

PLANNING AND ZONING COMMISSION
TOWN OF SOUTHTON
SEPTEMBER 1, 2020

The Planning & Zoning Commission of the Town of Southington held a public hearing and regular meeting on Tuesday, September 1, 2020 via WebEx teleconference. Robert Hammersley, Chair, called the meeting to order at 7:00 pm.

The following participated:

Robert Salka, Jeff Gworek, Susan Locks, James Macchia, Christina Volpe & Peter Santago

Alternates: Theresa Albanese, Joe Coviello & Caleb Cowles

Absent: Alternate Stuart Savelkoul

Staff:

Robert Phillips, Director of Planning & Community Development

James Grappone, Ass't Town Engineer

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

A Moment of Silence was observed by everyone.

ROBERT HAMMERSLEY, Chair, presiding:

APPROVAL OF MINUTES

- Regular Meeting of August 18, 2020

Mr. Salka made a motion to approve the Minutes which was seconded by Mr. Santago. Motion passed unanimously on a voice vote.

PUBLIC HEARING

A. Application of Jonathan R. Aubin, attorney for MDP Holdings, LLC, to change the zone on property located at 1608 Meriden Waterbury Turnpike from I-1 to B (parcel size 1.37 acres) ZC #566)

Attorney Jonathan R. Aubin, Romano, Parker & Associates, Rocky Hill, represented the developer, MDP Holdings, LLC. They are seeking a zone change for this parcel at 1608 Meriden Waterbury Turnpike to convert it from I-1 to a B for business zone.

They have planned for the parcel to have a 5,000-sf convenience store and gas station. It would involve the demoing of some of the buildings that are there. There is a couple of Quonset huts and an old farmhouse on the location presently that would have to be removed.

We're hoping this can be a 24-hour convenience store and we're hoping to bring some commercial growth to an area that we think is underserved. It is the corridor east of I-84 on Rte. 322.

We would be looking to perhaps put in a drive thru sandwich shop. Not necessarily a drive thru, but a sandwich shop of some type of fast-food element included in the convenience store, as station combo.

There is an existing structure on the back lot that borders Clark Street. That would be remain in place. We're looking to retain as many of the tenants that are presently there. There is an auto detailing business we are looking to relocate and a tool manufacturing facility back there, as well.

It is basically that we are looking to change it to a commercial zone in order to make that convenience store and gas station a reality.

That's all I have for now.

Commissioners comments/questions:

Mr. Santiago stated we are usually kind of reluctant to give up industrial zones to others in town. I need to take a good, hard look at your proposal. He questioned the address. Are there are other facilities included in this? Is it only 1610 or is it multiple tenants? It seems like there are other addresses within this space when you drive by.

Attorney Aubin clarified it is 1606 to 1610, perhaps. It is several lots combined into one parcel.

Mr. Santiago observed this kind of zone kind of precludes or hinders other industrial growth there. That is a prime spot. Dominoes would start to fall and we would lose the rest of the industrial zone there if we grant this. I'm hesitant without going over there and taking a look at doing a zone change there.

I disagree with your interpretation that that strip of land is underdeveloped from a business perspective. I think it is very developed on that strip of property on that street. Industrial stuff is hard to come by.

Do we know the history of this zone over here with regards to it always being industrial down that road or business? Do we have an idea of how we got to where we are?

Mr. Phillips said he didn't research the history of this. But it is likely that some of these uses pre-existed zoning and therefore you would place the zoning that reflects what the use would be. My suspicion is that this has been an industrial area for quite some time.

Discussion of what is there right now on that corner.

Mr. Santiago further stated you have to send out a notice to abutters by law. And, that has been done. Did you talk to the Manor Inn or your neighbors about the proposal?

Attorney Aubin responded the developer has been taking the point on that and he has discussed it with neighbors and they're excited about this development. They want this to come to that area. The corner across from the Manor Inn has a rundown farmhouse, Quonset huts are rather unsightly. This could modernize the block and bring some much-needed light to the darkness at that edge of town. Help with the economic development. In the POCD, a couple of the goals are to promote economic development and we think this promotes that goal. It will provide jobs, enhance goods and services and enhance the tax base. Continue to be known as a friendly community. These are all in alignment with the goals of the town.

This particular section, in Chapter 10, Promote Redevelopment in the Milldale Area, this parcel is outlined as a parcel for potential redevelopment.

As the plan develops, we think as we tease out the goals for the town, aesthetic and otherwise, we can reach consensus for the best and highest use for this property which we don't think is being currently utilized at the moment. We think this is an opportunity not just for my developer but for the town.

Mr. Santiago reiterated he wanted to take a good look at the property, and have a little more time, for a zone change. Zone changes are taken very seriously.

