

(Working notes)

**TOWN OF ROCKY HILL
PLANNING AND ZONING COMMISSION
MEETING OF SEPTEMBER 21, 2011**

Chairman Tony DiLorenzo called the Wednesday, September 21, 2011 meeting to order at 6:34 p.m. in the Town Council Room of the Rocky Hill Town Hall, 761 Old Main Street, Rocky Hill, Connecticut.

Present: Tony DiLorenzo, Chairman
 Barry Goldberg, Vice Chairman
 Ron Angelo, Sr., Secretary
 Henry Vasel, Commissioner

Alternates: Joe Kochanek
 Peter Arico

Also: Kimberley A. Ricci, Dir. Planning and Building/Asst. ZEO

Chairman DiLorenzo read the procedures on conducting a public hearing.

1. PUBLIC HEARINGS

A. Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify the Rocky Hill Zoning Regulations:

1. Proposed definition amendment of “filling” under Section 2.2 of the Rocky Hill Zoning Regulations, as follows:

2.2 Definitions

FILLING: The depositing of clean fill such as soil, sand, gravel, rock, clay, asphalt paving fragments which satisfy the definition of “Clean fill” pursuant to Section 22a-209-1 of the Regulations of Connecticut State Agencies, as amended, and/or other materials which satisfy said definition of “Clean fill.”

2. Proposed amendment to Section 7.12.2 B of the Rocky Hill Zoning Regulations

7.12. EARTH REMOVAL AND FILLING

7.12.2 Minimum Requirements for Filling

Subsection B. Materials used must meet the definition of “Filling.” No trash, garbage, building materials, or junk of any nature shall be permitted.

3. . Proposed Zoning Regulation Amendment, Town of Rocky Hill, add (bold) to the definition of “street” under Section 2.2 Defined Terms:

STREET: A public thoroughfare that affords the principal means of access to abutting property. The term ‘street’ shall mean and include only: (1) a street accepted as a Town Street; (2) a street whose layout has been approved by the Commission; or (3) a street maintained by the Town.

Add:

A street, under (1) and (3) above, shall be constructed of a pervious and an impervious layer only, unless located within a Floodplain Overlay District or a wetland, in which case only a pervious layer is required. Such pervious layer shall consist of fill and/or other materials determined to be acceptable under the Connecticut Department of Energy and Environmental Protection Regulations, as may be amended.

****Commissioner Kochanek is voting on this proposal.**

Mrs. Ricci said in the past the Commission received a copy of State Statutes Section 22a-209-1, regarding the States definition of Clean Fill:

“Clean fill” means (1) natural soil (2) rock, brick, ceramics, concrete and asphalt paving fragments which are virtually inert and pose neither a pollution threat to ground or surface waters nor a fire hazard and (3) polluted soil as defined in subdivision (45) of subsection (a) of section 22a-133k-1 of the Regulations of Connecticut State Agencies which soil has been treated to reduce the concentration of pollutants to levels which do not exceed the applicable pollutant mobility criteria and direct exposure criteria established in sections 22a-133k-1 through 22a-133k-3 of the Regulations of Connecticut State Agencies and which soil is reused in accordance with R.C.S.A. subdivision (3) of subsection (h) of section 22a-133k-2 of such regulations.”

Mrs. Ricci said although this is not part of the Town Regulations it is referred to in them and this definition adds more detail. Although this proposed change is not tied to any particular application it arose from a review of a project in the former landfill location. The Town Attorney was instrumental in putting these proposed definitions together.

Public

Town Manager Barbara Gilbert of 761 Old Main Street addressed the Commission. She met with Mrs. Ricci, Jim Solmi, the DEP, the Town Attorney, and Representatives

from the State's Attorney's Office regarding this issue. The Town has had a permit with the DEP to use millings on the roads in the Meadows to accommodate the farmers since 1996. This is the first year they have not addressed the roads in the Meadows in this way. They were told that according to the Planning and Zoning Regulations the Town is not allowed to use millings, and that Town Regulation supercedes the DEP Regulations. At this meeting DEP said they consider millings to be a clean fill and the Town needs to use them to maintain the roads in the Meadows so the farmers can get their equipment in and out. She asked that the Commission approve this so they can help the property owner's in the Meadows to farm.

Mr. Jim Zagroba of 263 Meadow Road addressed the Commission. He submitted 2 memos from the DEP. The first was a letter from Diane Duva to Jenny Contois of the DEP regarding the use of millings. According to Ms. Duva..."we intended for the memo to clarify for DEP staff when asphalt fragments should be considered a solid waste." ..."we believe small fragments, asphalt fragments or as used in the memo, fragments smaller than 4" are not clean fill."

Commissioner Vasel said he was concerned because the letter was not written to or from Mr. Zagroba and it is hard to get the "whole flavor of the questions being asked."

As a point of order Vice Chairman Goldberg said the applicant should be allowed to give his presentation without interruptions.

Commissioner Arico said he would like to know the job positions held by the people being referenced in the letters. Mr. Zagroba said Mr. Dave McKeegan is an Engineer in the Waste Engineering and Enforcement Division for Materials Management and Compliance Assurance. Vice Chairman Goldberg didn't feel that the Commission should be challenging the testimony of the public.

