

**TOWN OF EAST WINDSOR  
PLANNING AND ZONING COMMISSION**

**Public Hearing #1599  
October 11, 2011**

**\*\*\*\*\* Draft Document Subject to Commission Review\*\*\*\*\***

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:00 P. M. by Chairman Ouellette.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as three (3) Regular Members (Ouellette, Thurz, and Wentworth) and two Alternate Members (Sullivan and Zhigailo) were present. Regular Members Devanney and Gowdy were absent. Chairman Ouellette noted all Members present at this Meeting would sit in, and vote, on all Items of Business this evening.

Also present was Town Planner Whitten.

**GUESTS:** Kathy Pippin, Board of Finance; Eric Moffett, Rich Covell, and Jim Richards, Economic Development Commission.

**ADDED AGENDA ITEMS:**

Town Planner Whitten suggested addition of an informal discussion on a Site Plan for Lincoln Institute.

No Motion made.

**PUBLIC PARTICIPATION:**

No one requested to speak.

**APPROVAL OF MINUTES/September 13, 2011:**

**MOTION:** To APPROVE the Minutes of Public Hearing #1598 dated September 13, 2011 as amended:

**Pages 11 – 16, CONTINUED HEARING: Newberry Village, LLC: Approval Motion had listed 13 conditions, the last of which referred to additional conditions to be carried over from a previous (6/25/2009) approval. For purposes of clarity, the Meeting Minutes have now been revised to specifically reflect those additional conditions. Therefore, the 9/13/2011 Approval Motion for Newberry Village now lists a total of 49 conditions.**

**Zhigailo moved/Wentworth seconded/VOTE: In Favor: Unanimous**

**RECEIPT OF APPLICATIONS:** None.

**LEGAL NOTICE:**

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, September 29, 2011, and Thursday, October 6, 2011, was read by Chairman Ouellette:

1. Application of Walter E. Bass, Jr. for a Zone Change from A-1 to MFDD (Multi-Family Development District) for property located on Winkler Road and North Road. [Map 114, Block 24, Lot 5]
2. Application of Walter E. Bass, Jr. for a Special Use Permit to allow a 20-unit multi-family residential condominium complex (McLellan Way) located on Winkler Road and North Road. [Map 114, Block 24, Lot 5].

Town Planner Whitten advised those in attendance that with regard to the two Applications submitted by Mr. Bass, the Applicant is not ready to present this evening. The Public Hearing has been opened; there will be no discussion this evening.

Chairman Ouellette questioned if the delay changes the Statutory timeline? Town Planner Whitten replied negatively. Several members of the audience who were present for discussion of this Item of Business left the room.

**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD**

**ACCEPTANCE: Bank of Western Massachusetts** – Request from J. R. Russo & Associates for a one-year extension of the Site Plan Approval for the construction of a bank with drive-through, and associated improvements at 49 Prospect Hill Road. [HIFZ Zone; Map 92, Block 14, Lot 13] (*Previous extension granted through 10/10/2011*):

Chairman Ouellette read the description of this Item of Business. Town Planner Whitten noted the approval has expired but the Applicant had applied prior to the permit expiration. The September 27<sup>th</sup> Commission Meeting, at which this request for extension would have been heard, had been cancelled.

Mr. Ussery, of J. R. Russo & Associates, LLC, was present and requested to make a short presentation for the new Commission members.

Mr. Ussery reported the Applicant would like to keep the approval open. This was an Application for a Site Development Plan for a bank with a drive-thru window to be located on Prospect Hill Road. The proposed location is next to Wendy's, and in front of LaRenaissance. The improvement would be a bank office just under 4,000 square feet in area. Mr. Ussery indicated something has change in the bank's plan, but they still own the property and would like to keep the approval option open. Mr. Ussery noted the

Zoning Regulations say that a permit expires if construction is not started within one year; he is here to request a one year extension to begin construction.

Commissioner Sullivan questioned that there would be no internal connections between adjacent properties? Mr. Russo reported there would be no interconnection between Wendy's or LaRenaissance.

Commissioner Wentworth suggested the extension seems to be just a formality; there is no reason to say no; this is a business district.

