the public would have a chance to comment in case the meeting ran late. Chairman Zimnoch agreed it was a good idea to bring this up to the public at this time and then have the commission vote on it later in the meeting.

IV. Public Hearings

A. Continued public hearing on the site plan review and special use permit application of Brian Summers to operate valet parking on the property located at 185 Ella Grasso Turnpike.

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

The Recording Secretary read the legal notice that was published in the Journal Inquirer on June 27, 2012 and July 4, 2012.

Brian Summers of Scenic Management/Days Inn located at 185 Ella Grasso Turnpike addressed the commission. An updated map that was reviewed by the town showing 148 parking spots was passed out to commission members. Also distributed were pictures of the landscaping from Old County Road to the building showing the existing chain link fence and electronic gate. Mr. Summers would like to insert aluminum slats into this chain link fence to block the view from Old County Road. He stated again that he feels the application to operate this parking facility in this lot would not affect the current operation of the business based on the amount of room revenue they are doing with crew rooms that have no cars and would not change the scope or look of the building in any way. Also, it will be an additional source of revenue for them to continue successfully operating the building.

A discussion took place regarding the 148 parking spots and different scenarios where the 100 remaining parking spots might be insufficient (employees taking some spots, Stay Park & Fly customers taking additional spots, and losing the contract with Crew members). Mr. Summers was confident the 100 leftover spots would be sufficient.

Mr. Steele discussed his report that was submitted to the commission on July 6, 2012. He stated that he did receive from the applicant a survey prepared by Meehan & Goodin that was dated 2008. Although this plan is not current, he felt the map should be sufficient for the commission to evaluate the application. He further stated that the drive aisle around some spaces is only 20 feet wide, which is less than the standard minimum requirement of 24 feet. Even though this distance does not meet requirements, he feels this is a reasonable reduction because parking would be done by valet attendants rather than customers.

Ms. Rodriguez discussed her report that was submitted to the commission on July 5, 2012. She stated that an updated as-built plan had not been submitted, but the most recent plan that could be found dated 9/9/08 was submitted. The following are her comments:

1. **LAND USE** Section 415 of the Zoning Regulations "Airport Valet Parking" was adopted to allow qualifying private properties near the airport to provide valet parking as a secondary use. The criteria being ***"nonfrontage areas of certain Business zoned land....which are less appropriate for other Business Uses....sufficiently screened and buffered from neighboring properties and public views..."***. Section 415 D indicates that valet parking area shall be ***"...separate and distinct from other permitted and accessory uses on the site..."***.

2. The intent of this regulation was, as Michael O'Leary pointed out in his report last month, "to allow the use of valet parking in the rear of very deep properties along RT 75, well away from roadway frontages, where the roadway frontage portion of the lot would be used for traditional business uses. The application proposes 50 valet parking spaces, ½ of which are within the front yard building setback of Old County Road, many within 5 feet of the right-of-way. Also the proposed valet spaces are intermixed with the hotel parking, not separate and distinct at all." Nothing at this time has been submitted which would provide a solution for making this area separate and distinct.
3. **PARKING** At the June meeting, there was a discrepancy regarding the number of spaces in the text of the application and the submitted site plan. As of June 5, 2012 the commission is in receipt of a plan titled "Property/Boundary Survey ATLA/ACSM Land Title Survey" dated September 9, 2008. Though this is not an updated survey specifically for this application it does indicate the number of spaces more clearly than previous submittals. The copy appears to have been reduced to a 1" = 60' scale. Rough measuring shows the spaces to be about 9 feet in width on the plan. I also measured on site and found the spaces to be 9 feet in width.
4. **LANDSCAPING** The commission also requested details regarding current landscaping. Additional photos were submitted since then showing the existing buffer. A few mature evergreen trees exist however there are areas where new screening should be required. It was requested that the new plan show a distinct and detailed buffer area to Old County Road as is required in the Zoning Regulations. Solid fencing could also be required to provide a screened buffer between the Days Inn property and neighboring properties, as there is little room for landscaping in these areas. Landscaping/Screening information as requested has not been received to date.
5. No new site improvements, surfaces, lighting, structures, sidewalks or signs are proposed as part of this application.
6. Ultimately the Commission needs to interpret the purpose and intent of Section 415 and determine if this parcel and the spaces proposed meet the intent on that section of the regulations.
7. **FIRE MARSHAL COMMENTS** The commission is in receipt of comments from the WLFM which should be read into the record.
8. **POLICE CHIEF COMMENTS** The commission is in receipt of comments from the WLPD which should be read into the record.
9. **PROCEDURE** A vote on the Site Plan Review must take place within 65 days of the receipt of the application which in this case was May 14th. July 9th will be the 56th day. The applicant may consent to one or more extensions of the 65 day period provided the extension does not exceed an additional 65 days. A Special Permit Public Hearing must close within 35 days after being opened. The public hearing on the Special Use Permit opened on June 11th and was continued to the July meeting. July 9th will be the 28th day. To continue the public hearing the

applicant would need to consent to an extension. The public hearing may be closed and from the close date the commission would have 65 days to vote on the application.