Mr. Zagroba said in a letter about the use of asphalt millings in the Meadows, written to Bob Alvarado, Mr. Dave McKeegan wrote, "Waste Engineering and Enforcement Division (WEED), Solid Waste Program does not have any concerns with use of asphalt being used as "asphalt that is remixed with bitumen binder and used as asphalt." "The Solid Waste Program does have concern with individuals using asphalt millings as general fill material or as grading material." At a symposium of Licensed Environmental Professionals run by Diane Duva, Mr. Zagroba said they concluded in his words, "the DEP does not approve asphalt millings as clean fill material. If asphalt millings were used it would be treated as a disposal waste." If millings are used "it is a very conditional practice and it requires high erosion controls." Mr. Zagroba argued that asphalt millings contain a large family of carcinogens and they are a danger to the health and public safety of residents and there is no way to put in sufficient erosion controls to keep it in place in the Meadows.

Mrs. Gilbert said the individuals she met with from the DEP in April of this year, were Diane Duva, Dave McKeegan and Gabrielle Frigon. There were individuals that

suggested she come before Planning and Zoning to ask them to add the use of millings to the Regulations.

Mr. Zagroba said the current DEP definition of clean fill does not include asphalt millings. He said he investigated the Regulations of Glastonbury, Portland, Wethersfield and Newington and none of them include the use of asphalt millings and he submitted copies of their Regulations. Mr. Zagroba asked the Commission to consult with a “competent authority” to find out what they should be using as clean fill. He asked the Commission to invoke a P&Z statute, 8.1.5 regarding Consultations and to “seek the advice and opinion of other officials, Boards, or Commissions to assist it in evaluating applications.” According to Mr. Robert C. Eisner, Director of Waste Engineering and Enforcement Division, in a letter to Bob Alvarado, “Asphalt pieces that are smaller than 4”, that is millings, shavings, dust and like, are typically not considered to meet the definition of clean fill. The reason for focusing on the size is that the surface area of the asphalt increases. Smaller pieces will have greater collective surface area. The likelihood of contaminate leechate and mobilization pollutants also increases.”

Mr. Angelo Ortizi, Director of Operations for Meadow Properties, 14 Bentley Circle, Goshen addressed the Commission. He said Portland and Glastonbury use millings and in his opinion a majority of towns do use them whether or not it is specifically stated in their Regulations.

Commissioner Comments/Questions

Commissioner Kochanek said he is confused because some State Officials are saying it is okay to use and others are saying there are requirements to use it.

Vice Chairman Goldberg asked Mrs. Ricci if after looking at everything Mr. Zagroba submitted, is staff still confident that this proposed definition fits the Town’s needs. Mrs. Ricci said they are confident because their definition refers back to the State’s own Statutes and they have been approved to the Town Attorney and regional planning agencies.

Chairman DiLorenzo asked if there was ever any discussion of clean fill with regard to the size of the particles used. Mrs. Ricci said she believes it was but she can’t recall the specifics.

Commissioner Angelo said it sounds like all they are discussing is the use of millings in the Meadows but the Town uses millings in other areas also. He noted that this change of definition would pertain to the whole town, not just the Meadows.

A MOTION was made by Vice Chairman Goldberg to close the public hearing for Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify the Rocky Hill Zoning Regulations. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Kochanek voted in the absence of a regular member)

- B. Continued Hearing from 8-17-2011, Special Permit/Site Plan application, Patrick Gorman with the LRC Group,** proposing a mixed use development, 144 multi family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District; ID # 16-274;

Attorney James Joseph, of Levy and Droney at 74 Batterson Park Road, Farmington addressed the Commission representing the applicant. He asked if all regular members were present this evening. Chairman DiLorenzo said Commissioner Arico would be sitting in for this hearing in the absence of a regular Commission member. The reason this hearing was continued was because of a condition made by the Inland Wetlands Commission the applicant needed to make some revisions to the site plan, which they are here to discuss this evening.

Mr. Pat Gorman, Principal with the LRC Group, 160 West Street, Cromwell addressed the Commission. The site is a 9-acre property located on the north side of Brook Street. There is 300' of frontage on the west and 100' on the east side and wetlands to the rear of the property. They are proposing residential and office use on this site, which is zoned for mixed uses. They changed the office building to a regular office use instead of a medical use building. Offices are an allowable use on this property. Their application meets all bulk standards requirements. There are two driveways to Brook Street and 144 units in 5 buildings, all three stories with at-grade entrances. There is also a clubhouse with a pool and two small maintenance buildings. This application exceeds all ADA standards Fair Housing standards for available handicapped units and parking spaces.

Due to the condition by Inland Wetlands for an 80' buffer to the Wetlands, they needed to make some minor changes to the original site plan, including shifting and rotating some of the buildings and the clubhouse. These plans have been re-reviewed and signed off on by staff. The drainage network is slightly superior to the original plan. They are willing to move the location of a dumpster as suggested by staff if the Commission requests it. This plan has more stockpile areas and landscaping than the first plan. Mr. Gorman noted for the record that although it has an odd shape, it is considered a front lot. There was a discussion about aligning their driveway with the Winbrook I drive and the applicant is willing to put it wherever the Commission desires.

Mr. Scott Hesketh, Licensed Engineer with F.A. Hesketh and Associates in East Granby introduced himself. He is the author of the traffic study dated July 13, 2011. The site is east of Route 3 and west of Henkel Way. Traffic volumes were used from the Inner Circle Fresh Foods traffic report and the Brook Point Professional Park traffic report. According to Mr. Hesketh's analysis, the signalized intersection of Brook Street and Route 3 will operate at an overall level of service B during the morning and afternoon peak hour conditions. The intersection at Brook Street and Henkel Way will operate at a level of service of B or better. Traffic at the two site driveways will operate

at a level of service C or better during peak hours. After conducting a warrant analysis to see if left turn lanes were needed at this location, the left turn volumes did not meet the thresholds for providing left turn lanes. Driveways have adequate site lines he believes they will operate in a safe and efficient manner.