Attorney Aubin noted although this is an industrial area, there is not a town of growth in industry presently. This isn't so much an example of spot zoning as an expansion of the existing business sector there. This would be seamless with what is presently there. We invite competition and like the fact here is neighboring businesses that would provide competition for the area and we would really like to modernize the corner and make it as nice as it can be within the town's zoning regulations. Provide a boost for the town's tax base, as well.

Mr. Coviello asked about the existing building to the back where it looks like an addition is planned. What is the thinking on that? Attorney Aubin acknowledged there are tenants presently there. We want to keep that building intact. We want to expand on it and get the most economic use out of it possible. There are 8 or 9 commercial tenants there, already. We're looking to just make those tenants happy. Presently the whole parcel is in the Industrial zone.

Mr. Coviello asked how that would work. Mr. Phillips said it is a consideration for the applicant because once they change the zone, whatever is existing that may be nonconforming to a business zone would be a nonconforming use subject to all requirements in the regulations, i.e.: any ability to expand or intensify. It's a situation where they should be aware of the limitations they may be placing on the future use of the existing building. There are some uses that could be industrial and business and they wouldn't be impacted. Those that are business like would benefit to be in a business zone and some that are more industrial in nature would be impacted.

Ms. Locks was curious about the people in the Quonset hut. Are they going to remain in town doing business? Attorney Aubin responded they are seeking to relocate them to the back building there. There is an auto detailing business presently there and we're working with all the tenants now to keep them happy and within the parameters of what we have right there.

In the front we are looking to put the convenience store gas station. In the back area, that is where we are looking to relocate the auto detailing business.

Ms. Locks noted the two small businesses do quite a big business.

Attorney Aubin explained we are in negotiations with them and they are really excited about this opportunity and think it could draw even more customers to them.

Mr. Gworek referred to the GIS aerial. They've tried to revitalize that area. The area across the street has gone through some renovations and there is the storage to the east of your property. For me, it would be nice to see something there. I know Industrial to Business is a tough choice for us, but you know, what you propose, it would be nice to see something new and more modern in that area.

Mr. Macchio said he does not like giving up industrial. I know the area well. There has been a lot of changes in that corner, but it is interesting he wants to put up a gas station/convenience right across the corner from where that convenience store put a lot of modification in to renovate. I don't know if we need both of them right there at that same spot. My biggest point is that we would have to give up some more industrial. We have plenty of convenience stores, plenty of drive thrus, we have plenty of gas stations. To me, that is a major consideration in changing it later on.

Ms. Volpe echoed what has been said. She is hesitant. If we look at the zoning map from an aerial view this is kind of our last chance to maintain industrial zoning in this area between us the border of Cheshire. A lot has been already changed to Business zoning.

The structures to be maintained, I'm a big fan of early Americana, WWII, very unique to Connecticut. I know these were put in in the 80's. These are considered temporary structures and I am wondering what the vision is to redo them. Demolish and replace?

Attorney Aubin clarified the structure on the corner would be demolished. Everything that is a Quonset huts, those are going to be coming down. The gray building in the back is the existing structure which we would be seeking to maintain. Discussion.

Attorney Aubin further added he would have to discuss this further with his client. There was a structure he wants to keep in place, a long, rectangular structure. He did mention the Quonset huts are coming down.

Ms. Volpe further noted this was formerly a farm by one of the founding families of Southington: the Bradley Family. Its not documented historically on the NRSR State Register, but I'm wondering if there would be a zone, if we do do the zone change, understanding it was originally a clock factory that Jason Bradley owned in 1855 and then later on in the 60's it was a manufacturing business. Is there going to be some sort of documentation down to get that down so that we know that existed there? Is there a plan for documentation of historical or archaeological resources?

Attorney Aubin said it was not part of their plan, but they would be happy to work with the town and make you happy in whatever respect.

Discussion.

Ms. Volpe said she supported this as it was a great way to revitalize the area and it does go in with what we have going on and have already approved around it. The Industrial zone sits on a very thin line right now. I say to my fellow commissioners: consider if this goes, this is losing part of that 10% that we have left of Industrial area zoning in our town. I want to be sure the history is preserved.

Ms. Albanese agreed with maintaining as much of our Industrial zone as we can. If it gets to a site plan stage, I'll have questions then. I would like to see something happen at this corner and I wonder if Lou Perillo has any bites on this property for Industrial. To me, this is an eyesore. Whether we need another gas station/convenience store, that's up to the applicant as to what they feel is appropriate for this location.

Mr. Phillips said he spoke with Mr. Perillo. He didn't have an opinion either way on this application at this time. As far as the history there, I did not do a historical search on the uses on the property. From the looks of it, most of it has been there for quite some time.

As to the historical survey, I did quickly search on line, and that address does not come up on the (inaudible).