An email from Acting Police Chief DeGray dated April 12, 2012 stated the following concerns: any proposed shrubs and trees should not interfere with the line of sight for any vehicles entering or exiting the location; debris receptacles should be placed far enough from Old County Road, any proposed lighting should be placed so it does not reflect onto adjacent properties, and any signage would be required to be within the parameters of town regulations. Ms. Rodriguez commented that no lighting or signage is being proposed by the applicant at this time.

An email from Fire Marshall Sinsigalli dated April 11, 2012 stated that the proposed valet parking does not change existing traffic patterns and does not adversely affect fire department access or fire suppression.

Mr. Summers commented that the existing side sight lines will not change. They propose to put slats in the existing fence which would block the view from Old County Road to the building and parking lot, giving it a permanent, secured view. There will be no changes to lighting or signage, and there will be no additional trash receptacles.

At this time Chairman Zimnoch opened up the public hearing for comments from the public in support of this application. There were no comments in support of this application. At this time the floor was opened up for comments in opposition. Chairman Zimnoch noted that the commission had received from Smith & Bishop on behalf of Roncari Development a second letter dated July 9, 2012, which stated their opposition to this application. Chairman Zimnoch then read this letter aloud.

Mr. Summers responded that Attorney Smith's letter does not state truly the facts. The Days Inn has provided an updated site plan that has been deemed acceptable by the town, and he feels they have met the requirements and are willing to do the changes in landscaping necessary to facilitate this process. He does not feel this letter is relevant as to what it is stating. It has not referred to them as the correct entity, as they are a hotel not a motel.

Ms. Rodriguez commented that she looked in the file for an approved site plan from 2004 and did not find any approval for that particular date. Mr. Summers replied that the 2008 plan was the latest plan he could get for the property and the most accurate.

Mr. Steele clarified that the plan that was submitted for 2008 is a property boundary survey usually used for some type of real estate transaction or financing that requires this kind of survey but it doesn't provide any indication what the required parking is-- it simply states there are 148 spaces on the site. Therefore, when the applicant says the plan is acceptable, in Mr. Steele's opinion, this means this appears to be an accurate representation of how many spaces are on the site and provides an understanding of what the dimensions are and the aisle width. However, as far as how many rooms are in the hotel, the letter from Attorney Smith comes up with a count of 126 required spaces, but the applicant is saying there are only 100 rooms. The requirement in the regulations does say one space per room, but Mr. Steele feels the commission has to decide how to interpret that.

Ms. Rodriguez read Section 705H, regarding employee parking: "Parking spaces required for employees shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time." Section 705I 1b, regarding required spaces, states: "Hotels and apartment hotels: one parking space for each separate lodging room and each dwelling." Mr. Steele pointed out that because these are listed separately it would suggest that employees would be counted as well when determining the number of required parking spaces.

Mr. Gannuscio commented that he believed at one point in time there was an upgrade to the facility to the façade or entrance maybe by prior ownership, so he does not believe there was anything that would change the number of parking spaces. Mr. Summers replied that the 2008 plan has the canopy on it, but nothing else on the physical structure has changed.

There was more discussion on the number of required parking spaces for the hotel.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission close the public hearing on the application of Brian Summers to operate valet parking on the property located at 185 Ella Grasso Turnpike.

Commission members commented on this application. Mr. Szepanski felt that the commission needed to look again at Section 415 and its intent. He stated the following:

1. the screening of the area is sparse or non-existent;
2. the area is not substantially setback from Route 75 (the purpose of this regulation was for very deep properties with a business up front and acreage in back);
3. the only reason the property is being underutilized is due to the lack of business;
4. it's questionable whether the town will get additional revenue in the immediate future from this venture;
5. the hotel is compatible with the surrounding area but the valet parking is not;
6. the parking is setback 175 feet from Route 75 but not from Old County Road;
7. the valet parking is not separate or unique and would be difficult to police;

8. this is not a bona fide request for valet parking because it is a secondary use to shore up financial shortfalls of the hotel's business;
9. the commission cannot deviate from the regulations to fix a business problem; and
10. approval of this application could allow other applicants to step forward for similar reasons.