Finally, Mr. Gorman addressed the special use criteria per the Regulations.

Suitable Location: The site is within 1 mile of an intersection. It meets the zoning criteria. There is no traffic impact and they are not impacting any residential uses.

Location and size of site regarding the nature and intensity of the operations involved in or conducted in connection of the use: This application has no impact on the town as a whole or the immediate area based on the traffic analysis. They feel there is a need for this type of housing based on their market analysis.

Will this development be attractive and suitable in relation to the site characteristics, the style of the buildings in the immediate area and the existing and probable future characteristics of the neighborhood: Mr. Gorman said this area is a perfect example of a mixed use area and their development would be brand new construction and will be an improvement to the neighborhood.

Location, nature and height of buildings: This application meets all zoning requirements.

Proposed use and activity shall have no adverse impact on the neighborhood or the area resulting from the use of signs, exposed artificial lighting, colored lights of any nature, flashing lights, loudspeakers, noisemaking devises: This application has none of the above.

In cases where it is proposed to convert a structure or design to be built...: This does not apply to their application.

Suitable Transportation conditions: This will not cause any problems with the traffic in the area.

Parking areas of adequate size and screened: This has been done. Since there is no multi-family parking code in Rocky Hill's Regulations they used the industry standard used in neighboring towns.

Streets and other right-of-ways shall be of such size and condition to handle the capacity: This has been addressed in the traffic study.

Adequate Public Utilities and Sewer Services: These are shown on the Plan and have been signed off on by Town Staff.

Accessibility for fire apparatus: The Fire and Police Department have also signed off on the application.

Environmental Protection and Conservation: They have already received Wetlands approval.

Long Term Viability: Their client has no doubt that this project will be long-term viable.

Sustained Maintenance of the development: The client will own and maintain the property.

Plan of Conservation and Development: According to the POCD the owner occupied units went up while the rentals have dropped.

Public

Mr. Michael Hanratty, Owner of Brook Street Realty Company, Firematics Supply Company Inc., 651 Brook Street, 665 Brook Street and 663 Brook Street addressed the Commission. He has major concerns about the development of this property because his land abuts this site. He is concerned about the impact to his property value, the ability to continue to operate his families business, a ponding issue they have on their site, traffic flow and the impact on the Rocky Hill School District.

Mr. Hanratty said he collected data showing that property values for properties directly adjacent to apartment complexes genuine decline. Firematic sells and services firetrucks and equipment and each piece of equipment is life-saving in its nature with values of each truck easily exceeding \$1 million dollars or more. Trucks are always stored outdoors on his property as well as in the shop and it is a 24/7 operation. Mr. Hanratty is very afraid of vandalism if this application is approved. If he has to put up security fencing around his property he is afraid that could deter future business. He is also afraid that he will have additional drainage problems in the northeast corner of the site. Mr. Hanratty's main concern is that after repair of each truck they must do a complete operational inspection, which requires them to test everything including the siren testing, emergency warning light testing, air horn testing and aerial testing. These inspections are done at all hours of the day and night. The work in the shop can create noise that exceeds 140dba. Mr. Hanratty's is also concerned about the mix of commercial and residential traffic. He said if the families that move in have children this will impact the schools, the police department and fire department. He doesn't feel this is the best use of the property.

Town Manager Barbara Gilbert said that Century Hills has 900 units and the number of children from that complex that attends Rocky Hill Schools is about 230. Mrs. Gilbert then read a letter expressing her support for this project. Having a good mix of commercial and residential properties allow the Town to have a lower tax base than some of the surrounding towns. The POCD and Zoning Regulations make this project a

compatible project. According to CGS 8-23, "The Plan shall make provisions for the development of housing opportunities including opportunities for multi-family dwellings consistent with soil types, terrains and infrastructure capacity for all residents of the municipality and the planning region." The 2001 POCD states, "One of the key issues looked at as part of the Plan was whether the existing housing stock is adequately configured to meet the housing needs anticipated over the next 10-20 years." "It does not appear that additional multi-family developments will be needed to meet future housing needs in Rocky Hill but there may be situations when such developments will enhance other strategies of the Plan, such as promoting development nodes, providing for overall traffic circulation and other strategies." This is not a proposal for a mega apartment complex, nor is it an affordable housing project. This use is allowable under the Regulations. The definition of mixed uses is "a combination of commercial use or uses permitted in the underlying district in a residential use, meeting the applicable standards of the underlying district." The Town currently has 6,577 single owner units including 3,908 single family homes and 2,506 condominiums. There are 1,651 individual apartment units on 10 parcels, equaling 20.1% of the overall housing stock. There are 78 2-family homes, 4 3-family homes and 1 4-family home. Mrs. Gilbert said the effect on the school system with this number of units would not be that drastic. Mixed use development is the wave of the future and that is what young people are looking for. The town needs to change to meet the needs of the future. She asked the Commission to do the right thing and follow their Regulations.