**MOTION TO APPROVE a one year extension to start construction. For the Application of The Bank of Western Massachusetts and owner 53 Prospect Hill Road LLC requesting a site plan approval for the construction of a 4500 square foot bank with a drive through, and associated improvements at property located at 49 Prospect Hill Road, Assessor's Map 92, Block 14, Lot 13. Extension to start construction will expire 10/10/2012.**

**Zhigailo moved/Sullivan seconded/VOTE: In Favor: Unanimous**

**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD**

**ACCEPTANCE: NRT Realty, LLC – Bridge Street** – Request from J. R. Russo & Associates for a one-yr extension of the Special Use Permit and Site Plan Approval for the development of a 140,00 square foot retail facility with 33,000 square foot outdoor garden center located on the south side of Bridge Street. [B-2 Zone; Map 111, Block 12, Lots 4, 8, 9, 10 & 11] (*Previous extension granted through 10/14/2011*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this extension request was Jay Ussery, of J. R. Russo and Associates, LLC, and Attorney T. Mark Barbieri, representing NRT Realty, LLC.

Mr. Ussery reported this property is located on the south side of Bridge Street, across from the Children's Place. The proposal is for a 173,000 square foot retail space on property owned by the Lata family. The Application was approved in 2008; they have appeared for previous extensions. Mr. Ussery reported the building will be set back 600' from the road; most of the parking will be in front of the building. There is also a pad site at the front of the property for another tenant. Mr. Ussery referenced adjacent properties on Bridge Street, and noted the property also backs up onto Pleasant Street.

Commissioner Sullivan questioned if there was a tenant for this property? Attorney Barbieri replied there had been an original tenant; they have since backed out of the agreement as the proposal was being considered at the beginning of the recession.

**MOTION TO APPROVE a one year extension to start construction for the Application of NRT Realty, LLC requesting a Special Use Permit and Site Plan review for the development of a 140,000 square foot retail facility with a 33,000**

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**square foot outdoor garden center and associated parking and infrastructure in accordance with Ch VII and Section 900.2 and 900.3 of the East Windsor Zoning Regulations. (Map 111, Block 12, Lots 4, 8, 9, 10 & 11) Extension to start construction will expire 10/14/2012.**

**Zhigailo moved/Wentworth seconded/VOTE: In Favor: Unanimous**

**NEW HEARING: Walter E. Bass, Jr.** – Zone Change from A-1 to MFDD (Multi-Family Development District) for property located on Winkler Road and north Road. [Map 114, Block 24, Lot 5] (*Deadline to close hearing 11/15/2011*) (**Request for continuance**):

Chairman Ouellette read the Hearing description. He advised the audience the Application is being continued; there will NOT be any discussion this evening. Discussion will begin at the Commission's October 25<sup>th</sup> Meeting.

No Motion for continuance was made.

**NEW HEARING: Walter E. Bass Jr.** – Special Use Permit to allow a 20-unit multi-family residential condominium complex (McLellan Way) located on Winkler Road and North Road. [Map 114, Block 24, Lot 5] (*Deadline to close hearing 11/15/2011*) (**Request for continuance**):

Chairman Ouellette read the Hearing description. He advised the audience this Application is being continued as well; there will NOT be any discussion this evening. Discussion will begin at the Commission's October 25<sup>th</sup> Meeting.

No Motion for continuance was made.

**NEW BUSINESS: Chestnut Point Realty LLC** – Modification of Approved Site Plan for additional parking area at Chestnut Point Care Center, 171 Main Street, East Windsor. [R-1 Zone; Map 101, Block 9, Lot 2] (*Deadline for decision 11/17/2011*) (**Request for continuance**):

Chairman Ouellette read the description of this Item of Business. Town Planner Whitten noted the Applicant is having issues relocating dry wells due to the weather. The Applicant will be ready to be heard at the Commission's October 25<sup>th</sup> Meeting.

No Motion for continuance was made.

**NEW BUSINESS: Advanced Wheels of Technology, Inc.** – Site Plan Approval for modification and addition to parking at 230 Main Street, East Windsor, owned by UPS Capital Business Credit. [M-1 Zone; Map 91, Block 12, Lots 29 & 30B] (*Deadline for decision 11/17/2011*) (**Request for continuance**):

Chairman Ouellette read the description of this Item of Business. Town Planner Whitten noted the Applicant is having issues with the property Right-Of-Way and access to the location. The road is a private road. This Application will also be continued to the Commission's October 25<sup>th</sup> Meeting.