Mr. Cowles had two points to comment on. As to the tool manufacturer that is existing on the property as a tenant, I guess my concern is that I always hoped that any existing business has the opportunity to thrive and expand. I have grave reservations about making the zone change and then limiting the ability of that business to expand in a Business zone. I share the concern of my colleagues when it is said that moving from I to B zone is concerning.

If we are looking for development in this section of Rte. 322, directly across the street is a B zone and it is a vacant parcel. It is there and it's not being utilized whereas across the street it is being utilized in some instances to it's potential. I'd like to see the potential expanded upon within the definitions of what should go into an Industrial zone.

Mr. Salka went back to the machine shop next to the auto detailing. What would happen with that? That is classified as Industrial and not Business. The large building with the red front and all of the huts, how does that work if they're going to tear that down? What happens to all those businesses that are there now? Do they go into limbo to reconstruct or would they relocate, which could be a problem.

Attorney Aubin said if it were converted to a B zone, the machine shop would be a nonconforming use and it couldn't be expanded upon. As far as I know, the tenant there is happy with our plan. All commercial tenants in the red building now, we are looking to retain and modernize the structure. I need to consult with my client but we are looking to retain as many of our commercial tenants as possible. The ones we have consulted with are very excited about the plan, including the machine shop owner.

Discussion.

Mr. Salka would support the modernization but when you talk about nonconforming, if the machine shop --- if they put the gas station there, that's not just nonconforming. How does that even fit? How could they do that, putting in a nonconforming and moving the location? They're not expanding but moving the location.

Attorney Aubin explained we are not seeking to displace any tenant. With the exception of the auto detailing shop, which we would hope to move to the back, the large rectangular structure which contains the machine shop would remain in place. So, the addition wouldn't be to the machine shop itself, but we would be replacing the part of that structure that is old and unsightly, looking to keep our commercial tenants there.

Discussion of what is in the Quonset huts.

The Chair referred to the future land use plan in the POCD, Page 113. The Industrially zoned land that we have is pretty sparse along the southern end of the town which is where this would happen. This is the only Industrial land that exists along the border with Cheshire. To the north end of town, between Queen and West Street, you find a bulk of our Industrially zoned land.

He was concerned about changing an Industrial zone as it is such a high valued piece of property and one that we don't have a lot of. Once it's gone, it's gone forever. The possibility of getting it back is slim and none. That's a concern.

I agree with your perspective on the development of that end of town and expanding the business center and modernizing that area and corner of town. I get it.

What you are asking us to do is not an easy task, to remove albeit what you consider a small section of Industrially zoned land move that to a business zone and what you want to put on there is second in nature as it doesn't come to later on. This is just a zone change application now.

What is your reaction to that?

Attorney Aubin responded the parcel is rather small and it's not uniform in shape. It's only 1.37 acres. Today's industrial manufacturers are looking for significantly larger parcels, I imagine. We believe and we understand the town's wanting to retain what little industrial area it has, but again I just don't see a manufacturer coming to this particular location. It's ideally suited given the fact it is a four-corner intersection for commercial development. It would be an expansion of the business zone that's there. Again, we think this is a rare opportunity for the town. We have corporate partners that are ready plant their flag at that location. We believe in the free market and we think this could be a real economic benefit for the town. I hear your concerns about the zone change being a permanent thing and not something that is done lightly, but again, what's there doesn't reflect well on the town. It can be better. I think it can be brought into the 21st century and really bring up all the surrounding tenants, as well, and bring more traffic to the area.

The Chair added the commission is pro economic development. That is really not what is driving this hesitation. I think it is more of what I stated, our POCD was adopted over four years ago and that looked at the town as a whole and all the zoning in town. It designated this piece of property to be an Industrial (I-1) zone. That's the adopted future land use plan that we adopted.

(Connection lost)

Minutes are prepared summary style and you may refer to the video on line to hear the full presentation.

(Connection regained)

Those wishing to speak in favor of the application.

Paul Kreidel, 68 Rivercrest Drive, spoke in favor of the application. He said the property is an eyesore and a gas station is fine and the fast food. You really need to see it. Something needs to be done to the property. I understand you want to keep it Industrial, but it is such a big eyesore and probably the biggest eyesore on Rte. 322 and this area.

(Those wishing to speak in opposition to the application.

The Chair noted a letter on file in opposition from Peter Baluto at 1660 Meriden Waterbury Turnpike.

The Chair said some commissioners want to get out to the site and some want to know the history of the zone for the property, therefore, he was inclined to keep the public hearing open.

Discussion

Mr. Santago brought up the multiple addresses that go across this zone change and whether the record should reflect that. Mr. Phillips responded if the address is incorrect, that's a cause for concern. Ms. Volpe noted on the map it seems to be 1608 to 1618.

Discussion.