Mr. Charlie Wisnioski of 666 Old Main Street addressed the Commission. He said he is shocked that a town employee is present advocating for this application. He said the Town is at a threshold of a significant change. The Town has a formula that they adopted as a means to determine how the housing should be decided. He believes Mr. Hanratty has some genuine concerns. He said in Wethersfield if a residential zone abuts a commercial zone they required an increased buffer. He noted for the record that he is a licensed, certified Real Estate Appraiser in Connecticut and he believes the placement of this density of residential use will have a negative impact on adjoining commercial property. He asked the Commission to consider this when making their decision.

Regarding traffic issues, Mr. Wisnioski thinks the traffic generation would be higher than what Mr. Hesketh predicts. He asked the Commission, before making a decision on this application, to find out if there are any studies predicting the number of school age children this type of development would add to the town's schools. He also urged the Commission to ask for a study about the impact of residential zones in close proximity to commercial zones. Mr. Wisnioski read and submitted a list of questions that he would like answered by the applicant including questions about rent, net rent, deed restrictions, economic impact and effects of neighboring properties. He doesn't believe the Regulations had the intent to allow apartments in this zone.

Commissioner Angelo made a MOTION for a 10-minute recess. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Kochanek voted)

Town Manager Barbara Gilbert noted for the record this application is *not* affordable housing. If it were affordable housing and the Commission denied the permit the State would take over the property and the project would be built.

Ms. Krista and Sophie Mariner of 58 Farms Village Road addressed the Commission. According to CGS 8-1a, Zoning Commissions once established are “not subject to interference by municipalities legislative body.” She doesn’t feel what she has witnessed this evening has been “impartiality”. Ms. Mariner has submitted 3 letters to the Commission regarding this application dated, August 11th, August 17th and September 15th and she tried to summarize the main points of these letters. The applicant is claiming that to deny the application is a violation of 8-2, but she believes to approve the application may be a violation of the same Regulation, 8-2. She said, regarding the Fair Housing Act, she doesn’t believe it mandates the construction of new multi-family housing. She wonders if by not providing elevators the project would be in violation of HUD’s Fair Housing Act and of CGS 46a-46c. Ms. Mariner said the application is missing a detailed statement describing the existing and proposed use or uses. She doesn’t believe the mixed-use provision of the Zoning Regulations allows for creativity and flexibility. She disagrees with the applicant’s claims that there is a housing imbalance in Rocky Hill and thus more multi-family housing is needed. Ms. Mariner pointed out that the Town Attorney wrote a legal opinion on June 2nd, in which he states, “that does not mean it is our opinion that any particular residential use is allowed by Section 4.1.3 of the Zoning Regulations. Under these circumstances that is an issue for P&Z to decide. Our opinion is limited to that issue. It is for the Commission to decide the proper application to decide regulations to the specific application.” She encouraged the Planning and Zoning Commission to deny this application.

Mr. Jim Zagroba of 263 Meadow Road said he was involved in the POCD creation and he said Brook Street was to be zoned Office Park. He said this is not the right place for this project and it doesn’t meet the POCD and he encouraged the Commission to reject the proposal.

Mr. Gorman said if Mr. Hanratty has any flooding issues in the northern part of his property, this project reduces the amount of water that flows there. They can increase the 12” pipe under the driveway to a 15” or 18” pipe. Vice Chairman Goldberg suggested recessing the public hearing so the applicant can review all the questions and come back with all the information that was requested. Mr. Gorman asked to be able to answer the questions now that he is able to and to also hear any comments or questions from the Commissioners. All questions asked by Mr. Wisnioski about rent have nothing to do with Planning and Zoning. The maximum building coverage allowed is 30% and this application is under 16%. There is a decision from the Economic Development Committee discussing the amount of school children generated by this project, approximately 17-18 children. As far as the handicapped accessible units they are required to have 15 units and they have 48 units on the ground floor that can be accessed by the handicapped.

Attorney Tim Hollister of Shipman and Goodwin in Hartford addressed the Commission to address the Fair Housing Act issues brought up. Before commenting on that issue he said he would like to address the “baseless comments” made by the public about Attorney Borea. He said Attorney Borea is one of the most highly respected lawyers in the State of Connecticut and when he gives an opinion, it is because he thinks it is the law. He went on to say that the Fair Housing Act and the Zoning Enabling Act do not require the Commission to approve a particular multi-family development. What Atty. Borea’s letter says is that the Commission cannot adopt a categorical ban on all multi-family construction except age restricted housing. Also, the Fair Housing Act does not require elevators in a 3-story residential building. The plan complies with the Fair Housing Act accessibility guidelines, which say that 1/3 of the residential units have to be handicapped adaptable and 10% of the units have to be handicapped accessible. This plan meets all those regulations.

Mr. Gorman said the applicant is willing to grant a request for an extension so the hearing can be continued until the next meeting in October. All abutters have been notified.

Commissioner Comments/Questions

Vice Chairman Goldberg said he would be interested in seeing a market study for this application. He also would like more clarification regarding the special permit. He asked if the application were for larger buildings would the project then not be subject to a special permit. Mr. Gorman said if they were to increase the building footprint and increase the number of units per building they would not need a special permit. Vice Chairman Goldberg asked the applicant to address the Special Permit Objectives listed under 8.3.2 of the Regulations. He asked for information about parking standards and building height used by other Towns for this type of development. Vice Chairman Goldberg asked if the Fire and Police Departments signed off on the new site plan. Mr. Gorman said they have. The Fire Marshall did mention that he may want to add fire hydrants after the applicant receives his Certificate of Occupancy. Vice Chairman Goldberg asked Mr. Gorman to address how this project would be compatible with the surrounding uses.

