

PLANNING & ZONING COMMISSION
WINDHAM, CT
Revised **MINUTES**

February 23, 2012

The Planning & Zoning Commission held its meeting on February 23, 2012 in the Meeting Room in Town Hall. Chair Paula Stahl called the meeting to order at 7:01 P.M. Members in attendance were Victor Rayhall, Jean Chaine, Juan Montalvo, Claire Lary and Paula Stahl. Dan Lein was excused and Dawn Niles was excused. Also present were Town Planner James Finger and ZEO Matthew Vertefeuille.

1) Approval of Minutes:

- a) Action on the minutes of January 12, 2012 was postponed until the next meeting.
- b) The minutes of January 26, 2012 were amended to show that Juan Montalvo was not present at the meeting as stated. Vic Rayhall made a motion to approve the minutes as amended and Jean Chaine seconded the motion. Mr. Chaine referred to page 4, Para 7, under additional audience comments. He said a comment from Joan Monticello should state that there has not been **adequate** enforcement of the law. Voting in favor were Vic Rayhall, Jean Chaine, Claire Lary and Paula Stahl. Juan Montalvo abstained. The motion carried.
- c) Action on the minutes of February 9, 2012 was postponed until the next meeting.

2) Continuation of the Public Hearing on the application of Nectalis G. Martinez, 280 Jackson Street, Willimantic for a Special Permit for a Café Liquor License.

Chair Stahl re-opened the public hearing. She referred to correspondence which requested that the discussion be postponed because the applicant was changing his request from a Café Liquor License to a Restaurant License. She said it appears though that they wish to continue with the Café License.

Chair Stahl asked if anyone in the audience wished to make any comments.

1) Police Chief Lisa Maruso-Bolduc said she doesn't have any particular issues with the applicant. She said her comments are generic to any application for a liquor establishment, or bar/café, in a residential neighborhood. She said Jackson Street is a high density urban neighborhood with many children and families. Liquor establishments tend to affect the quality of life in any neighborhood. When we have these types of establishments in or bordering a high density population neighborhood you have a quality of life impact. She added that the majority of calls for service that are received by the Police Dept. between 11:00 P.M. - 2:00 A.M. are calls that are associated with liquor establishments. We have over 40 establishments with a license to serve or sell alcohol in the town. Most of these establishments are within a mile of Jackson Street. We do not need a service district that is one dimensional, she said. The point is there is a

good location and there is a not so good location to have these types of businesses. Highly populated family neighborhoods are not the ideal location for a café/bar or liquor establishment. She said she is not against the applicant. She said she is not an anti-bar person, nor is she protecting any particular bar in the city. She said as Police Chief she feels she is entitled to have an opinion about public safety issues, and feels it is her responsibility to share those opinions.

2) Edwin Rivera, 309 Jackson Street, Willimantic read a poem which included his comment that the applicant would not receive the Special Permit based on ethnic issues.

3) Susan Humes, Lewiston Avenue, Willimantic said back in 1883 her family built a home in the block that we are talking about. At that time it was a residential area, and it has continued to be a residential area with the exception of the building on Jackson Street. She said traffic on Jackson Street is quite heavy and she feels this would be a very bad location for any type of a café. There are many children in the area especially with the school down the street. It would be a shame to put a café there.

4) Ted Swol, 16 Carey Street, Willimantic said originally he was in favor of the request, but the more he hears the more he is not in favor of the request. He said we don't need that kind of activity at 2:00 A.M. I know what the traffic is like there. He said we have a one-lane road there now because of the cars that are parked on the street. He said he has a serious health problem and he may need the services of an ambulance, and he wants to make sure they can get through. He said this is a nice residential neighborhood with small children. He said he doesn't think this is the place for this type of business. He said he has nothing against the business; it is just in the wrong location.