Mr. Grappone clarified the assessor's card record indicates the property as 1608. Their card only recognizes one address per property but you might have multiple buildings on that property. I think it is correct as 1608 made up of other addresses for multiple buildings. (Assessor's card copy in the packet.) The Chair commented it looks like it is one piece of property on that assessor's card. Point well taken. Mr. Phillips added traditionally when we create agenda items it goes off the assessor's database. Building one, section one was built in 1940, predates zoning. One of the Quonset huts. Mr. Santago concluded he had no problem with it.

The Chair left the public hearing open to September 15th and moved on to Item B.

B. Special Permit Application of Eleni Real Estate, LLC for two buildings on one lot, property located at 1615 West Street, in the WSB zone, parcel size .65 acres (SPU #639)

The Chair asked Mr. Bovino: It is my understanding the acreage and the size of the lot is actually closer to 2.13 acres. Mr. Bovino confirmed it is 2.13 acres. Let's have the record reflect that advised the Chair.

Mr. Bovino, Planner with Kratzert, Jones & Associates, representing the applicant advised the property was .63 acres and it used to be zoned Business with offsite parking to the north. Currently, this property is located at 1615 West Street, east side of West Street. It is used as a restaurant for many years.

To the north and east we have a large property, 112 acres, farm property. To the south we have the Central Baptist Church complex. We are surrounded by those two properties. To the west, we have West Street.

The applicant, with much effort was able to purchase the land from the neighbor, the Sepko Family, and increase the lot size to 2.13 acres. The zone now is the West Street Business Zone (WSBZ).

The reason for the purchase was to accommodate the parking off site north of the property. He wanted to bring that parking closer to the existing operation, near the building.

The application before you is to allow an additional building on the site. Currently, there is a single-family residence and a garage which are planned to be removed, in addition to the restaurant which will stay.

Section 1-09 of the regulations allow this request by special permit. We have provided the area map listing the property and owners within 500' of subject property and notified the owners as required and provided proof of mailing to the planning department.

We also submitted a full site plan showing the entire property with the new building and the related infrastructure like drainage, landscaping, et cetera.

There are no additional curb cuts proposed. We are eliminating the curb cut that serves the existing house to the south. The proposed building is to be used for medical office space. Two story colonial building with exterior materials which the WSBZ requires.

The proposed lot coverage is 11.9% and the allowed lot coverage in this zone is 40%.

The building is located in the south center portion of the property to the right of the restaurant where the current home exists if standing on West Street.

The plan is to have shared curb cuts with the restaurant and shared parking. We believe the uses are compatible and actually complement each other.

We also submit that granting of the request will not be detrimental to the area and will not prevent the orderly development of the surrounding properties.

We are eliminating one of the curb cuts that currently serves the house.

I'll take questions at this point.

Commissioner comments/questions:

Mr. Santago brought up the fact that he thought the WSBZ you needed a lot of 2.5 and this is 2.1. Am I mistaken? He referred to Section 4-05.5, minimum lot acreage shall be 2.5 acres for a mixed-use project. The Chair confirmed he was correct as to what the regulation reads. (Page 14 in Section 4 of the Regulations.)

Mr. Bovino said they were at .63 acres and through a lot of effort we purchased additional property and the farmer would not sell more than what we purchased. Only a few more feet and we would have reached the 2.5 acres. So, right now basically this lot is an existing nonconforming lot insofar as the zoning regulations in terms of lot size. However, in terms of the development rights, we have the right to develop according to the standards which are the setbacks, frontage, lot coverage and those kinds of things.

Mr. Santago asked Mr. Phillips: I thought for the WSBZ it had to be 2.5 and we are at 2.1 for lot size. Mr. Phillips responded that is an interesting question because as I understand when the zone was passed, it had the intention of incentivizing the acquisition or congregation of greater than multiple properties with a minimum lot size of 2.5 acres. I have a real concern with that. I think it could create a situation where you are forcing third party property owners to negotiate and if they can't they literally could have a partial taking on their hands. However, I leave it up to the commission as far as how you

want to see that. I'm not sure if you want to get a legal opinion on this. You need to make a determination on whether you see the need to have properties of 2.5 acres or larger at all times when there is redevelopment or if you want a legal opinion. The other options are the property owner would have to seek a variance which would be a hard thing to prove for hardship. Or they'd have to seek a zone amendment or acquire additional property to get the 2.5 acres.

Mr. Santiago pointed out the regulations says what it says. It says: 2.5 acres. I can't ignore that. If I were to say, just kidding, or I can ignore it this time because you're close, that's quite a precedent to set for any other application that comes up that is kind of close and well, we like you, so we are going to let you do it. I'm struggling with that. The WSBZ was put there so that West Street didn't look like Queen Street. I'm struggling with 2.1 versus 2.5.