Mr. Gannuscio stated he was on the board when Section 415 was enacted, and a key property that came to mind during the proposed adoption of this regulation was Mr. K's, which had an underutilized restaurant with a large paved parking area in the back, as it was a former car dealership. That was the goal--to present a regulation that would allow the development of the fronting business and at the same time have the unique characteristic of something like that parking lot that existed there, a secondary use of valet parking. This application does not match the intent of the regulation as it was drafted and passed. This regulation went through considerable scrutiny, so this is a regulation that has a specific purpose and intent, and this site and this application is not what was seen or contemplated in the regulation.

Mr. Juszczynski stated that some parts of the regulation were satisfied, but there did not seem to be a way to segregate the uses by landscaping. The actual parking area is supposed to be segregated as well, and he felt there was no way to do that with the traffic the way it is now. Therefore, this causes a problem for approval.

Chairman Zimnoch also felt that the regulation as written does not allow an approval, as the requirements of this application cannot be met.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission deny the special use permit application for Days Inn for 185 Ella Grasso Turnpike to allow 50 valet parking spaces as an accessory or secondary use as it does not meet the requirements of Section 415 of the Zoning Regulations as they were drafted and intended.

V. Reviews

A. **Site plan application of Pride Companies, Inc. for the property located at 77 Ella Grasso Turnpike.**

Mr. Robert Bolduc, CEO of Pride Companies, Inc, and Ms. Athene Zaleski, Director of Facilities Permitting for Pride Companies, Inc., addressed the commission. Mr. Bolduc purchased the former Citgo gas station at 77 Ella Grasso Turnpike. Because business is booming, there is additional traffic, so there is a need to remodel and improve the facilities to run more efficiently. New canopies and larger tanks will be installed as well as a new tank for a product called diesel exhaust fluid, which is a new requirement by the Federal EPA and is mandatory in all trucks from 2010 and on. Mr. Bolduc is also proposing a separate diesel canopy off to the side to get the diesel customers away from the store and prevent backups. He is proposing

extending the island that presently has two pumps in order to put on a third pump and adding a new canopy. There will be no change to the store building itself; landscaping will be added to the front, and the signage will be changed. All of the comments from Mr. Steele, Ms. Rodriguez, and Mr. O'Leary were taken into consideration, and the site plan was revised. Mr. Bolduc admitted they will have to submit this revised site plan for the commission's review. The setback requirement on the side will still be met. There is no setback requirement of the tank from the property line or the building. The parking requirements are being met with seven spaces. A new ground sign which will meet the size requirement of 32 square feet will be moved back 10 feet to the center of the property to satisfy the 10 foot setback requirement. The number of the building will be on the top of the sign where it will be very visible. Mr. Bolduc proposes to take out the three dead trees which are on the property and plant three new hardy ones. There will be three on one side and two more on the other side. The code requires a tree every 50 feet, which would require one in the front, but that would block the sign. Mr. O'Leary had previously recommended that if that was difficult, then one on each end would suffice. Spreading yews and roses will also be planted for lots of color. Mr. Bolduc stated that there was a mistake on the lighting plan. The plan shows five of the old standard lights, but they plan to use the newer LED lights, which reduces the number of lights necessary. A corrected lighting plan will be submitted for next month.

Mr. Steele reminded Mr. Bolduc that the sidewalks out front should be built to town standards (flush with no curb). He suggested that they continue the striping, continuing the 15 foot aisle through the canopy isle. The existing freestanding sign does not meet the 10 foot setback requirement. If the sign were to stay at the 3 foot setback, which is non-conforming, the commission may want to provide the applicant with some direction. Mr. Steele felt there may be some congestion issues within the site, but overall may decrease congestion at the entrance along Route 75.

The following is the July 2, 2012 report from Ms. Rodriguez for 77 Ella Grasso Turnpike.

Pride Companies has submitted a Site Plan Modification application in order to make site changes to 77 Ella Grasso Turnpike, a .54 acre parcel, where there is currently an existing gas mart and Dunkin Donuts drive – thru. This site and all abutting properties are zoned B-1 and all are developed with restaurant and retail uses.