5) Marlene Czajka, 19 Carey Street, Willimantic said she and her husband bought their property two years ago. We wanted to buy a home, but we didn't want to buy in a business area. We are close to Jackson Street, but we can go out in our backyard and enjoy a nice degree of privacy and quietness. We don't want a lot of noise. If we had wanted to buy a home near a bar, we could have done that just as easily. She said occasionally she has to go to work early in the morning. She said she doesn't need the noise. She is going to need to sleep. She said this is the wrong location for this business.

6) Joanna Auriantal, 21 Carey Street, Willimantic said she, her husband and children love Willimantic. She said this is where we chose to become first-time home buyers. We chose to buy on Carey Street because it was a beautiful location, still close to the city and many things to do, but the area is residential. It is quiet and safe for my family and especially for my children. She said she has worked in college housing at Eastern for almost 10 years and saw what alcohol consumption can do to people's behavior. The reason we moved off campus and bought our home was to get away from that type of lifestyle. The thought of being able to consume liquor in a commercial setting three doors down from my home does not sit right with me. She said she supports small businesses, and supports the idea that these business owners want to have, but this is the wrong location. She said she does not want this establishment or this permit to pass for that reason.

7) George Hernandez, 248 Lewiston Avenue, Willimantic said he has chosen to live in Willimantic because of its quaintness. He said he enjoys being able to walk down the street to various businesses and being able to walk to work. He said he would thoroughly enjoy the opportunity to walk down the street on Lewiston Avenue, turn the corner and at 280 Jackson Street enjoy meeting his other Latino friends, as well as anyone else who would like to join the community in celebrating social events. This is exactly the type of ambience, exactly the type of business venture that the Martinez family is looking to establish at this location. I think that in filling out the application, unfortunately the choice of words (café) was not the best. Unfortunately, at the time when they were sitting across from the town officials that was the first thing that came to mind. They are looking to do a social thing where families can get together and continue the tradition that that location has had, such as celebrating events that the Senior Club had when the Senior Center was there, and events that the union hall has celebrated at this particular location. The Martinez family is looking to continue that. Mr. Hernandez said he is empowered by the Martinez family to ask the commission to consider a compromise if the commission would so be inclined to consider a compromise at this juncture. If the commission is not inclined to consider that compromise, then we ask to postpone the hearing so that we can dialogue and further clarify to the commission the nature of the business that they are looking to set up there.

Chair Stahl said Mr. Martinez told us this evening that he is not interested in anything, but the café license. She said there isn't much wiggle room for a compromise because the State calls it a Café Permit. That is the type of permit that the applicant is looking for. She said the commission has many concerns. One of the concerns is that no matter how wonderful Mr. Martinez is, once the commission has determined that it is a perfect place for a bar or tavern, then it is a bar or tavern for whoever wants to purchase the property and do something later. We have to be mindful of the fact that we are not talking about Mr. Martinez; we are talking about is this an appropriate location for a bar. We have to consider the impact that it could have on that community long after Mr. Martinez has sold the business, or sold the building. Chair Stahl said what we are doing is saying that this property is permitted to have liquor. That decision stays with the land. It is not a reflection on Mr. Martinez, said Stahl.

Mr. Hernandez asked what the sentiment of the commission is at this point. Chair Stahl said the public hearing is still open. It is at a point where we hear from the public and the applicant. We will then close the public hearing and we will deliberate at that point. We may make a decision tonight, or we may not make a decision tonight. We need to close the public hearing tonight or receive an approval to keep it open for another month.

Commissioner Jean Chaine asked for clarification. He said he was surprised that they were asking for a change in the status of the application. The agent is saying one thing and the owner is saying something else.

Mr. Martinez said he collected 165 signatures from people who are in favor of this establishment. We need a place to gather. He said I want to assure the commission that

this is not going to be neighborhood bar. It is going to be a place for families and friends to get together and observe our traditions. He then referred to the Cease and Desist Order from the town. He said we are entitled to gather. According to the Constitution of the U.S. we have the right to gather orderly. This is a place of gathering. I would ask whoever is in charge to lift that order.