Chairman DiLorenzo asked the applicant to look into the buffering for this type of use when adjacent to commercial uses. Mr. Gorman said normally you would have the commercial property buffering against the residential property.

Commissioner Angelo asked the applicant to explain how the dump trucks would access the dumpsters in areas that aren’t very accessible. He said he doesn’t think 12 handicapped parking spaces are enough. Mr. Gorman said the Town’s Regulations require 8 spaces for units between 300-400; so they are providing more than what is required by the Town’s Regulations. They have 2 spaces for the office building because 2 are required office buildings with 50 spaces or less.

A MOTION was made by Vice Chairman Goldberg to recess the public hearing for Special Permit/Site Plan application, Patrick Gorman with the LRC Group,

proposing a mixed use development, 144 multifamily units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District until prior to the next regular Planning and Zoning meeting in October pending acceptance of an extension from the applicant. Seconded by Commissioner Arico. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Arico voted on this application.)

- C. Special Permit Application for, Phemila Edward Balrat, proposing a private school (Math Sprint learning center) at 53 New Britain Avenue, Unit 6 in a C-Commercial Zoning District: ID#08-352;**

Ms. Phemila Edward Balrat and Mr. Sevic Mora Trajen of 99 Four Seasons Lane, Trumbull addressed the Commission. Mr. Trajen said they plan to own and operate a tutoring service at this location, which teaches mathematics using an abacus to children ages 5-12. This helps children to learn to calculate mathematics in their head. They hold classes on Wednesdays and Sundays and expect to have 10-15 students to initially. As far as the special permit this operation will operate in an existing office space near other commercial operations. They are not making any modifications or improvements to the office space other than moving in furniture. There is adequate parking on the site and they don't anticipate any negative traffic impacts with only 15 students. Mr. Trajen asked the Commission to review and approve the application.

Public

There were no comments made by the public.

Commissioner Comments/Questions

Commissioner Arico asked how many students would be taught at one time. Mr. Trajen said about 5-7 students and each session is 1 hour.

A MOTION was made by Commissioner Vassel to close the public hearing for a Special Permit Application for, Phemila Edward Balrat, proposing a private school (Math Sprint learning center) at 53 New Britain Avenue, Unit 6 in a C-Commercial Zoning District. Seconded by Vice Chairman Goldberg. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Kochanek voted on this application.)

- D. Special Permit, Malik Sherwani, proposing an area to prepare and sell food ((creating a deli) in an existing convenience store, located at 2409 Main Street, Unit B, in a C-Commercial Zoning District; ID # 10-082; (hearing to be rescheduled - improper notification to abutters);**

Mrs. Ricci said the abutters were not notified properly so this public hearing will be rescheduled.

- E. Special Permit/Site Plan Application for, Rino Mozzicato, proposing a change of use for a portion of an existing building and an addition of a drive-thru for a bank use, for property located at 366 Cromwell Avenue in a C-Commercial Zoning District, ID# 08-357;**

Mrs. Ricci said the proper notifications of abutters were received.

Mr. Rob Blanchette of Borghesi Building addressed the Commission representing the Mozzicato family. He introduced **Mr. Reno Mozzicato of Franklin Avenue in Hartford**. Mr. Blanchette said they are looking for approval of some renovations and the addition of a drive-thru at 366 Cromwell Avenue. The building is 6,000 sq. ft. and the lot is paved today. The drive-thru is being proposed on the left side of the building as you face the property. They would also like to add landscaped islands in the front and rear of the building. This is going to decrease the amount of impervious surface that is there now. The site plan includes a buffer around the building on the right and rear of the building. Mr. Blanchette said the entire building will be renovated. A hip roof will be installed, gable projections for the drive-thru, projections and extensions off the front for the bank entrance. The brick will be refaced, the utilities on the surface of the building will be enclosed and they are adding a 5' overhang on the front and back of the building. The parking is going to be reduced but they will still be over what is required. They are also asked for a change of use to add a bank.

Public

No comments from the public.

Commissioner/Comments/Questions

Commissioner Angelo asked how close the overhang for the bank is to the building line. Mr. Blanchette said it is about 2' away from the setback line and staff has already reviewed this application.

Commissioner Vassel asked how much room there is between the island and the escape lane. Mr. Blanchette said there are 15' from the existing curb to the concrete curb. Commissioner Vassel asked what they plan to do about the landscapers with trailers that normally line up along the curb. Mr. Blanchette said there is plenty of additional parking in the back. He said they could easily post no parking of trailer signs in the front if necessary.

Commissioner Kochanek asked about the clearance on the canopy. Mr. Blanchette said it is 12' 11.5" to the finished floor height.

Mrs. Ricci noted that they have not received comments from the Fire Department yet.

Commissioner Arico asked if they planned to reconfigure the handicapped spots. Mr. Blanchette said they are. Commissioner Arico asked if access to the drive-thru would be

from the side street. Mr. Blanchette said you would enter from Cromwell Avenue and go around the back of the building. If they were to enter from the side street they still would have to go all the way around the building to access the drive-thru. Commissioner Arico said he thought it would be awkward to go all the way around the building to access the drive-thru when entering from the side street.

Vice Chairman Goldberg commended the applicant for their plans to upgrade the building but he would like to see more landscaping in the front. He asked if there were sidewalks on the property along Cromwell Avenue. Mr. Blanchette said he isn't sure. Vice Chairman Goldberg said if there are no sidewalks or if they were in disrepair, he would like to see them added or brought up to code.