Mr. Bovino explained the difference here is it's not that we took a piece of property and we did a subdivision and we subdivided the lot and made it smaller. What we did here is we took an existing nonconformity which was in operation prior to zoning and we increased the lot size. Regardless, we were planning to do this before the WSBZ came into being. This negotiation has gone on for years. The applicant has to try to buy property for the last five years from the neighbor and it took some intervention from different people to convince them to sell a portion of it. It was very difficult to get what we got.

So, we did not subdivide something and made it nonconforming. We took a nonconforming and made it bigger. It came close to the current requirements. We were in existence prior to the WSBZ being in place. That's the difference here.

Mr. Santiago asked: Because in your mind you were talking about negotiating, you are saying you should be grandfathered and that the 2.5 doesn't apply to you? Is that basically your argument?

Mr. Bovino responded: Well, this lot was allowed to be filed. We filed the map. We took a lot line and we did a revision between to the property to the north and east and we filed the map. The Planner is aware of this. We created the existing nonconforming lot.

So, we should be granted the right to develop it and not look at that as a main issue on this property because we did not create the lot purposely that small. It's only a few square feet less than what is required.

Mr. Santiago said he would need an attorney to help him with that.

There are sidewalks on the existing property and they'll be expanded to the frontage of the rest of the property.

Ingress and egress to the property was discussed. Mr. Santiago said going left out of the property is going to be something else. Are you looking at both left and right turns? A right turn, only? Mr. Bovino said at this point, the site plan shows both left and right turns. We'll have a traffic analysis report to you on the issue of any restriction.

Discussion.

The new building is two story, medical offices. No tenants at this point. The interior design has not yet been done. All information has been provided to the Planner for your review.

Mr. Coviello asked about the curb cuts. Mr. Bovino said they are planning to close the curb cut that serves the house right now. Explained.

Mr. Gworek asked Mr. Bovino about the traffic flow. Are you anticipating any issues? I know they are not going to be operating all at the same time, but trying to get back and forth to the medical office and people backing out near the restaurant? I'm nervous about bottlenecks with the two buildings.

Mr. Bovino said it would be analyzed with the traffic analysis. Some hours coincide with the restaurant. If anything, any kind of conflict, if any, will be within the site.

Mr. Gworek asked what was planned for a buffer in front of the medical office building? Mr. Bovino said it would be according to the regulations, which is 25' of landscaped area.

Mr. Macchio commented he was real concern was with the 2.5. We need to look at that area. Today if we allow to 2.1, next month it's 2.0 and then it's 1.9. Why do we have regulations? We definitely need to look at that.

Ms. Volpe echoed concerns by her colleagues. I do want to bring up this is a historic farming parcel within our community. One of the last couple of ones that we have so many acreages on. I would be concerned with wanting to review some of that understanding the WSBZ regulation does outline, Section 4-01. D, talks about the history of the area. I do see stonewalls not far away. I want to see the traffic study and I do express concerns about losing some of the Sepko Farm parcel acreage. It's been there for a very long time owned by Polish/Russian immigrants.

Mr. Bovino pointed out the Sepko property is 112 acres. We only bought a small portion of it. We are not touching any of those features other than the fact we are going to knock down the house and garage there. If the stonewall exists around the property, that will stay.

Mr. Bovino said a traffic study has not yet been completed. We are planning to submit that with the site plan.

Ms. Albanese said she was worried about the internal circulation plan. There are two curb cuts maintained on this state highway. Explained there was an issue with the northern most entrance and the circulation internally.

If this does get approved, the special permit, with a proposed two-story medical office, at that point, could there be a change of use? Could the applicant/owner come back with a change to that medical office proposed use and change it to something else? Mr. Phillips said the special permit will dictate what is approved. If anything changes, they'd have to get a modification for that.

Discussion.

Ms. Albanese questioned the compatibility of the two uses.

Discussion.

Her last question was she was concerned with the traffic and trying to get out of this parcel and these uses and any left turn would be hazardous to say the least. Would there be a need or requirement for a traffic light at this location. The Chair responded that the presence of a traffic light,

given this is a state highway, is up to the STC. Likewise, with the right turn, only.

Discussion.

Mr. Phillips confirmed the STC would have to make the determination that a traffic signal would be warranted.

Discussion.

Mr. Cowles had two points. One I want to add my voice to the concerns about the parking lot itself with another business situated in there, especially trying to pull out of the parking lot and how that would queue in trying to get back on to West Street and people trying to back out of the parking spaces themselves.

The other point is something mentioned that this parcel was purchased on the intention of adding additional parking spaces for the restaurant. The restaurant has annexed the additional Sepko property to the north for parking. My thought would be that if you are going to use parking on your own land, use parking on your own land. Building another building there will just add more challenges to trying to get enough parking spaces to an already packed business. If that was the point of buying the land, then use it for parking. I don't think it is helpful to have a larger building that will bring in more parking. I think it is at odds with what you just told us you were trying to do. That's my comment.