This office is in receipt of the following supporting documents from the applicant:

1. "Existing Condition Plan" prepared by William Palmberg & Son LLC 5/9/2012
2. "Proposed Condition Plan" prepared by William Palmberg & Son LLC 6/7/2012 (paper and digital)
3. Landscape and Planting Plan and Associated Planting Schedule 6/7/2012 (paper and digital)

4. Abutters List, 5/25/2012
5. "Sign Elev. and Details", 5/29/2012 with calculations (paper and digital)
6. Aerial Photo
7. Lighting Plan prepared by LSI Industries 5/18/12

Comments:

1. **SUBMISSIONS** The submitted plans indicate the following proposed site improvements:
 - a. Installation of a separate diesel pump along the southern property line;
 - b. Installation of an additional canopy over this proposed diesel pump;
 - c. Additional pump on the west side of the property and extension of the existing canopy by 24 feet;
 - d. Modified parking areas, no reduction in spaces
 - e. Modified site lighting
 - f. New landscaping and sidewalk along Route 75
 - g. New Canopy Signs and Free Standing Signs
2. **LAND USE** This property is located within the Business-1 Zone. In this zone, per Section 402 of the WL Zoning Regulations "Motor vehicle service stations for dispensing at retail of motor fuel" are permitted by a Special Use Permit. Retail stores are permitted requiring a Site Plan Review Application. It was determined at the June 11, 2012 meeting that simply a Site Plan Modification application would be needed for such a proposal since there was no proposed change in use.
3. **ZONING** Per Section 1102 of the Zoning Regulations, site plans shall contain "a Zoning Data Table comparing the required, existing, and proposed zoning data from sections 403 and 404 for the subject parcel" including setbacks, surfaces and property coverage. This data table should be provided and setbacks should be indicated on the "Proposed Condition Plan".
4. **STRUCTURES** Two new pumps, an extension of a canopy and a new canopy are proposed. Required yards should be indicated on the Plan in relation to these changes and any other surface changes. The proposed extension of the canopy near Ella Grasso Turnpike would be located in the required front yard. The commission will need to determine if the extension of this canopy falls within Section 803 of the Windsor Locks Zoning Regulations. It reads "a building containing a permitted use but which does not conform to the requirements regarding building height limit, floor area and width of lot, percentage of lot coverage and required yard and parking facilities for the district in which it is located, may be enlarged or altered, provided any additions are constructed within the applicable yard requirements or are not nearer to the lot lines than the existing building".

5. **PARKING** The “Proposed Conditions Plan” lists the parking calculation for this use at 7.44 required spaces. Eight spaces are provided at a 45-degree angle. It appears that some spaces on the south side of the building may be difficult to pull out of due to the new diesel pump when trucks are fueling or parked for any length of time.
6. **LIGHTING** A lighting plan is provided as required in Section 705.F.4. The proposed lighting plan does not comply with this section. Only through a Special Permit application process can the Commission determine that the levels may exceed those in the regulation where a higher intensity is needed. Additionally, fixture details should be provided for any new lighting. Lighting shall be full cut-off type fixtures.
7. **SIGNS** One freestanding sign and 4 building signs are proposed on the plan titled, “Sign Elev. And Details”. These appear to conform to Chapter Six Windsor Locks Sign Regulations in height, size and overall calculations. Section 606, however, requires that a portion of the free standing sign must be devoted to the building address, an important detail allowing for identification for drivers and emergency response vehicles. Additionally the bottom component of the freestanding sign appears that it may be a message board. This should be clarified. Section 604 A. reads “No flashing, rotating or intermittent illumination shall be permitted except signs indicating time and/or temperature by means of while, intermittent lighting”. The Commission will need to determine whether the proposed sign meets the intention of Section 604. The Commission may wish to see a color rendering of all signs.
8. **LANDSCAPING** A landscape and planting plan and associated planting schedule have been provided for the commission’s review. Though this is an existing site, considerations should be made to provide the required landscaping whenever possible including appropriate street trees per section 705 F. 6. Smaller flowering trees such as Dogwood or Magnolia might be an appropriate addition to the existing front yard landscape strip.
9. **SIDEWALKS** A sidewalk has been provided along Route 75 as required per section 705.F.6 of the regulations. Providing safe places for pedestrians to walk including residents, travelers and employees of local businesses is an obligation and has been an important goal of the Town as outlined in the Plan of Conservation and Development.
10. **ARCHITECTURAL PLANS** Section 1102 A. 10 requires elevations for all proposed buildings or changes to the same. A simple plan has been submitted for review. The commission may wish to see additional details including color and materials.
11. **FIRE MARSHAL COMMENTS** The commission is in receipt of comments from the WLFD, which should be read into the record.
12. **POLICE CHIEF COMMENTS** The commission is in receipt of comments from the WLPD, which should be read into the record.
13. **WPCA / DPW COMMENTS** Our office has not received a copy of any comments at this time.