Chair Stahl said Commissioner Chaine was asking if you are looking for the Restaurant Permit, or the Café Permit. Mr. Martinez said this is a commercial area. This place was a dance hall at one time. It was a union hall. There were businesses in there. This was a gathering place, and it will be a gathering place as long as that building stands.

Mr. Hernandez said this is a hard working father/son team that is trying to do the best that they can to obtain and to live the American Dream. At this point, we would like to offer to the commission a compromise. Rather than requesting a cafe license with a full liquor license we want to communicate to the commission, and to the neighbors, that that is not the intent. It was simply the mishandling of the wording of the application. He said this is such a sensitive issue to the Latino community because we really don't have a gathering place that we can call our own. We have to be at the mercy of other venues. These are very professional venues with long histories, but absolutely not one of those venues is owned by a Latino. The Martinez family is looking to have a venue that is sensitive to the Latino community in their observance of social gatherings. We would like to suggest to the commission a compromise to this application. He said B-3 zoning allows for special use permits for a sit down restaurant. In keeping with that special use permit, we would like to ask the commission to consider rather than a café, a sit down restaurant with a beer and wine license only. So rather than a café license, a full liquor license, we would appreciate it if the commission would consider a sit down family type restaurant with just beer and wine. We would like to offer that as a consideration, a compromise, he said.

Commissioner Jean Chaine said since the application is being modified does that preclude our being able to continue. ZEO Matt Vertefeuille said because it is a different type of license, we would have to re-advertise it. We can ask Mr. Martinez or Mr. Hernandez, as his agent, to sign a request extending the public hearing so that they can amend their application. It will give them a month to re-advertise it as a restaurant license and we will hold over the public hearing for an additional month. It will be an amended application. In fairness of having the hearing open, if there is anyone else who still wants to speak I think we should let them speak.

Commissioner Jean Chaine agreed adding that implanting this as a possible compromise to those who had an objection initially for the type of license that was requested may modify their objection to either support it or have no objection. They could do that this evening as well. Chair Stahl said it is also important for the legal notice to be changed to a restaurant permit, and also for another notification to the property owners. Those who objected to the Cafe License may now want to support the Restaurant License

Mr. Hernandez said this compromise should allay the concerns of the residents. There were concerns about high level of noise, and loitering in the parking lot. We are more than willing, and able, to communicate to you how we would address those issues. We will have control of the operation. The Martinez family can then exercise that control and allay the concerns of anyone that this will not be a bar. We want to have a family gathering place where we can continue doing things that we have been doing for hundreds of years, concluded Hernandez.

Chair Stahl clarified that officially the applicant is requesting that this be changed to a Restaurant Liquor License with beer and wine, and that the applicant is granting the commission an extension of 30 days to conclude the public hearing. Chair Stahl explained that the application fee has a few components in it, one of which is reimbursement to the town for the price of posting the legal notices in the Chronicle. This will be the only fee that will be reimbursed by the applicant.

ZEO Matt Vertefeuille spoke to the Cease & Desist Order. He said he was attracted to the activity that was going on there by some advertisements that were on Facebook, as well as other advertisements. He said before the applicant purchased the property we explained to Mr. Martinez's son that any use outside of the oil (delivery business) use would have to be a Special Permit which had to be approved in advance. He said he and the Fire Marshal went over to do an inspection of the property and to meet with Mr. Martinez and talk about what they would have to do in order to change it from just being an oil company to being something else. At that time we discovered that a bar was operating. It was fully stocked, and had a cash register. We explained he couldn't have that kind of operation and that he would have to get rid of the bar. Vertefeuille said subsequently he found an advertisement regarding a big party being planned for that location. He said he then created a Cease & Desist Order under Section 8-2 of the Connecticut General Statutes. He said his Cease & Desist Order still stands and it will stand. They are not permitted anything going on there other than the oil business until they clear up the permit issue. He said his Cease & Desist may be appealed to the Zoning Board of Appeals.