Mr. Bovino responded: the purpose was to purchase the property to accommodate parking that was north of this building and people had to walk on the side of the road to get to the facility. But that does not mean that the entire property had to be dedicated to parking for the restaurant. It is quite a bit of property and we do not need all the spaces just for the restaurant. There is shared parking allowed under the regulation between businesses. That is what we are planning. Trying to utilize the property the best we can. We can't put the entire 2.1 acres to parking because we don't need it just for the restaurant.

As to the question of are these two buildings compatible and can they live together? The issue of traffic and turning movements we will take care of at site plan. We'll provide a traffic study and whatever else we need to do. If we can have your decision on the issue of 2 buildings on one property, that would be good.

The Chair reminded everyone a question brought up is the proposed lot size and is that out of consistency with the requirement under the regulation for 2.5 acres. At the very least, you are looking at us reaching out to the Town Attorney and getting a legal opinion on that. If we go down that slippery slope, what are we looking at? We are setting a precedent with whatever we decide to do.

I think you are looking at a decision not happening this evening and it will likely happen at next meeting on September 15, at the earliest.

It bodes you well to listen to the comments and answer them when the site plan comes to us assuming this special permit is approved.

Mr. Cowles commented about the parking and the overflow. The lot to the north is about 1.5 acres. The parcel added on to the south is about ½ acre, .6 something or other. If that space is being utilized extensively to satisfy the needs of the restaurant, we still might be pretty packed in just to parking in the new space to the south. I wanted to point that out.

Mr. Salka had two questions: Concerning the two curb cuts, when talking about the WSBZ, the hope was that as this develops along West Street, because of the traffic problems, that there would be some kind of an access road network behind the buildings. You would have like a single curb cut with the access road behind them and that would connect to all of these various businesses that may pop up on West Street. In that case, would we be able to eliminate both of those curb cuts at that point, sometime in the future? And, if this is approved, could we put that as a stipulation if we decide to go forward with it?

There were a number of valid comments concerning the 2.13 versus the 2.50 and I agree with that, 100% that we should look at that and get an opinion from the Attorney.

And, when doing the traffic study West Street, isn't the state also doing some kind of a Transportation Corridor Study that has been postponed because of COVID? How would the traffic study the applicant is doing tie in with what the state might be doing on their study?

The Chair said a consultant has been engaged in an active study of the transportation corridor on West Street. The study is underway. I believe it is delayed by the COVID thing. The findings of the study have not been presented. Jim or Rob? Anything?

Mr. Phillips said he checked in with the NVCOG who is our contact liaison and this has been paused because of the COVID-19. They did indicate they were about ready to start get going again. I expect more news in the next month or so.

Mr. Bovino responded to the question about removing the curb cuts and cross easements in the back part of the parcel as part of the WSBZ. He said the road being talked about is parallel to West Street and is designed to be over 400' from West Street. The back of our property does not reach that location. It would be additional easements needed from that future roadway to reach our property to be able to make things work. I would assume the applicant cannot commit today to close both curb cuts to something that is unknown. He would consider it later but right now he can't.

The large property next door, we don't know how that is going to be developed. It could be a single user with a large parking area with pads in the front. We don't know that at this point.

Mr. Salka was not looking for a decision on that but was just throwing it for from a future standpoint. If there is the cross access to the rear of the property, all the buildings in this WSBZ, I want to make sure Sev is aware of that and if this gets approved, we could put it in as a stipulation for some future period of time. Understanding they can't commit to that now. But we could word it to meet their approval.

Discussion.

Mr. Bovino said he and his client and their attorney would have to see the stipulation. Generally, we are not going to agree to close both curb cuts. That would create a problem for this property in the future. If there is a parallel road, I'm sure my client is interested. As anything that makes the traffic easier would be beneficial to his business. Not a negative thing. The future owners of the neighboring property would have to agree to allow an easement which extends further than the road we are talking about.

The lot depth on this property was confirmed by Mr. Bovino as being 220' straight back from West Street. The Chair brought up Section 4-05.5, it states the minimum lot depth needs to be 400'. Any comments?

Mr. Bovino said we don't have that property and we are an existing condition. I don't know if that is related to the frontage? The Chair said the minimum setback is 75'. Mr. Bovino said the lot width is 400'. If you had a large piece of property you could put a road parallel to West Street that has to be 400' back or any area past that. The Chair read Section 4-05.5B. I raise that because it is another part of the WSBZ which was put into place in 2013. It seems that, along with the 2.5 acreage requirement seems to be a question we want a legal opinion on to make sure we're not going down a slippery slope which will undercut the intent of the adoption of the WSBZ. This is trying to prevent this corridor from becoming another Queen Street.