Ms. Rodriguez stated that Fire Marshall Sinsigalli's email of May 17, 2012 had no site issues. Acting Police Chief DeGray's email of May 23, 2012 stated the following: any proposed shrubs or trees should not interfere with the line of sight of any vehicles entering or exiting the location; debris receptacles should be placed far enough from Ella Grasso Turnpike so that they do not obstruct the line of sight for any vehicles entering or exiting the location; any proposed lighting should be placed so it does not reflect onto adjacent properties and should adequately illuminate any parking areas; any signage is required to be within the parameters of the town zoning regulations; and sidewalks may be required to be laid in front of the property.

Chairman Zimnoch asked if the commission had enough detail on the signage to have it approved. Mr. Bolduc provided more details for the commission. He would like to put up a digital sign that would not blink or flash. It would be changed once a day. Mr. Steele suggested a planter at the bottom of the sign. He also expressed concern that if the sign stayed at 3 feet, it may block the line of sight, but if the sign were to be moved back 10 feet, per regulation, there would be no issue. Mr. Bolduc said they could do both—it could be up at 6 or 8 feet to clear the line of sight but still make it attractive. Mr. Szepanski asked if the digital sign would be distracting to motorists, but Mr. Bolduc replied he has seen nothing in literature that would indicate it is distracting. Ms. Rodriguez read Section 604 of the regulations regarding digital signs. Mr. Steele suggested a compromise of moving the sign back 6 feet, doubling the distance. Ms. Rodriguez suggested bringing some photos of other digital signs to the next meeting to show the commission.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission continue the review of the site plan application for Pride Companies for the property located at 77 Ella Grasso Turnpike to the August 13, 2012 meeting.

Chairman Zimnoch called a five minute break at 9:12 pm. At this time Mr. Scarfo left the meeting.

FIVE MINUTE BREAK

Chairman Zimnoch called the meeting back to order at 9:15 pm.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission move Items VIII (B) i and ii, and Item VIII (C), to be discussed as the next items.

VIII. New Business

B. Receive New Applications

i. **Special Use Permit/Liquor application of PHO 75 for the property located at 209 Ella Grasso Turnpike.**

No one was present for PHO 75.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission schedule a public hearing on the special use permit/liquor application of PHO 75 for the property located at 209 Ella Grasso Turnpike for the August 13, 2012 meeting.

ii. **Site plan modification review of Pool Table Magic for the property located at 75 Ella Grasso Turnpike.**

Attorney Thomas Fahey passed out to the commission information about the new sign for Pool Table Magic. He reminded the commission that at the June 11, 2012 meeting, an informal discussion took place regarding Pool Table Magic's request to change their permit from a café to a restaurant/liquor permit. At that meeting, Mr. O'Leary and the commission asked them to come back with a site plan showing the actual parking calculations as well as a drawing of the interior layout. A site plan was submitted to town staff. Attorney Fahey pointed out that this new site plan is exactly the site plan that was previously approved, with a few changes. The parking requirements are for 51 spaces, which is what is provided. The other change for the site plan was to show a future parking area. A letter from Close, Jensen and Miller states that if Pool Table Magic needs additional spaces in the future, they can be accommodated by the existing drainage plan. At present they don't intend to stripe or pave them, but if in the future they need to use them, Attorney Fahey asked if the commission would consider approving it as a future parking area.

Attorney Fahey also passed out to the commission a floor plan which showed a larger dining area. He stated that Mr. Kulungian installed a 1,000 gallon oil separator, which is the largest size available. Attorney Fahey pointed out that the address is indicated on the sign, and the word "restaurant" is on the new sign. Ms. Rodriguez questioned if the applicant was asking for approval for the future parking area and opening it up for review at tonight's meeting. Attorney Fahey would like to get as much approved as possible with the parking. Ms. Rodriguez confirmed that it was submitted two weeks prior to the meeting, and by regulations it can be reviewed at tonight's meeting.

Ms. Rodriguez discussed the following report dated July 9, 2012 regarding the Site Plan Modification for Pool Table Magic, located at 75 Ella Grasso Turnpike.

Mark Kulungian, Pool Table Magic, has submitted a Site Plan Modification application in order to rearrange seating and change the currently approved café liquor license to a restaurant liquor license, with more of a restaurant focus and use. This site and all abutting properties are zoned B-1 and all are developed with hotel and retail uses.