Chairman DiLorenzo asked if they planned to have any rear access by the public to any of the units. Mr. Blanchette said they do not. Chairman suggested changing the parking so that it is perpendicular to the building to allow for parking of trucks with trailers.

Commissioner Kochanek asked if the applicant planned to change the outside lighting in the back of the building. Mr. Mozzicato said they are replacing the existing lighting but not adding any additional lighting. They will all be full cutoff lighting and will not interfere with the housing in the rear.

A MOTION was made by Commissioner Vasel to close the public hearing for a Special Permit/Site Plan Application for, Rino Mozzicato, proposing a change of use for a portion of an existing building and an addition of a drive-thru for a bank use, for property located at 366 Cromwell Avenue in a C-Commercial Zoning District. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Arico voted on this application.)

2. CALL TO ORDER

Chairman DiLorenzo called the regular portion of the Planning and Zoning meeting to order at 9:55 p.m.

3. PUBLIC

Mr. Tom Kores, General Manager of Inner Circle Fresh Foods addressed the Commission asking to be added to the agenda this evening. They are requesting a 1-year extension on their approved project site plan.

Town Manager Barbara Gilbert said right now there aren't sufficient funds in the budget to hire the staff Planning and Zoning is asking for. She asked the Commission to proceed with updating the POCD by collecting updated data but she asked them not to adopt anything until such time as she can provide them with money from the budget for outside help. In the meantime, they are continuing to look for other ways to fund the update including available grants.

Commissioner Angelo asked if there was any way to get Mrs. Ricci additional help in updating the factual data for the POCD. Mrs. Gilbert said she does not have funds at this time to get additional help for Mrs. Ricci. She doesn't advise the Commission to start sending out RFP's at this time.

Mr. Jim Zagroba submitted the various town reports on earth removal to Staff.

Mr. Trumell Collins of Wal-Mart, 80 Town Line Road asked to be added to the agenda to request a permit for 3 40' trailers to be placed on their property.

Mrs. Ricci noted that there is an application from Puket Café, Thai Cuisine for a modification of a special permit to add 800 sq. ft. of restaurant space as well as having a liquor permit in the expanded area.

4. PUBLIC COMMENT ON PLAN OF CONSERVATION AND DEVELOPMENT

No comments.

5. ADOPT THE AGENDA

A MOTION was made by Commissioner Vasel to adopt the agenda with the following changes:

- 1. Add under the Consent Agenda Item C. Approval of a 1-year Extension for Inner Circle Foods Permit.**
- 2. Add under the Consent Agenda Item D. Puket Café, set a public hearing for additional seating and Liquor License before the next regular meeting on October 19, 2011.**

Seconded by Commissioner Angelo. Commissioner Vasel said he did not want to add the Wal-Mart because every year they promise it will be the last year they ask for storage trailers. Mrs. Ricci said they have had a longstanding history in Zoning Enforcement with Wal-Mart and the current store manager has been true to his word regarding the placement and removal of the storage trailers. **2 were in favor (Vasel, Angelo)**, (Vice Chairman Goldberg said he had to vote against the motion because he recused himself from all applications dealing with Inner Circle Foods). Chairman DiLorenzo did not identify which alternate would be seated during the regular meeting. After a brief discussion he picked Commissioner Kochanek to vote in the absence of another regular member. **3 opposed (DiLorenzo, Goldberg, Kochanek), MOTION FAILS.**

A MOTION was made by Commissioner Kochanek to adopt the agenda with the following changes:

- 1. Add under the Agenda Item G. Approval of a 1-year Extension for Inner Circle Foods Permit.**

2. **Add under the Consent Agenda Item D. Puket Café, set a public hearing for additional seating and Liquor License before the next regular meeting on October 19, 2011.**
3. **Add to Agenda items item H. Wal-Mart request for 4 trailers to be stored on site.**

Seconded by Commissioner Goldberg. 3 were in favor (DiLorenzo, Goldberg, Kochanek), 2 opposed (Vasel, Angelo), MOTION CARRIED.

6. CONSENT AGENDA

A MOTION was made by Vice Chairman Goldberg to adopt the Consent Agenda. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY. The following items were approved as part of the Consent Agenda:

- A. **Approve Minutes and Working Notes from August 10, 2011;**
- B. **Approve Minutes and Working Notes from August 17, 2011**
- C. **Puket Café, set a public hearing for additional seating and Liquor License before the next regular meeting on October 19, 2011**

7. AGENDA ITEMS

- A. **Bond Release Request, Robert Chiulli Jr., for improvements associated with the Old Dividend Crossing Subdivision., Rachel Drive and Nessa Way, off of Dividend Road in a R-20 Residential Zoning District;**

Attorney David Rintoul of Brown, Paindiris and Scott addressed the Commission representing Mr. Bob Chiulli. They are looking for as much clarity as possible as far as what would be required for the release of this bond. Mrs. Ricci said years ago the Commission called the bond for the Old Dividend Crossing subdivision. The biggest issue with the subdivision is the open space issue. The property is set aside as open space and is currently owned by four individuals. It was supposed to be turned over to an Association, which was never formed. Either the Association has to be formed or the open space has to be turned over to the Town. Another alternative is for each homeowner to be given a portion of that open space as a deeded conservation easement. The final punch list is not currently up to date.

A MOTION was made by Vice Chairman Goldberg to table the Bond Release Request, Robert Chiulli Jr., for improvements associated with the Old Dividend Crossing Subdivision., Rachel Drive and Nessa Way, off of Dividend Road in a R-20 Residential Zoning District. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY.

