

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

September 27, 2012

The Windham Planning & Zoning Commission held its meeting on September 27, 2012 in the Meeting Room, Town Hall. Chair Paula Stahl called the meeting to order at 7:00 PM. Members present were Victor Rayhall, Juan Montalvo, Jean Chaine, Dawn Niles, Claire Lary, Dan Lein and Paula Stahl. Phoebe Godfrey was excused. Also present were Town Planner James Finger and Code Enforcement Officer Matthew Vertefeulle.

I) Approval of Minutes

a) The minutes of July 26, 2012 were amended- Pg. 4, para 4, the chain link fence will **alter the character** of the natural environment... Pg. 5, para 4 ...indoor or public parking, and onsite storage **for residents**, home occupations... Juan Montalvo made a motion to approve the minutes of July 27, 2012 as amended and Victor Rayhall seconded the motion. The motion carried unanimously.

b) The minutes of August 23, 2012 were amended – Pg. 3, para 4 ...It is unfair to **saddle** the applicant with the cost...Dawn Niles made a motion to approve the minutes as amended and Claire Lary seconded the motion. Voting in favor of the motion were Dawn Niles, Claire Lary, Jean Chaine, Dan Lein, Victor Rayhall, and Paula Stahl. Juan Montalvo abstained as he was not present at the August 23, 2012 meeting. The motion carried.

c) The minutes of September 13, 2012 were approved. Juan Montalvo made a motion to approve the minutes and Jean Chaine seconded the motion. The motion carried with one abstention.

II) Public Hearings on Proposed Revisions to the Windham Zoning Regulations as follows:

1) Public Hearing on Proposed changes affecting General Businesses and General Commercial Districts.

a) **Revise Section 32** – General business District B-2 of the Windham Zoning Regulations and revise the B-2 District Boundary

b) **Create Section 32A** – General Business District B2A with zoning regulations and boundary to encourage and permit business similar to the B-2 District but at a lower density and larger scale.

c) **Rezone Parcels** currently in the B-2 to more compatible contiguous zones.

Rezone 27 through 59 Holbrook Ave., also 28 Arnold's Lane, and 25 Vermont Drive from Business B-2 to Residential R-5, also 25-52 Wilson Street from commercial C-2 to Residential 5.

Rezone ECSU property at 284 Valley Street from B-2 to Residential R-6 for the Dormitory.

Rezone the rear portion of 55 Bridge Street leased by the Railroad Museum, and the rear portion of property at 75 Bridge Street from B-2 to C-2 (front portions will remain B-1A)

Zoning change for AT&T parking lot identified as 27, 28, 29 Schoolhouse Lane behind Town Hall – rezoning from B-2 to B-1A.

Zone change for riverbed and riverbank at 79 Bridge Street along with abutting unnumbered parcel to the southeast, from B-2 to Reserved Land.

d) Revise Section 35 – General Commercial District C-2 with of the Windham Zoning Regulations and revise the C-2 District Boundary.

e) Create Section 35A - General Commercial District C-2A with zoning regulations and boundary to encourage and permit businesses similar to the C-2 District but at a lower density and larger scale.

Chair Paula Stahl said we will hold three public hearings this evening, and as each hearing is opened public comment will be received. Comments will only be received during the appropriate hearing. She said it is a legal issue; we have to consider comments during the appropriate public hearing.

She said the commission has worked diligently amending the regulations to promote new business development in town. Our goal is to make it easier for new businesses to establish themselves in this area of town, she added.

1) She said the first public hearing is on changes affecting the general business and commercial districts. The change is to revise Section 32, and create a new section 32-A, to create flexible regulations and respond to the current development patterns. We are also rezoning several parcels that are currently in the B-2 Zone, but really aren't business uses.

There is some residential property on Holbrook Avenue, Arnolds Lane and Vermont Drive that should not be (in our opinion) a zoned business. Also, we are changing Wilson Street, from a commercial to a residential area. Eastern's property, Nobel Hall, sits in the back and is currently a business zone. We are proposing that it be changed to the same zone that the other Eastern property is across the way. She said there are a couple of parcels in the back on Bridge Street, by the Railroad Museum, and even further back there is a parcel where there was once a manufacturing firm. We will be moving those properties from B-2 to C-2; she said the parking lots which are located behind Town Hall are owned by AT&T. We will be changing this zone from B-2 to B-1A. This is a contiguous parcel, she said. Also, the river bed and the riverbank down along Bridge St. have been changed to reserved land.