No Motion of continuance was made.

**BUSINESS MEETING/(1) Temporary Business Signs Regulations – Review and possible renewal:**

Town Planner Whitten noted that a couple of years ago the Economic Development Commission (EDC) and the Planning and Zoning Commission (PZC) discussed temporary signage – banners and A-frame signs – for businesses. As a result the Temporary Sign Regulations were adopted, with a sunset clause for a one (1) year extension provision. The sunset clause requires review of the compliance of the regulation, or repeal of the regulation. The regulation allows four (4) two (2) week periods for signage to be displayed within each calendar year; a 30 day period is required between displays.

Town Planner Whitten reported enforcement is a nightmare. This year two (2) businesses have applied for permits while numerous citations have been sent out. The office hears that the permit is too expensive. The Town started with a \$70 fee to cover administrative costs; a \$60 State Fee is required to be added to the permit cost by Statute. Every time someone comes through for a permit in each of the 169 towns within the State a \$60 State fee must be charged in addition to the local fee. Two dollars of the \$60 can be retained by the Town; the remaining \$58 must be paid to the State. Therefore, the Temporary Sign Permit currently costs a business \$130. Discussion with others in the Planning field suggest that if the charge is called a registration fee then the State fee could be eliminated. Town Planner Whitten offered a recommendation of reducing the Town fee to \$50 because of the current economy.

Commissioner Wentworth questioned that this fee justifies the Town telling someone what people can or cannot put on their building? Town Planner Whitten clarified that the justification is the regulations says displaying signage is allowed or not. No one is saying displaying the signage isn't allowed. The Statutes enable a town to make regulations to benefit all of the residents; this regulation is a means to regulate height, distance from the road/sight distance, visual clutter, etc. Commissioner Wentworth suggested he had heard from people that they were not allowed to put signage up. Town Planner Whitten clarified they are allowed, they just choose not to comply with the regulation. Chairman Ouellette suggested before the current regulations were adopted signs were not allowed at all; this regulation was a compromise. Commissioner Zhigailo referenced e-mail comments received from other Town Planners; she questioned how someone would promote their business without signs? Town Planner Whitten noted the problem was signs came out everywhere; they were not permitted but became a blight. Commissioner Zhigailo questioned signage for tag sales? Town Planner Whitten

clarified these regulations apply only to business signage. Many towns don't allow temporary signage at all; whatever they charge is on top of the \$60 State fee.

Commissioner Thurz liked Town Planner Whitten's suggestion to reduce the Town cost to \$50, and calling it a registration fee. He suggested the Commission is trying to work with the business owners. Chairman Ouellette indicated he is receptive to that suggestion as well. Either way, it costs the Town money, either through administrative or violation costs. Some signs are hazards due to sightline issues. Chairman Ouellette concurred with Commissioner Thurz; the Commission is trying to be sensitive to the business community, especially during tough economic times. He questioned the opposition – maybe it's the fees, maybe it's just people being against big government.

Commissioner Sullivan questioned that the permit charge was an annual fee; Commissioner Zhigailo questioned the affect of a shorter display time, such as 3 days? Town Planner Whitten clarified that the \$130 is an annual charge for signage as described earlier (4 times a year for a 2 week period with a 30 day period between displays). Presently, \$70 is the charge to cover department administrative costs; \$60 is the mandated State fee. The department doesn't have staff to track 3 day increments of display periods; if someone chooses to display a sign for 3 days it's part of one of the 2 week periods. Commissioner Wentworth made a reference to signage in a right-of-way. Town Planner Whitten clarified that signage can't be displayed in a right-of-way; it must be displayed within plaza space, or an option could be a banner on the building. She suggested there are a lot more options available to the businessman than two (2) years ago when no signs were permitted.

Chairman Ouellette felt it would be a disservice to the Town to drop the regulation. Commissioner Thurz suggested that actually \$130 annually wasn't that high for a business.

The members of the Economic Development Commission requested to speak.

**Jim Richards, member of EDC, Executive Director of the East Windsor Chamber of Commerce:** Mr. Richards questioned that the violators can't participate for the remainder of the offending calendar year? Town Planner Whitten replied affirmatively. Mr. Richards concurred with Chairman Ouellette; no one is against the Town fee but most people are against the State fee.