B. Proposed Zoning Regulation Amendments, **Town of Rocky Hill**, proposing to modify the Rocky Hill Zoning Regulations:

1. Proposed definition amendment of “filling” under Section 2.2 of the Rocky Hill Zoning Regulations, as follows:

2.2 Definitions

FILLING: The depositing of clean fill such as soil, sand, gravel, rock, clay, **asphalt paving fragments which satisfy the definition of “Clean fill” pursuant to Section 22a-209-1 of the Regulations of Connecticut State Agencies, as amended, and/or other materials which satisfy said definition of “Clean fill.”**

2. Proposed amendment to Section 7.12.2 B of the Rocky Hill Zoning Regulations

7.12. EARTH REMOVAL AND FILLING

7.12.2 Minimum Requirements for Filling

Subsection B. Materials used must meet the definition of “Filling.” No trash, garbage, building materials, or junk of any nature shall be permitted.

3. . Proposed Zoning Regulation Amendment, **Town of Rocky Hill**, add (bold) to the definition of “street” under Section 2.2 Defined Terms:

STREET: A public thoroughfare that affords the principal means of access to abutting property. The term ‘street’ shall mean and include only: (1) a street accepted as a Town Street; (2) a street whose layout has been approved by the Commission; or (3) a street maintained by the Town.

Add:

A street, under (1) and (3) above, shall be constructed of a pervious and an impervious layer only, unless located within a Floodplain Overlay District or a wetland, in which case only a pervious layer is required. Such pervious layer shall consist of fill and/or other materials determined to be acceptable under the Connecticut Department of Energy and Environmental Protection Regulations, as may be amended.

A MOTION was made by Commissioner Angelo to approve the Proposed Zoning Regulation Amendments, Town of Rocky Hill, proposing to modify the Rocky Hill Zoning Regulations. Seconded by Commissioner Vasel. Commission Kochanek wanted to make sure that the asphalt paving fragments satisfy the definition of clean fill with the State of Connecticut. The other Commissions agreed that it did. Vice Chairman Goldberg said he would vote in favor of this motion because the confusion of the Regulations as it stands doesn’t serve the Town. He believes this is an improvement to

what they have. If needed adjustments can be made in the future. **All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Kochanek voted.)**

Proposed changes are:

1. Proposed definition amendment of “filling” under Section 2.2 of the Rocky Hill Zoning Regulations, as follows:

2.2 Definitions

FILLING: The depositing of clean fill such as soil, sand, gravel, rock, clay, asphalt paving fragments which satisfy the definition of “Clean fill” pursuant to Section 22a-209-1 of the Regulations of Connecticut State Agencies, as amended, and/or other materials which satisfy said definition of “Clean fill.”

**2. Proposed amendment to Section 7.12.2 B of the Rocky Hill Zoning Regulations
7.12. EARTH REMOVAL AND FILLING**

7.12.2 Minimum Requirements for Filling Subsection B. Materials used must meet the definition of “Filling.” No trash, garbage, building materials, or junk of any nature shall be permitted.

3. . Proposed Zoning Regulation Amendment, Town of Rocky Hill, add (bold) to the definition of “street” under Section 2.2 Defined Terms:

STREET: A public thoroughfare that affords the principal means of access to abutting property.

The term ‘street’ shall mean and include only: (1) a street accepted as a Town Street; (2) a street whose layout has been approved by the Commission; or (3) a street maintained by the Town.

Add:

A street, under (1) and (3) above, shall be constructed of a pervious and an impervious layer only, unless located within a Floodplain Overlay District or a wetland, in which case only a pervious layer is required. Such pervious layer shall consist of fill and/or other materials determined to be acceptable under the Connecticut Department of Energy and Environmental Protection Regulations, as may be amended.

C. Continued Hearing from 8-17-2011, Special Permit/Site Plan application, Patrick Gorman with the LRC Group, proposing a mixed use development, 144 multi family units and approximately 5, 750 square feet of medical office use for property located on the north side of Brook Street, in a OP-Office Park Zoning District; ID # 16-274;

This item was tabled.

D. Special Permit Application for, Phemila Edward Balrat, proposing a private school (Math Sprint learning center) at 53 New Britain Avenue, Unit 6 in a C-Commercial Zoning District: ID#08-352;

A MOTION was made by Vice Chairman Goldberg to approve the Special Permit Application for, Phemila Edward Balrat, proposing a private school (Math Sprint learning center) at 53 New Britain Avenue, Unit 6 in a C-Commercial Zoning District. Vice Chairman Goldberg said the reasons he voted in favor of this application were that there was no derogatory testimony given stating this would be inappropriate, the applicant illustrated that what he is proposing is a useful service that doesn't exist in the Town and will add another facet of what the Town offers residents. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY.

E. Special Permit, Malik Sherwani, proposing an area to prepare and sell food (creating a deli) in an existing convenience store, located at 2409 Main Street, Unit B, in a C-Commercial Zoning District; ID # 10-082;

A MOTION was made by Vice Chairman Goldberg to reschedule the public hearing for Special Permit, Malik Sherwani, proposing an area to prepare and sell food (creating a deli) in an existing convenience store, located at 2409 Main Street, Unit B, in a C-Commercial Zoning District until prior to the next regular meeting. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY.