In addition, during this public hearing we are proposing to revise Section 35 and to create Section 35-A. These areas are currently C-2. We are creating a new C-2A zone to encourage and allow businesses that are vehicular oriented, said Stahl. By doing these two changes, including the boundary lines, we are increasing our commercial area by almost 200 acres. It is going from Manufacturing to Commercial, she added.

She explained that when any town is proposing zoning changes the town needs to request an opinion from The Regional Council of Governments (WINCOG), and also to notify the abutting Council of Governments. She then read a letter from the Southeast Connecticut Council of Governments stating that based on review of the information submitted, it was determined that the proposed amendments would not have any adverse inter-municipal impact. She also referred to WINCOG's response which stated that this referral involves a proposal to make numerous changes to the zoning regulations and the zoning maps. It further states that this proposal was transmitted to the Windham Regional Council of governments under the provisions of Section 8-3b in the Connecticut General Statutes as amended. It further states that the Regional Planning Commission reviewed the proposed amendments to the zoning regulations. The commission offered recommendations on how proposals can better meet the goals and visions of the Windham Region Land Use Plan, WINCOG's regional guide to conservation and development. The recommendations made by the Regional Planning Commission are purely advisory. They state that the proposed changes to the zoning districts within Willimantic and in North Windham are consistent with the Windham Regional Land Use Plan of 2010 which identifies these areas as part of the regional center, the highest priority for development. An exception is a runway at the Windham Airport which was not included in the area delineated as the Regional Center. The proposed changes to the zoning district on Route 32 south are not consistent with the Windham Region Land Use Plan 2010. The Regional Plan does not identify this area as a development priority, although the members of the Regional Planning Commission recognized that this stretch of highway contains existing development and is identified in the Windham Plan of Conservation and Development as commercial vehicular. They go on to state that the proposed changes to the procedures for site plan and special permit approvals are an excellent update over the existing sections. They conclude their comments by stating the proposed changes to the regulations concerning expansion of non-conforming structures are considered to expand flexibility and are therefore consistent with the goals of the Windham Regional Land Use Plan and not anticipated to create negative a negative impact.

Chair Stahl then opened the public hearing up to comments from the audience regarding the changes to Section B-2, B-2A .

1) Michael Taylor referred to his letter dated September 27, 2012. He said that he owns some properties along Route 6 and Route 32 (West Main Street). These properties include Gateway Commons, 1548 West Main Street, the Juvenile Court Building, as well as several other pieces of undeveloped land on Route 32 and also Columbia Avenue. He said the changes in the regulations that concern him are the changes which will now

prohibits vehicular related businesses including, but not limited to gasoline filling stations (which are by Section 32A.5.1 specifically allowed); repair facilities, painting and upholstery, washing, sale or leasing of new or used vehicles, junk yards, fuel storage or fuel distribution. The proposed changes prohibit vehicle sales, leasing and all the functions thereof. For years, my corner lot has been used by Scott Lewis on Capitol Drive up until about a year ago when he purchased the rest of the property, said Taylor. So, for over 10 years they have used that spot for used cars. Mr. Coutu has the same auto usage concerns across the street. The whole area is being used for that type of business; however, those uses would no longer be permitted by the new regulations.

Mr. Taylor said he feels strongly that this prohibition of use for sale or leasing of new or used vehicles, and the ancillary functions thereto, is not in the best interest of good planning or zoning. He said this location is a highly visible, high traffic site with excellent access from both Route 32 and Columbia Avenue. He said an auto dealership is certainly less invasive, creates less traffic and offers a lot less development density than most other types of business permitted in the B-2A zone. He added that several of the surrounding properties (Capitol Motors, Coutu Trucks etc.) are in similar businesses.

He said that he respectfully requests the commission to review this proposed restriction on property, along with other permitted uses, which I believe is ideally located and suited for vehicular related uses. To keep this proposed prohibition would potentially inhibit good growth in this area, he said.

2) Joe Marsalisi, who operates J & S Radio on Main Street, across the street from the Cumberland Farms Gas Station, said they operate a public safety emergency type of vehicle business for emergency work.. He said they are trying to get the dilapidated building next door torn down and put up a larger garage that would accommodate a fire truck that needed to be worked on. He said under the regulations he may not be able to build the garage as they had planned to do. He said under the proposed regulation revision the business might have to move out of town.