Hopefully the Town Attorney can have his input for us at the September 15th meeting and we can do something then advised the Chair.

Mr. Bovino had no objection to that and he will have the applicant's attorney provide information to work together on that. He will check the requirement the Chair brought up. Explanation.

A legal opinion is something that is everyone's best interest stated the Chair.

Minutes are prepared summary style and you may refer to the video on line to hear the full presentation/commentary.

(Those wishing to speak in favor of the application.)

Attorney James Ziogas, 104 Belleview Avenue, Bristol, CT spoke representing the applicant. He wanted to touch on a couple of different issues. One of the easier ones, the commissioners asked the question if we decided to change the use regarding the special permit, could we do that. The answer is you'd have to come back to the commission and revise your special permit for the other use you wanted to employ on that site.

Secondly, regarding traffic and turning signals or turning lanes on the state highway, that is going to be controlled by the State of Connecticut. No matter what we try to sell, the State of Connecticut is the final arbiter on that and they'll determine whether or not left turns or right turns are available to us.

Thirdly, this is dealing basically with your regulations. The Chair was correct about the dept of the property being 400' and the frontage required to be 400'. But if you do the math on 400' by 400', you'll see the lot size is not 2.5 acres. It's something in excess of that. It doesn't make sense the regulations can be applied that way, unless, you look at the regulations and you say to yourself, in this particular case the regulation doesn't apply because we have an existing nonconforming lot.

We took a .67-acre lot and we made it bigger so that we were less nonconforming. But the lot is a legal lot and therefore we should be allowed to develop it. When you refer this to Jeremy Taylor, that's the question we need to ask him. In your regulations under 4.05-5, you'll see that the last sentence of paragraph A reads: pre-existing lots that do not meet the minimum acreage under this regulation, shall become legal nonconforming upon the enactment of this regulation.

I think that is the applicable language we should be looking at. It tells us this lot was a legal lot when the zoning took place and now, we've made the legal lot a little bit bigger. Therefore, it continues to be legally existing and we should be allowed to develop it under the current regulations.

That's the way I view it from a legal standpoint. I don't represent the town, Jeremy does. And he'll have to render an opinion to satisfy some of the commission.

The Chair said the points are well taken. From a commission standpoint, we are looking for some input from our representative and gaining clarity. We're looking for our legal person to give us an opinion on that.

Attorney Ziogas agreed that is prudent. If you look up and down West Street, there are other lots on West Street that are less than 2.5 acres and you can't say to those people they are out of luck and can't develop those lots. They are existing nonconforming lots and they still should be allowed to be developed.

You can encourage them to merge, if you want, but you can't force them to merge. Therefore, that existing nonconformity protects them.

The Chair left the public hearing open in order to reach out to Attorney Taylor to weigh in on the regulation and how he looks at this.

BUSINESS MEETING

A. Application of Jonathan R. Aubin, attorney for MDP Holdings, LLC, to change the zone on property located at 1608 Meriden Waterbury Turnpike from I-1 to B (parcel size 1.37 acres) ZC #566)

Mr. Salka made a motion to table Item ZC #566. Mr. Santago seconded. Motion passed unanimously on a voice vote.

B. Special Permit Application of Eleni Real Estate, LLC for two buildings on one lot, property located at 1615 West Street, in the WSB zone, parcel size .65 acres (SPU #639)

Note for the record: The parcel size is actually 2.13 acres for the record.

Mr. Salka made a motion to table SPU #639. Mr. Santago seconded. Motion passed unanimously on a voice vote.

C. Eleni Real Estate, LLC, site plan modification application for a two-story office/retail building, property located at 1615 West Street, in the WSB zone, parcel size .65 acres (SPR #1802)

Mr. Bovino, representing the applicant, noted the property is 1615 West Street. It is currently used as a restaurant and served by public water/sewer. Our site plan application was submitted. Based on what transpired at the public hearing, I would say at this time it would be prudent to table the item.

We received the Planner's comments and the Engineer. We responded to most of the Planner's comments but we are still working on the Engineer's comments.

If you have questions, I will answer them at this time.

Mr. Salka made a motion to table SPR #1802. Mr. Santago seconded. Motion passed unanimously on a voice vote.

D. Kratzert, Jones & Associates, site plan application for to expand the building size, add a drive thru and increasing the number of pumps, property owned by Sunrise Southington, LLC, located at 11 Marion Avenue, in an I-2 zone, parcel size .61 acre (SPR #1801) tabled from August 18

Sev Bovino, Planner with Kratzert, Jones & Associates presented. He recalled at the last meeting the commission expressed interest in relocating the dumpster area which was on the east side of the building next to the river and also look at the propane tanks and parking agreement.