Mr. Vertefeuille said at this point he could establish a venue to have social events that don't serve liquor. All he would have to do is pull a zoning permit which would explain the use. It is actually a use of assembly with no liquor. He said it is a continued use from what was allowed there. Mr. Vertefeuille said it is a permit that he can sign off on and doesn't need any special approval through the commission. There is a separation requirement that the Fire Marshall would require between the businesses. He said because there are multiple businesses in there, there has to be fire separations. There would also be a requirement to have a handicap accessible bathroom. It is a wonderful idea, but the Cease & Desist Order does still stand, said Vertefeuille.

Audience comments: 7) Joanna Auriantal asked for the implications of the Restaurant License. She said her mindset is for years from now. What is going to be there when Mr. Martinez leaves? She said I am worried about what is next. What could the next person potentially do in that space? She asked what are the limitations in zoning?

Chair Stahl said a restaurant with beer and wine would be the limitation. Ms. Auriantal asked if there are any time frame limitations. Chair Stahl said there are things with a restaurant that we would be able to do such as limiting the hours of operation. Ms. Auriantal asked how long the Cease & Desist Order has been in effect. ZEO Matt Vertefeuille said it was issued approximately on November 29, 2011. Ms. Auriantal said there have been several gatherings at that location since she moved into her home on December 17, 2011. My understanding is they would be in violation of the Cease & Desist Order. She said she is uncomfortable supporting an application for a zoning change because of integrity. ZEO Vertefeuille said he does realize that there have been events there, but doesn't feel there has been a strain on the community. Ms. Auriantal referred to the parking issue. She said when they have had events there cars are parking out on Carey Street, making it a one-lane road. ZEO Matt Vertefeuille said there are 34 parking spots available, and they do meet the requirements for the use that they are proposing. Chair Stahl said they will have to submit a seating plan. The Health Dept. and the Fire Marshall will also have to approve the plan, she said.

8) Sue Humes said they originally applied for a liquor permit to have gatherings, to have parties. Now, they are applying for a Restaurant Permit which means they could be open from morning until 2:00 AM. These are two totally different things, and I feel should not be located in that area.

10) Kayla Rodriguez, 148 Windham Road, Willimantic. She said when Mr. Martinez and his son approached her and her husband telling them about their ideas that she was hesitant. I was hesitant at first (because of a bar coming into the area) but after sitting with them and hearing their idea, their presentation of what they wanted to have there, I was comfortable with their plan. I hope that this board will approve this restaurant license. Right now the Latino community does not have a decent place to gather and sit down and have a meal. The way they explained it to me is that they are going to be bringing out the food, the culture. Everything is going to be presented in their atmosphere. She said she hopes the commission does reconsider. They are in a learning process. As entrepreneurs we all stumble and make mistakes, but you are here to help them through the process. As a resident of Willimantic, I feel this is going to be a good thing. Willimantic is changing. We need to embrace it; not push it away.

11) Flo Rivera, 125 Orchard Hill Lane. I am a business owner at 165 Jackson Street. We are here to back the Martinez family. As small business owners we go through a lot because we don't know, because we are in the learning process. I do respect the concerns of everyone. Hearing the request for a license for a bar, yes it is alarming, but listening to a restaurant where everyone can come together and learn from one another is a beautiful experience. Willimantic is changing for the better. We need businesses in town; business that are going to support our economy. On behalf of the Rivera family we are here to say please give them the same opportunity that you gave us.

12) Rich Czajka, 19 Carey Street, Willimantic said his concern is whether they have a Café Permit or a Restaurant Permit they could still be able to have that place open until

2:00 AM. He has given us his assurances that that is not his aim, or not what he wants to do. Once he has the permit, if he wants to take it until 2:00 AM he can do so. Just the fact that as a business man he knew it was illegal to sell without a permit, but he did it anyway. Now he is asking us to take his word that he won't turn it into a fulltime bar once he has his permit. If you have broken the law, it is easy to break a promise.