3) Bob Coutu, of Coutu Auto Sales, referred to his letter of September 17, 2012 sent to the town. He expressed his concern with the proposed zoning changes as they affect his business located at 1511-1547 West Main Street. He reviewed the history of the business which was established in 1947. He said over the years, the rules and regulations have changed, and we have tried to keep up with the changes making sure that the business complied with the regulations and making sure that the business had the required permits and certificates. The proposed regulations do not allow for expansion of our business. He asked the commission to reconsider the proposed revisions and instead retain the current regulations in this location so that their family can continue to conduct and maintain their business.

Commissioner Jean Chaine asked Mr. Coutu if his operation is strictly selling parts, or are you dismantling on site to create the parts. Mr. Coutu said they do dismantle, but they do not crush vehicles. Commissioner Chaine said the operation right now is dismantling vehicles, buying parts and storing them. Mr. Coutu said all dismantling is

done inside.

Chair Stahl said the commission understands Mr. Coutu's concerns and stated that the commission would work with him on this. She said she doubts the commission will be making a decision this evening which means that we will either close the hearing if we have enough information and make a decision at our October or November meeting,

Chair Stahl noted that most of the people in the audience were from the South Windham area because they are concerned about Camp Horizon. She said Camp Horizon is not on the agenda and there isn't any topic on the agenda that would affect Camp Horizon. Chair Stahl said she would like to have a meeting in the near future where we can put them on the agenda and that is what we focus on. There isn't any topic on tonight's agenda that is pertinent to your concerns in South Windham, she said.

Commissioner Jean Chaine explained that the South Windham group is here just to clarify the decision we made several meetings ago. He said the South Windham group is here to get clarification on Section 3.10. If you want to extend a courtesy to them we could add Section 3.10 to the agenda and I offer to make that motion. Chair Stahl said that would be a different public hearing. There is nothing on the agenda that pertains to Camp Horizon. She said she was extending the group the courtesy to know that if they wanted to leave, they could leave and we will take this up as a special topic on November 15, 2012.

She said we will continue the public hearing and asked if there were any other comments on the B-2. 3) Kurt Lessenger said he owns property on Trapella Road and he agrees with what Mike (Taylor) brought up as far as selling, leasing of vehicles. All along there you have an oil change business across the street; you have a car wash, a new car dealership down the road. He said the commission should consider not taking these particular items out of the permitted uses.

Chair Stahl asked if anyone had comments regarding the C2 or C-2A. 4) Mrs. Thomas Gasper said they live on Arnolds Lane and asked why the commission was considering changing that area from commercial to residential. She said they are surrounded by commercial properties. Planner Finger explained that he thought changing it to a residential use for which it was occupied would be better than as a commercial property because there is not much opportunity for commercial uses there. It is grandfathered as it is, but they cannot expand the use, but they can expand the building under Section 3.10. If you want to allow an expansion of use to include other properties that might work for them.

As there were no other comments from the public, nor any questions by commission members, pertaining to the B-2, the B-2A, C-2 and C-2A and certain rezoned parcels, the commission agreed to continue the public hearing to the next meeting on October 25, 2012.

2) Public Hearing on Revisions to application process

- a) Revise Section 61 Site Pan Process** to clarify application process.
- b) Revise Section 62 Special Permit Process** to clarify Special Permit Process
- c) Create Section 84** and renumber the regulations in Section 61.6 to Section 84; no text changes to the regulations are being proposed. To revise any zoning regulation reference to refer to the new section numbers.
- d) Section 3.10.7 – Enlargement of a Non-Conforming Use** – to clarify the process to expand a non-conforming building and changes the approval process to be consistent with other processes for non-conforming proposals.

Chair Stahl said we are revising Section 61, Site Plan Process, to clarify our application process for a site plan. We are also revising Section 62, Special Permit Process, again to clarify the application process. Also, the regulations in Section 61.6 will be relocated; she said we are not changing the language in these regulations, but we are moving it to new Section 84. Also, Section 3.10.7 to clarify the enlargement of a non-conforming use. Also at the request of the Town Planner to have the approval process with the Planning & Zoning Commission to be consistent with other processes for non-conforming proposal.

She then read into the record the comments from the Windham Regional Council of Governments pertaining to this public hearing. It states that the proposed changes to the procedures for site Plan Special Permit approvals are an excellent update over the existing sections. The proposed changes to the regulations concerning expansion of non-conforming structures are considered to provide flexibility and are therefore consistent with the goals of the Windham Region Land Use Plan.