This office is in receipt of the following supporting documents from the applicant:

1. "Improvement Location Survey" prepared by Gary LeClair, LLC dated 11-14-11
2. "Area Map" prepared by Gary LeClair, LLC dated 11-14-11
3. Modified Floor Plan Sketch

Comments:

1. **PROPOSAL** The submitted plans indicate the following proposed changes:
 - modified floor plan and seating including a new dining area
 - location of the proposed freestanding sign
2. **LAND USE** This property is located within the Business-1 Zone. In this zone, per Section 402 of the WL Zoning Regulations restaurants are permitted requiring a Site Plan Review. A liquor license is already approved for this site by your commission. It was determined at the June 11, 2012 meeting that a Site Plan Modification application would be needed for such a proposal and that a floor plan and site plan with note of the proposed sign be submitted for review. These details have been submitted.
3. **ZONING** No site modifications are proposed at this time. A possible future parking area is shown but is not included in the zoning data table. This should be clarified as to whether or not this new area is being proposed at this time.
4. **PARKING** The "Improvement Location Survey" lists the parking calculation for this use at 51 required spaces. 51 spaces are provided.
5. **SIGNS** A new sign is proposed 10 feet back of the street line as is required for freestanding signs. The commission may wish to see sign details and color renderings.
6. **FIRE MARSHAL COMMENTS** The commission is in receipt of comments from the WLFD, which should be read into the record.
7. **POLICE CHIEF COMMENTS** The commission is in receipt of comments from the WLPD, which should be read into the record.
8. **WPCA / DPW COMMENTS** Our office has not received a copy of any comments at this time.

Ms. Rodriguez counted 59 seats on the floor plan and asked for clarification regarding the 51 required parking spaces. Mr. Kulungian responded that the seats by the pool tables should not be counted, as they are more of a mini-bar with a high seat.

Mr. Steele stated that he did not submit a report because there were no site improvements and only internal changes to the building, but during the presentation he was confused about the future parking area. The plan has a date of 11/14/11, which gave him the impression it was an older plan. Mr. Kulungian said this plan was done recently and felt the date was a typographical error. On the original site plan of 2004 or 2005, the additional spaces were not shown. These spaces are added to the new plan, with the intention that if business improves, they may need those additional spaces, and eventually would like approval. When that time comes, engineering plans will be submitted. Attorney Fahey stated they would come back with detailed plans. The letter by Close, Jensen, and Miller was again brought to the commission's attention. Mr. Steele stated that they would still have to provide drainage calculations to demonstrate the additional pavement would not impact other properties and reiterated that they do not have permission to pave this. Attorney Fahey and Mr. Kulungian agreed that they are not asking for permission to pave this area. Mr. Steele commented that showing parking for future purposes is a good planning technique to show this is an area that's reserved for potential use in the future as long as they understand they have to come back for approval of that. Attorney Fahey agreed. Mr. Steele stated that they are showing by their calculations, which seem to be in order, that they meet the parking requirements. He spoke to Gary Kuczarski from WPCA about this site, who confirmed there is a 1,000 gallon separator and changing the number of seating in the restaurant does not have any impact on that. Mr. Kuczarski noted if there are any changes to the kitchen, the Health Department would have to approve that as part of a building application. He also stated that he would like to see a copy if there are any plumbing changes to the kitchen. Mr. Kulungian said he is not planning on changing anything in the kitchen at this time.

Ms. Rodriguez read comments from an email dated June 26, 2012 from Acting Police Chief DeGray regarding this application. He has no objections to this change to a restaurant/liquor permit of Pool Table Magic. Ms. Rodriguez read comments from an email dated June 26, 2012 from Fire Marshall Sinsigalli, who indicated there would present no difficulty with fire fighting; however, there is concern from a fire code perspective if they are providing additional cooking equipment, which will require both fire and health involvement.

Mr. Szepanski had a question about the number of seats and the size of the dining room. He stated the liquor commission regulations require at least 400 square feet and a minimum of 20 seats. Mr. Kulungian said the dining room was at least that size.

Mr. Kulungian asked commission members how they felt about the idea of adding a digital sign under the number 75 on his sign and if he would have the ability to incorporate it into his sign. Ms. Rodriguez stated in her experience the commission has not approved anything that was temporary in nature even if the box was permanent and the component was temporary. It's something the commission has to take a look at in terms of interpreting. Mr. Kulungian stated the overall size of the sign would stay the same. Chairman Zimnoch said this digital sign was a new issue brought up by the previous applicant, so he believes the commission needs to take a closer look at it. Attorney Fahey stated they would come back later to the commission regarding a digital sign. Ms. Rodriguez wanted to clarify that they would come back to the commission for approval for the additional parking area. Attorney Fahey agreed they would come back to the commission with drainage calculations.