Mr. Richards agreed with the safety aspect of signage. He noted the enforcement officer works with the tenants in the strip malls. Mr. Richards offered some misconceptions of the current regulations – “for help” signs. He felt this is a good compromise but he would get rid of the sunset clause. With regard to the cost of \$130 for a small business, he suggested they feel they are already paying taxes and don't get a lot of services, so to pay another “whatever” fee..... Mr. Richards agreed there should be a cost to cover administrative and enforcement costs.

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Town Planner Whitten clarified that “help wanted” signs are not included in this regulation. She will clarify the regulation wording.

Mr. Richards indicated he speaks of the regulation at Chamber meetings. He felt this regulation is for businesses that want to comply.

Commissioner Thurz questioned the reason for the State fee? Town Planner Whitten indicated the State fee had been \$30 but was doubled to \$60 two (2) years ago (no additional increase to amount allocated to each town). The State money is earmarked for open space but the general understanding is that it goes into the State General Fund.

Commissioner Wentworth questioned if the fee is clarified during the application process? Town Planner Whitten indicated she believed so; she questioned Staff for concurrence. Staff replied yes in both cases of the temporary sign permits, but the fee is clarified separately during all permit application processes.

Commissioner Sullivan felt that the fact that there were 25 violators and only 2 people who complied spoke for itself. He questioned what would be the consequences if the State doesn't see that money coming into its coffers? Town Planner Whitten suggested they don't see it now because people don't comply with the regulation. It would still be enforceable as a zoning violation.

**Rich Covell, member of the Economic Development Commission:** Mr. Covell concurred that everyone wants to be more business-friendly. He agreed to retain the sunset clause for another year if the Commission felt it was necessary. The EDC also wants to get something workable, and wants to encourage businesses to comply.

**Eric Moffett, Chairman of the Economic Development Commission:** Mr. Moffett felt the EDC can work with the PZC to set standards for the Temporary Sign Regulation. They will work with businesses to guide/encourage them towards compliance; the EDC understands the PZC is seeking uniformity rather than willy nilly signage.

Chairman Ouellette questioned the need to continue the sunset clause if the regulation becomes successful? Town Planner Whitten recalled the Commission had wanted to see how the regulation would work. Commissioner Zhigailo suggested she was on the same page; maybe the sunset clause should be continued for another year so the Commission can review compliance. The consensus of the Commission was to retain the sunset clause for another year.

The consensus of the Commission was to reduce the Town fee to \$50. Commissioner Wentworth felt it was a competitive cost; if he runs an ad in the Reminder the cost is \$50 for two weeks.

Town Planner Whitten summarized the process - a Public Hearing will be held due to language changes, the proposed regulation must be referred to CRCOG, re-adoption by the Commission, hopefully before December, 2011.

**BUSINESS MEETING/(2) Discussion on Route 140 Visioning Workshop:**

Town Planner Whitten reported the consultants are trying to determine what type of regulations would be appropriate for this area – Site Plan vs. Special Use Permit, Overlay zones which sit on top of the existing zone but allow more flexibility for development, types of businesses would be appropriate for this business corridor. Chairman Ouellette felt the Overlay Zones add a layer of bureaucracy and add cost to an applicant – he cited previous big box proposals which resulted in a lot of up-front costs to the developer. Chairman Ouellette indicated everyone wants to make people aware we are open for business in East Windsor. Town Planner Whitten suggested a benefit of the Overlay Zone is it allows the developer to come in for a preliminary discussion to see if the proposal fits before they spend significant money. Chairman Ouellette suggested the intent is to simplify things for the developer.

Chairman Ouellette suggested it's imperative to develop a strategic plan against multiple curb cuts along Route 140. Traffic was a big concern during recent discussions.

Commissioner Sullivan felt a mish-mash of development – commercial, condominiums, residential, maybe daycare – is a mistake; he felt it should be commercial. Commissioner Thurz noted the Town already has an industrial park for commercial properties. Mr. Moffett, of the EDC, clarified that the industrial park land is sold out; the only open land was the site now occupied by STR. Town Planner Whitten concurred that the only new parcels available are those associated with the STR parcel but until the current private road becomes a Town road those lots are not viable. Chairman Ouellette questioned the availability of land on Newberry Road? Town Planner Whitten noted some land is available; some may be over-priced. Town Planner Whitten suggested that the EDC always sells the industrial park as a business opportunity; Mr. Covell, an EDC member, clarified that the EDC sells East Windsor, not just the industrial park.