Before the hearing was opened for public comment, Chair Stahl reviewed proposed changes to Section 3.10.7 – Continuation of non-conformities.

Commissioner Chaine said we should be talking about Section 3.10 by itself at a separate meeting. He said he thought this was an issue that the commission was going to focus on this evening. He said it appears that changes in the language are already beginning to take place. He suggested taking Section 3.10 in its entirety, and remove it from the agenda and take it up at another session.

Commissioner Dawn Niles said if we are going to make changes to the language of Section 3.10 property owners should be notified of the changes prior to the public hearing.

Commissioner Jean Chaine asked if there is a way that we could at least hear what a spokesman has to say about the concerns that brought that entire group here this evening. That might help us with some of the work that we are proposing on dealing with Section 3.10 as a separate issue rather than vote to take it off as a public hearing and not give the public an opportunity to speak tonight. Apparently the residents saw Section 3.10 as the regulation that Camp Horizon would come under. We need to get the spirit and intent of the people who put that regulation together in 1996 to have it reflect what we do today.

Chair Stahl said we could have someone speak on it briefly knowing that we will be voting to take it off the public hearing. She asked if there was anyone to speak on Section 3.10. 1) Jack Kornacki said we are concerned with Section 3.10.7, Paragraph 4 which would permit a non-conforming facility to extend or enlarge up to 25% every five years. He said this is of particular concern when the infrastructure of a non-conforming facility includes various use buildings and support areas that are not in concert with the character of the neighboring, residentially zoned properties. This situation is exacerbated when that facility has the ability to increase in amount, type and on a continual basis beyond its original footprint. Continued extension adversely affects the character of and property values of neighboring residential properties. He said since Section 3.10.7 permits extension or enlargement every five years, he proposes a modification of this provision to "...once within five years of the date the permit was granted to provide a one time accommodation after which no further expansion will be entertained. He said the purpose of this proposal is not to disallow a non-conforming use that provides a service to the community, but to limit extension of enlargement to protect the character and property values of the surrounding neighborhood.

Chair Stahl said she would like to take Section 3.10 in its entirety out of tonight's public hearing. Dawn Niles made to remove item (d) Section 3.10.7 from the agenda and Dan Lein seconded the motion. The motion carried unanimously.

Chair Stahl asked for comments on Section 61, 62 and 84. Since there were no comments, the public hearing was closed. Dan Lein made a motion to approve the proposed changes to Section 61, 62, and create a new Section 94 and Dawn Niles seconded the motion. The motion carried unanimously.

2) Public Hearing on Revisions to Section 39.

Chair Stahl opened the hearing and asked for comments to Section 39 North Windham C-4. We are clarifying the commission's intent for lot coverage and to refer to the approval process. Since there were no public comments and no further questions from the commission the public hearing was closed. Dawn Niles made a motion to approve the proposed changes to Section 39, North Windham East C-4 and Jean Chaine seconded the motion. The motion carried unanimously.

III) Other Business

a) Windham Mills – Proposed Planned Development District zoning application

The commission took receipt of the application and scheduled a public hearing on October 25, 2012.

b) State Plan of Development Update

Chair Stahl said she e-mailed commission members a picture of the map and also a dialogue of language which Jana Butts has forwarded on.

c) Referral by Water Dept.

Chair Stahl explained that the Water Dept. would like to acquire property that is the foothills of Hosmer Mountain. The referral is here because Connecticut State Statutes say that anytime the town is going to dispose of or acquire property has to come before the Planning Commission for an 8-24 review. She said the Water Dept. would like to acquire this property. The price for the 6.9 acre parcel is \$15,000.

Dan Lein moved the following resolution: Be it hereby resolved pursuant to the Connecticut General Statutes Section 8-24, that the Windham Planning & Zoning Commission recommends that the Windham Water Works proceed to acquire property at 225 Mountain Street.

The property will be used for the Water Department for municipal use, which is consistent with the town Plan of Conservation and Development as it will be a preservation of a portion of Hosmer Mountain... Claire Lary seconded the motion. The motion carried unanimously.

As there was no further business, Juan Montalvo made a motion to adjourn at 8:45 P.M and Dan Lein seconded the motion. The motion carried unanimously.

Respectfully submitted,

Lillian Murray, Clerk