It was **MOVED** (Zimnoch) and **SECONDED** (Gannuscio) and **PASSED** (Unanimous) that the Planning & Zoning Commission approve the site plan modification for Pool Table Magic for the property located at 75 Ella Grasso Turnpike with the stipulation that any changes regarding future parking will come back to the commission for approval.

Mr. Kulungian asked if the commission needed a revised plan with the correct date. Ms. Rodriguez commented that the site plan had another error—it noted a 25 foot existing frontage instead of 125 feet. Mr. Steele will call Gary LeClair and ask for three corrected paper copies and a mylar copy.

C. Informal discussion regarding amending conditions on the approval of the special use permit of Margarita's regarding a liquor permit for the property located at 4 Loten Drive at the request of Jin Hospitality

Attorney Michael Milazzo was present to represent the applicant. He stated that his neighbors appealed the zoning approval that the commission gave to the applicant, indicating that the commission did not have the permission to put the time constraints that they did on the application. He passed out to the commission copies of the Supreme Court case and the statute. He stated that he has gone over it with corporation counsel and the Hamden corporation counsel, and it appears that if they let the appeal go through it will be bounced back for reconsideration, so he is trying to shortcut that. The statute indicates that "any town may, by vote of a town meeting or by ordinance, reduce the number of hours during which sales under subsection (a)..." and then it goes into the exceptions, "can be limited." Even though they were more than happy with the limitation, they have appealed that. They filed a brief and have made that point in that brief. Prior to the Supreme Court case, the court would have to deny what actually sustained their appeal, and then they would have to start all over again. Based on the existing law, they could remand it back to the commission to be re-heard. That process would take another six months. Attorney Milazzo stated that the commission's approval said, "should you feel the need to

change this in the future, they could go back for modification,” and so here they are. Attorney Milazzo stated they are not looking to change the hours of operation; rather they are looking to get the approval to say they can operate within the hours permitted for restaurants under the state liquor commission. Upon review of the case, it basically states that is what they are stuck with unless the town passes an ordinance or they have a town meeting. He stated that if the commission wanted time to look at the case, he would be happy to do that. Attorney Milazzo said he did go over the case with the commission’s counsel, Attorney Scott Storms, who did agree with the interpretation. Attorney Milazzo tried to find a way in the appeal to say his client was the aggrieved party, and if they didn’t object to the time limitations, then how could a neighbor who objected to it raise it, but there is no qualification. It just says the town does not have the power to limit the hours, so that is the only reason he is back here in front of the commission.

Mr. Gannuscio stated that, in Section 2411 of the Land Use Law and Practice book by Fuller, it states that when a property owner or a holder of a special permit wants to change or deviate from the conditions imposed on it (which is what happened at the last go-around), it can be done as long as it is done through an application and it’s on the agenda, and that’s the procedure that the commission is doing tonight. As long as the proper procedures are followed, it’s something that the commission can do. Since it’s a minor change in the condition, a new application is not necessary for what the commission is being asked to do this evening.

Attorney Milazzo repeated that was why he submitted it through a modification. Chairman Zimnoch and Mr. Gannuscio confirmed that the commission could proceed without having a public hearing and because it has been on the agenda the commission can act on it tonight without further discussion.

It was **MOVED** (Gannuscio) and **SECONDED** (Szepanski) and **PASSED** (Unanimous) that the Planning & Zoning Commission modify the most recent approval from the May 9, 2011 meeting for the special use permit/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive by removing the language “with the condition that liquor sales shall be limited to 12:00 midnight at this time and that should the applicant feel the need to change that in the future they can come back to the Commission for a modification” and substituting “to permit the sale of alcohol in accordance with the terms and conditions established for restaurants by the Connecticut State Liquor Control Commission”.

VII. Old Business

A. Discussion with Commission and Staff regarding:

i. the T&M and North Group, LLC request for acceptance of roads

Mr. Steele has not gotten anything further from T&M. The as-built has been submitted and he is satisfied that everything's been completed in accordance with regulations. T&M needs to put together all the legal documents and the maintenance bond for this and submit it. When he spoke to T&M they thought that had been done years ago and they needed to check with their attorney to see if he was taking care of that. Mr. Steele doesn't know what the status of that is now and has not gotten any further input. He will try to contact them again to follow up and then will report back at next month's meeting.

Mr. Gannuscio asked Ms. Rodriguez if she saw any major complications for the PHO 75 application. She responded that no one had come to the office with any interest or opposition to this application.