13) Henry Crane, Windham Street, Willimantic. Jackson Street in that location is not far from my house. I have gone occasionally to bars. I have gone to more than a few pizza houses which is typical of what they are describing even though there is a Latino take on everything. Beer & wine permits are completely different than a liquor establishment. Their whole program is different. Unless you have something to say other than his being a new businessman opening a new venture, and he just didn't know. It is not the same as somebody outright running a business to spite you. He simply made a mistake. He got ahead of himself. He is a reputable businessman in this town. That property has had a union hall. It is industrial in its program. People, when they bought their homes, knew who their neighbor was. They knew there was an industrial business operation going on there, and no matter what happened, they would have a little bit of traffic, a lot of gathering with more than a few people. This is a family that has been around a long time and they should be allowed to get their permit and go forward. The fact that he has been accommodating, the fact that he has dropped the cafe shows that he is a responsible person and knows how to conduct business and get along with you.

14) Rigoberto Benitez said he was glad that they changed their mind and decided to apply for a Restaurant Permit. We don't have a real Latino Restaurant around here. I hope you will grant them their permit.

15) Ted Swol said there is going to be a parking problem. We went through this about one year ago when the church was trying to get in there. The one thing that really concerns me is that once the liquor permit gets in there it is going to stay there. There is no recourse. This is a residential setting and it does not need a bar.

16) Luz Osuba, 14 Hewitt Street, Willimantic said she understands the concerns about traffic and the noise, but that can be taken care of. The ordinance on noise can be taken care of by talking to Mr. Martinez. She said as long as communication lines are open these issues can all be taken care of. And, not to minimize the concerns of the residents near the establishment because they are valid. It is a new community with a lot of Latin residents that are tax payers that would love an establishment where they can go and feel comfortable and gather with their families. I think that is very important, she said. She urged the commission to open the dialogue and approve what they are trying to do.

17) Ed Rivera said Hispanics offer 800 billion dollars to this economy every year. We have 80,000 soldiers serving in the U.S. military. What business can these gentlemen open that will not offend, maybe another barbershop.

ZEO Matt Vertefeuille entered the following correspondence into the record: 1) Heather Howlett is against the application based on the track record of what has happened there

over the past several months. 2) Joseph Henry said he and his wife have no objection to the permit being issued. 3) C. Kramer is against the application because he feels it will become a noise nuisance to the neighborhood. 4) Rosemary Larned is against the application because there are young children in the neighborhood and two day-care operations. 5) Donald Bachand is against the application because it will disturb the peace in the neighborhood. Mr. Vertefeuille said they have also received telephone calls: Mr. Cote was concerned about traffic and noise. Several calls from Jan Meya who is concerned about noise and traffic.

Chair Stahl said the public hearing will be continued at the commission's March 22, 2012 meeting. She said the hearing will be for a Restaurant License with Beer & Wine at 280 Jackson Street, Willimantic, CT

3) Correspondence

Letter from Tom Briggs, Principal for Loch View, LLC, regarding Windham Mills. Commissioner Jean Chaine made a motion to move this discussion to new Business and Juan Montalvo seconded the motion. The motion carried unanimously.

4) New Business

a) Update on Windham Mills

Tom Briggs, Principal for Loch View LLC, gave an update on the status of Windham Mills. He said when the Windham Mills Complex was purchased at the end of 2008 it was hoped that the Windham Mills would become economically viable. He said that has not happened. To date there has only been the coming and going of tenants. Most recently Generations Family Health Center moved from the Mills to its new building on the corner of Mansfield Avenue and Valley Street. He said presently Windham Mills Complex is only at 20% capacity, and that simply is not enough. He said other than trying to get EastConn back with a rent reduction, and renovating space for Hampton International there really is not much going on.