Mr. Moffett suggested the EDC's intent was to get the sewer along North Road/Route 140; the ball is now in the hands of the PZC to tell the EDC what they want as uses for the land. The EDC can't promote the area until the PZC decides what zoning they want; the EDC is waiting for direction from the PZC, then they will go out and sell Route 140. Mr. Moffett felt people indicated they don't want residential in that corridor. Mr. Richards and Mr. Covell felt the campus style – with curb cuts at each end – would fit the corridor. Mr. Moffett reiterated if we can give a developer direction it will go quicker. Chairman Ouellette agreed; it will go better if all entities – EDC/PZC/stakeholders – are engaged in the process.



Town Planner Whitten reviewed some of the conclusions made as a result of the visionary workshop. Various dates were reviewed for the next Route 140 workshop meeting date.

**BUSINESS MEETING/(3) Refresher on Agricultural Buffers and Right to Farm Ordinance:**

Town Planner Whitten recalled for the Commission that previously they created a Right-to-Farm Ordinance which allows the farmer to do what they need to do to farm. Noise, dust, etc. has been taken into consideration. The Commission has approved the Ordinance; it has been reviewed by the Board of Selectmen who are in agreement with the Ordinance; it has also been reviewed by the Town Attorney. Town Planner Whitten suggested the Commission had not wanted to complete the process until the Farm Regulations had been approved. She is now ready to return to the Board of Selectmen so the Ordinance would then go to Town Meeting for approval by residents.

With regard to the Farm Buffer, the regulation requires if a developer is proposing a subdivision adjacent to a farm the developer must provide a buffer that is above and beyond the required set back for a zone. As an example, Town Planner Whitten suggested the determination would be on a case by case basis. If the adjacent parcel contains a 50' vegetated buffer then the Agricultural Buffer might be less stringent. The Agricultural Buffer is part of the Subdivision Regulations; it is currently not part of the Multi-Family Development District as those regulations are not considered a subdivision. Town Planner Whitten suggested this Regulation needs to go to Town Meeting as well.

**BUSINESS MEETING/(4) Review of Bylaws:**

Town Planner Whitten offered the Commission's current bylaws for review, noting the only addition over the past year has been the inclusion of "Public Participation" in the Meeting Agenda. Chairman Ouellette offered the following areas for consideration:

- Section 2.4 Disqualification of Members – Review against current charter
- Section 2.5 Resignation of Members – Review against current charter
- Section 2.6 Attendance – Review against current charter
- Section 4.4 Executive Session – Review of Section of Connecticut General Statutes which allows Executive Session.
- Section 4.5 Order of Business – During Agenda preparation include all items of business for consistency, even those which will have no business to discuss.

**BUSINESS MEETING/(5) Election of Officers:**

Postponed until additional Regular Members are in attendance.

**BUSINESS MEETING/(6) Correspondence:**

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Town Planner Whitten advised Commissioners the Land Use Academy Advanced Training Class is being offered to Commissioners on Saturday, November 5, 2011 at Central Connecticut State University. She requested Commissioners wishing to attend please advise the Planning Office.

**BUSINESS MEETING/(7) Staff Reports:**

Town Planner Whitten reported on the following issues:

- Zoning Enforcement Officer Newton has done another Temporary Sign sweep; multiple reminder letters going out.
- Request from the administration at Lincoln Tech for consideration of a lighting upgrade at the facility on Newberry Road. Town Planner Whitten noted the upgrade is to replace and upgrade existing lighting at the parking lot at the facility, and to increase the pole height to 25' vs. the existing 20'. They are asking if the modification can be approved administratively through the Planning Office, or must they come in for full Site Plan Review.

After discussion of the proposed changes, and review of the product attachments provided to the Commission, the Board requested Lincoln Tech submit a full Site Plan Modification.

**SIGNING OF MYLARS/PLANS, MOTIONS:**

The following documentation was signed by Chairman Ouellette and Acting Secretary Thurz:

- Newberry Village – Motion
- Farmer Subdivision Plan - Mylar

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 8:55 p.m.**

**Wentworth moved/Sullivan seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission  
(3893)