F. Special Permit/Site Plan Application for, Rino Mozzicato, proposing a change of use for a portion of an existing building and an addition of a drive-thru for a bank use, for property located at 366 Cromwell Avenue in a C-Commercial Zoning District, ID# 08-357;

A MOTION was made by Vice Chairman Goldberg to approve the Special Permit/Site Plan Application for, Rino Mozzicato, proposing a change of use for a portion of an existing building and an addition of a drive-thru for a bank use, for property located at 366 Cromwell Avenue in a C-Commercial Zoning District, with the following conditions:

- 1. That sidewalks be installed or if there are existing sidewalks that are not up to code that they are brought up to code.**

2. **That the landscaping be enhanced on the Cromwell Avenue frontage if possible.**
3. **That there be the appropriate signage for proper traffic circulation and parking of the appropriate vehicles.**

Vice Chairman Goldberg stated his reasons that there were no derogatory comments at the public hearing. What the applicant is proposing is not unusual with the general plan of development in the area. The enhancement is a great improvement. **Seconded by Commissioner Arico. All were in favor. MOTION CARRIED UNANIMOUSLY. (Commissioner Arico voted.)**

A FRIENDLY AMENDMENT was made by Henry Vasel to include all staff comments in the above conditions. The Friendly Amendment was accepted.

G. Inner Circle Fresh Foods request for a 1-year extension to their permit.

Mrs. Ricci said according to Regulation 8.2.7 (b), the applicant must commence construction within a year of approval. Due to forces beyond the companies control they were not able to do that. She recommended that the Commission approve this 1-year extension.

Chairman Goldberg said when the application was approved there was an issue with tractor trailers crossing Brook Street. He wondered if anyone looked at the amount of time a 53' truck takes to cross the road and enter into Inner Circle Fresh Foods. He brought this up as a concern for public safety. Chairman DiLorenzo didn't feel that question was relevant to the 1-year extension request.

A MOTION was made by Commissioner Vasel to approve the 1-year extension for Inner Circle Fresh Foods' building permit. Seconded by Commissioner Angelo. Commissioner Vasel noted that if a Commissioner recuses himself they should not be allowed to ask any questions. All were in favor, MOTION CARRIED UNANIMOUSLY. (Vice Chairman Goldberg recused himself for this application. Commissioner Kochanek voted.)

H. Wal-Mart request for 3 trailers to be located on their site

Vice Chairman Goldberg recused himself because he work's for Wal-Mart.

Commissioner Vasel said there isn't anyone present to speak for the application and he feels that if they need extra space they should add on to their building instead of continually asking for these temporary storage trailers. The site plan has no measurements, no line spaces, and no one to answer questions about it.

Mrs. Ricci noted that other entities in the Town do the same thing, including the Town of Rocky Hill and the Commission has approved them.

Commissioner Kochanek was in favor of negotiating with Wal-Mart if they are a good corporate citizen. He suggested writing a letter to the appropriate person to tell them that this is a problem and it isn't going to be tolerated anymore.

Commissioner Angelo agreed with Commissioner Vasel.

Vice Chairman Goldberg started to make a comment but Commissioner Vasel said he isn't allowed to speak while this item that he recused himself from is still on the table.

A MOTION was made by Commissioner Vasel to deny without prejudice the request by Wal-Mart for 4 trailers to be temporarily located on site. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY. (Vice Chairman Goldberg recused himself for this application. Commissioner Kochanek voted.)

Vice Chairman Goldberg said he would find the proper contact for Mrs. Ricci to send a letter.

8. ANY OTHER BUSINESS

A. Minor Modifications: generator pad and generator at 500 Enterprise

Mrs. Ricci said she, as staff, approved a generator pad and a generator installed at 500 Enterprise Drive.

Commissioner Vasel asked why the CVS storage box on Cromwell Avenue, which was approved for 3 months, was still there. Mrs. Ricci said they have been notified of the violation.

Commissioner Vasel asked if the donation boxes at Krausers were approved. He also said the "No Exit" signs onto New Britain Avenue were removed and replaced with Snapple signs. Mrs. Ricci said she doesn't know the status of the donation boxes and they haven't had a Zoning Enforcement Officer for a while. They have just hired a part time ZEO. She said she would get an answer on both the CVS and Krauser issues.

Vice Chairman DiLorenzo said a few meetings ago the Commission voted to adopt a task force to proceed with updating the POCD and at the last meeting by consensus they decided to work on it as a Commission. He felt that they should make a formal motion to that effect. Commissioner Vasel disagreed because he said they may still use a task force in the future, just not at this time. Mrs. Ricci also thought that they decided by consensus not to use a task force. Chairman DiLorenzo agreed that it is possible that they may use a task force in the future, but until they decide to start working on the Plan with a task force they should make a motion now to clarify their plans.

Mrs. Ricci read the motion made by Commissioner Vasel. "Motion by Commissioner Vasel not to begin the formal process until funding is obtained and or until July 2012, whichever comes first. We can create a task force and begin data collection now."

A MOTION was made by Vice Chairman Goldberg to suspend the POCD task force until funding becomes available or until July 1' 2012. Seconded by Commissioner Vasel. All were in favor, MOTION CARRIED UNANIMOUSLY. (Commissioner Kochanek voted.)

9. COMMUNICATIONS

None.

10. APPROVE BILLS

None.

11. ADJOURN

A MOTION was made by Commissioner Vasel to adjourn the meeting. Seconded by Commissioner Angelo. All were in favor, MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Eileen A. Knapp
Recording Secretary