He said when the property was purchased the owners stressed that they would not consider residential unless all else failed. It has been four years and the worse case scenario has become a reality. There are not enough commercial tenants to fill up that space. He said the hopes of creating a commercial/industrial complex have been affected by the University of Connecticut's incubator program. They are growing this program and are able to offer monetary and incentives far beyond what we can do at the Mills. We can't compete with UConn for starter businesses, he said. The complex is only 20% occupied right now, and there are no new businesses coming into town, he added.

He said the Town of Windham has not done its part to bring economic development into Windham. He said Windham has no economic development programs; Windham's Economic Development is lacking. He asked the commission to consider the Mills Complex for an incentive housing zone. We could have a mixed use with residential and

commercial, he said. The initiative would be to encourage high-quality workforce housing that is attractive and affordable.

Chair Stahl explained that the PZC has been working on incentive housing for several years. If adopted, it would allow more units at designated locations than currently allowed by zoning.

ZEO Matt Vertefeulle said we have been involved with the Windham Mills for a long time. When Mr. Briggs took over he did everything in his power to make it a viable operation. It is crucial for the town to make that building work, added Vertefeulle. He said in the beginning he was against residential uses at the Mills, but he has had to reconsider given the potential trickle-down effect it could have in terms of attractive tenants such as shopping and dining venues. He would not be filling it with residential only, he would also be filling it with commercial, said Vertefeulle.

Chair Paula Stahl said Mr. Briggs should not limit his considerations to only include residential. He should expand his goals to include the possibility of a conference center, a banquet facility and hotel space, she said.

Commissioner Jean Chaine asked, if any part of that facility becomes residential, will the parking be adequate, or will they have to redesign the parking.

Karl Neilson referred to a multi-use, including student housing. He suggested inviting commission members to view the site and see what might work there. Chair Stahl said the property is in an M-3 Zone which includes certain permitted uses. Mr. Briggs said he would be happy to show off what we have accomplished there.

5) Old Business

a) Update on Incentive Housing Grant.

In her introduction, Jana Butts said the Windham Planning & Zoning Commission seeks to promote the creation of high quality, workforce housing in its downtown and in adjacent neighborhoods through the adoption of Incentive Housing Overlay Zones. Attractive affordable housing will increase pedestrian activity, support downtown businesses, help preserve historic structures, revitalize vacant or underutilized properties, and make efficient use of existing public infrastructure and transit services. It will help Windham capitalize on its existing assets as part of a comprehensive smart growth strategy. She went on to review a draft copy of the Incentive Housing Overlay Zone Design Standards. She said these design standards advise the development, redevelopment and renovations of properties within Windham's Incentive Housing Overlay Zones. High visibility sites deserve a high standard of design. If designed well, they will serve to improve the perception of the community and foster economic development by building community value. She said the areas in this Overlay Zone could be considered for single-family houses, multi-family houses and townhouses.

She then went on to review specific properties in Windham. Zone 1 has four properties in Historic downtown; the Nathan Hale Hall, Hooker Hotel, YMCA and the Chapman building. She said compatibility with the historic character of Main Street is critical for any new construction or renovation in this zone. Nathan Hale Hall is probably the only building in this zone that is likely to be renovated.

Zone 3 is located next to Jillson Square and Thread City Crossing (aka The Frog Bridge). These highly visible properties represent a prime development opportunity.

Zone 4 is located on the only stretch of Main Street where it is possible to see the Willimantic River. It is surrounded by small neighborhood businesses.

Zone 7 is located on Boston Post Road near the Willimantic River. This is a mixed-use neighborhood with numerous single, multi-family residences as well as a large auto junkyard and an auto dealer. While the site is challenging for residential development due to the neighborhood uses, with careful design, it could be compatible.

She said design criteria include road location, transit services and traffic circulation, as well as facades, materials, windows and doorways.

b) Zoning Revisions

Chair Paula Stahl said the commission is working on revisions to the Business Zones, Alcohol Regulations, Lighting & Sign Regulations and Gravel Regulations. She said a public hearing for the Alcohol Regulations is scheduled on March 22, 2012.

As there was no other business, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Lillian Murray, Clerk