We were able to relocate the dumpster to the rear of the rear northwest corner of the property away from the river. We placed the propane bottles where the dumpster was proposed, a smaller area. It's to the right of the drive thru.

The applicant's decided to reduce the office space on the second floor from 3,000 to 2,500 sf to reduce the number of parking spaces required. Currently, we are meeting the requirement for parking spaces without taking into consideration the three spaces on the east side. We were not sure we could reach an agreement with the property owner. We are not counting them in our parking count. We meet the regulation by reducing the square footage proposed.

As to the question regarding the floodplain, the floodplain in the vicinity is 147.4. The lowest grade at the pumps is 150.2. And, the building itself is at 152.8. Its way above the minimum requirement of the floodplain.

We are trying to serve the current clients better due to the virus concern and to meet business standards to keep the business going.

We've provided the requested traffic report indicating the queue for the drive thru is at least 14 cars. The traffic engineer's conclusion is that the traffic volumes can be readily accommodated and that the driveways provide sufficient capacity for any increase in traffic.

I'll take questions.

The Chair asked if the reduction in the size of the building shows on the revised plans submitted. Mr. Bovino said the reduction was shown on the table. The building is the building, but the second floor was reduced and the reduction is on the table of the building proposed. It's reflected in the parking requirement. It says the office space upstairs is 2,250 sf. It was originally 3,000. The parking count was reduced to 22 which is the required number of spaces. We chose not to deal with the property owner and reduce the scope of the project. The original parking count number was 25 or 26. We were counting at the time the loading area which is now provided and not included in this count. We have 23 spaces with one being the loading area.

Mr. Phillips said that could be verified on the zoning permit, as well.

The commissioners confirmed their concerns were met.

Staff advised they have no additional concerns.

Mr. Salka made a motion to approve SPR #1801, as revised and submitted. Second by Ms. Locks. Motion passed 7 to 0 on a roll call vote.

Mr. Phillips clarified it is the submission as revised.

E. Transfer of Aquifer Protection Registration, 1223 Meriden Waterbury Turnpike

Mr. Phillips explained the PZC is also the Aquifer Protection Board. Any type of use that is deemed to be on the list of uses by the DEEP, has to have a registration approved locally through the PZC. In this case, a transfer also requires an approval.

In this case, it is exactly the same use, but a different owner. They need to have the new owner have the registration approved by the PZC.

Mr. Salka made a motion to approve Item 8-E. Mr. Macchio seconded. Motion passed unanimously on a voice vote.

F. Release of \$8,000 Maintenance bond, Glenwood Park Estates (S#1301)

Ready for action. Mr. Salka made a motion to approve S#1301. Mr. Santiago seconded. Motion passed unanimously on a voice vote.

G. Release of \$4,200 E & S bond, 30 Prosperity Court (SPR #1497.3)

Ready for action. Mr. Salka made a motion to approve SPR #1497.3. Mr. Macchio seconded. Motion passed unanimously on a voice vote.

H. Release of \$12,110 public improvement bond, Kings Ridge, 792 South End Road (SPR #1780)

Ready for action. Mr. Salka made a motion to approve SPR#1780. Mr. Gworek seconded. Motion passed unanimously on a voice vote.

OPEN SPACE COMMITTEE UPDATE

Mr. Salka reported since 1999 the open space, we have 27 properties now on our books. When we purchased Crescent Lake back in 1999 that was the start of what we looked at as open space. With the 27 properties that we purchased or were donated (four were donated out of the 27), we have the four this year we've closed on. We have about three more that have the possibility of being closed before the end of 2020.

We have spent on open space about \$13.1 million through town money and grants from the state.

The latest thing is the committee has approved about \$5,000 to improve the old barn on the Grosky property, to replace the roof. That's in the works and will be done some time in 2020, as well.

We've done some work on the Novick property. We've installed some security there. We've had some problems in that area out off of Flanders Road.

That's a quick update.

I think there'll be a lot more to come.

The Chair added the open space committee is doing a great job.

Ms. Volpe commended Mr. Salka. She stated she loved the work they do. She loves the updates. Fantastic. Keep going at it. It's great.

The Chair added he was glad they are addressing the problems at the Novick property with late at night, early morning visitors.

ADMINISTRATIVE ITEMS

Nothing this evening.

ITEMS TO SCHEDULE FOR PUBLIC HEARING

- Application of Briarwood Real Estate Limited Partnership to change the zoning district from R-40 to Age Restricted Cluster Housing Zone (ARCHZ) (ZC #567) September 15

RECEIPT OF NEW APPLICATIONS

Nothing this evening.

ADJOURNMENT

Mr. Santago made a motion to adjourn. Mr. Macchio seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 9:07 o'clock, p.m.)