Ms. Rodriguez stated that her office received a new application from Hamilton Sunstrand to replace three existing signs.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission review the site plan modification of Hamilton Sundstrand, soon to be UTC Aerospace Systems, for their property signs at 1 Hamilton Road at the August 13, 2012 meeting.

Mr. Szepanski asked if Mr. Colla ever showed up at the Planning Office. Ms. Rodriguez said he had not. Mr. Gannuscio said he went on the wrong night for the meeting. Ms. Rodriguez will give him a call. Mr. Gannuscio stated Jin Hospitality is serving as a taxi stand. He noticed four yellow cabs parked there one day. He also pointed out to Ms. Rodriguez that the land behind Colla Construction has recently had a lot of activity, dirt being moved, with bulldozers and equipment.

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission schedule a public hearing for the proposed amendment to the commission's zoning regulations to add a Section 511 which would impose a moratorium on the approval and/or issuance of any new liquor permits or the modification or changing of any existing liquor permits for the August 13, 2012 meeting.

Mr. Gannuscio asked the recording secretary to continue items VII (A) i through v on the agenda for next month's meeting.

Ms. Rodriguez asked if the commission wanted to wait until closer to the date for the Plan of Development text amendment to actually schedule something for a public hearing for the Main Street regulations. There has to be some public components such as sharing with the EIDC, or having a workshop. Mr. Gannuscio wondered if that would be best dealt with as a separate workshop where they could bring the EIDC and selectmen, but August is not necessarily the best time to do it. The September meeting might have a lighter agenda.

Ms. Rodriguez stated that for the Planning Conservation and Development the text amendment to include the Main Street study is all set, all the notifications have gone out, it's on the website, and it's gone out to the public notice registry, as required by the statutes. She commented that they a few more people that are in the Main Street area have asked to be on that. It did go to CRCOG and the Board of Selectmen.

Ms. Rodriguez stated that her office has been called out to 2 North Main Street multiple times for building code or zoning environmental concerns. They are doing some digging around right now for contamination, and they did find gas in a couple of spots. They've targeted an area and have started to do some interior work. They've got to pull away at a wall to get to the area that they're looking for. So far this is not considered a demo. They have actually applied for a demo permit but were denied because of taxes owed, so that will be figured out soon because she believes they have to take a building down to get at the environmental contamination. There are multiple bins on site, and DEP has been out there as well as a number of environmental consultants, so they are monitoring everything. The talk so far has been retail shops, used car sales, and most recently a bank. She stated that once the Main Street regulations are approved, drive-thru's would be prohibited, and in that area especially a drive-thru would be very concerning. She said she has sent the draft regulations to Attorney Fahey but has not heard back from him yet.

Ms. Rodriguez went on to say that her office was contacted by the state regarding Airport Terminal B. They are proposing a new terminal and will be straightening Schoephoester Road. Also, the property on North Street (Camp Hartell) might be available at some point in the near future.

Mr. Gannuscio mentioned that the old post office property on Main Street across from JJ's has a collapsed roof and gutters falling off and asked if the Building Office could do anything about that.

Mr. Juszczynski asked if there was anything new regarding 492 Spring Street. Mr. Gannuscio heard that the H&M building and package store have been sold and the rent has been raised very high. Mr. Steele and Ms. Rodriguez have both been in contact with PDS Engineering, and will hopefully be meeting with him soon. Mr. Juszczynski asked if Mo needed to reapply because of the 10-year expiration. Ms. Rodriguez stated she hoped they would do what they needed to do to comply with the already approved plan. Mr. Steele commented that they had to put up a retaining wall to make up for some grade problems, so they seem to have a solution that will work, but it's complicated because they've encroached over the property line, and now there's a contentious situation. He stated that Mo wants to cut the pavement back to make it all conform to the plan that was approved, but he doesn't want to do it and then find out that's not enough or

they'll need to make other changes. They're trying to get all parties to agree, which takes time. Mr. Steele also mentioned that there was a question regarding the parking, because the variance does not say they are reduced down to 12; it has to do with the ratio of spaces per seats in the restaurant, and the regulations say 1 (space) per 3 (seats), and they got a variance to allow 1 per 5, therefore making it fit. As long as the seating doesn't exceed 55 seats, then there's no problem.

X. Adjournment

It was **MOVED** (Gannuscio) and **SECONDED** (Zimnoch) and **PASSED** (Unanimous) that the Planning & Zoning Commission adjourn the July 9, 2012 meeting at 10:28 pm.

Respectfully submitted,

Debbie Seymour
Recording Secretary