

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the April 20, 2010 Public Hearings of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Edward Mead, Robert Dickman, Kevin Liddy, Kim Rose, Janet Golden, Gregory Vetter, Victor Ferrante, Susan Shaw, Chair.

Not Present: Mark Bender, KathyLynn Patterson

Staff: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk.

C. NEW BUSINESS

1. SEAVIEW AVENUE BETWEEN FIRST AND EIGHTH AVENUES

Request by the Laurel Beach Association for Coastal Area Management Site Plan Review to conduct a Beach Management Program on Map 9, Block 130, Parcel 44A, of which the Laurel Beach Association is the applicant.

Michael Ludwig, Ocean Coastal Consultants, 35 Corporate Drive, Trumbull, CT, representing the Laurel Beach Association. Laurel Beach Association has a beach on its property running along Seaview Avenue. Here tonight to apply for a Coastal Site Plan Review for a beach management program where sand is moved, as necessary, along the beach to maintain it as a municipal and public access facility for members of the Laurel Beach Association. Authorization has been received from the Army Corps of Engineers under a ten year permit to undertake these activities and the Connecticut DEP to do a similar beach management.

The work entails re-leveling the beach, as necessary after or before each season, as sand accumulates on the beach. The beach was artificially created in the 1950s and is sustained and maintained by a series of artificial structures that were built about the same time.

Requesting approval to regrade and to remove, as necessary, approximately 200 cubic yards of sand from the southern or western end of the beach, bring it up to the northern end where there is a chronic erosion problem adjacent to the eastern most groin. The sand is kept within the system so that no impacts are experienced either up drift or down drift from the site.

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Ms. Harrigan: Gave the history of this permit request. She explained there are specific time lines for when this work can be done based on when the piping plovers come to nest. For this year Laurel Beach has already done their grading work. The matter had been discussed based on when the permit was issued from the DEP and when they could appear at the meeting. There was not enough time to wait for this approval this year before allowing them to conduct the work this year. It takes a series of several days and their window was just this past weekend. The work has already occurred and has been reviewed extensively by the DEP. Planning and Zoning relies on their technical expertise to review these kinds of applications in depth. DEP issued a ten year permit that was granted on April 6, 2010. Given the constrained time schedule, they were permitted to proceed for this year and will bring it before the Board for approval of the ten year program.

Ms. Harrigan and Mr. Ludwig answered the Board's questions in order to clarify this permit procedure with regard to the number of times a year the beach management could be done; Mr. Ludwig's role in the project, now and in the future; whether this project has been ongoing in the past and if this is the first year they have requested a permit, and how does this program affect other portions of the beach.

Ms. Harrigan: The DEP is trying to establish programs with different beaches that they know need replenishment or regrading. The DEP when granting the permits is directing the applicants back to the local municipality for its approval. Stated she had made an inspection of the beach while the regrading work was being done and saw the beneficial effects of moving the sand to where it needed to go. A condition of approval will be that the Planning and Zoning Office be notified before the beach work takes place.

Ms. Rose: Happy that the DEP is sending these applications for CAM approval. Made a motion to approve the application for a Coastal Area Management Site Plan Review by the Laurel Beach Association to conduct a beach management program.

Mrs. Golden: Second.

Mr. Vetter: Proposed an amendment to ensure that the Planning and Zoning Office be given a reasonable amount of time to work with the Association before any beach management work takes place.

Mr. Dickman: Second.

Ms. Harrigan: This is for a ten year approval. Expiration date would be 4/20/20.

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A vote was taken on the amendment: All members voted in favor.

A vote was taken on the motion: All members voted in favor.

D. PUBLIC HEARING CLOSE BY 5/25/10; exp. 6/24/10

2. **145 HIGH STREET AND 0 RAILROAD AVENUE (ZONE MCDD)** Petition of DeLeo Brothers Property Group, LLC for Special Permit and Coastal Area Management Site Plan Review approval for building renovation and reconstruction, 6 residential units, as well as a 15,800 SF parking lot on Map 54, Bock 322, Parcels 1 and 2B, of which DeLeo Brothers Property Group, LLC is the owner.

Kevin Curseaden, Esq., Stevens, Carroll & Carveth, 26 Cherry Street. Present tonight with Mr. DeLeo, representing the property owners, Mark Davis, Westcott & Mapes; John Wicko, Architect. Stephen Wing, the landscape architect could not be present tonight.

A Statement of Use had previously been provided. The project is located at 145 High Street and 0 Railroad Ave. Access to the parcel is at 145 High Street. It is north of the train station on the southbound NY City side. It is a red building and there is monthly parking available for commuters at present. 145 High Street has three apartments and some office space, which has been vacant for a while. The building has served many purposes in the past. O Railroad Avenue is vacant right now. It is a grassy area with some trees.

The plan is to renovate and reconstruct that building to 6 residential units and make the vacant lot, which is 0 Railroad Avenue, which is adjacent to and has the only access to 145 High Street, into a parking area. This property is in the MCDD zone. The residential use on Darina Place, north of 145 High Street, is also in the MCDD zone, but is a residential zone. In respect to the residential properties, the applicant has limited the light spillage to a residential light spillage. A lot has been done with buffers and they are willing to work with the property owners to the north of the site to make the project work for them as well. In the file there are concerns expressed by some of the neighbors, which will be addressed when the Chair sees fit.

The intended use is to construct a 15,800 SF parking lot with building renovation and reconstruction. Two existing efficiency units are being renovated and there will be construction of four new one-bedroom apartments. A Special Permit is being required because the building is being converted from a mixed use to a multi-family residential on a mixed use site. Parking lots are permitted in the

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zone but because this site is going to act as one site, it is being incorporated into the Special Permit. A Coastal Area Site Plan Review is required because of the property's distance from the harbor. There are no structures in the coastal area of the project and there are no significant coastal features on the site. The project minimizes the impacts on the shoreline's resource by making use of the storm water retention system and there are no other remaining adverse impacts to the coastal resources.

Both sites can stand alone on the parking requirements. The Plan of Conservation and Development sites the critical need for parking in the downtown area. This project would alleviate some of the parking issues. There will be 44 parking spaces upon completion.

An affidavit was presented for the record as to the posting of the placard notices on April 8, 2010, for the Special Permit application.

Mark Davis, PE, Westcott and Mapes, 142 Temple Street, New Haven. He indicated on the displayed site map the only coastal portion of the property which is on 0 Railroad Avenue, which is vacant and will be developed for parking. Because that portion of the project is in the coastal management area, there will be standard sediment erosion controls during construction. For storm water runoff, storm water detention will be provided so there will be no increase or runoff with the construction of the parking lot and the renovations to the building.

Also will be providing a hydrodynamic separator for the storm water system. It uses a swirl technology to allow the removal of any floatables that might enter into the storm water. He explained there will be a detention system and an isolator row.

John Wicko, Architect, 50 Broad Street, Milford. His charge was to bring new life to this building. At present there are three residential units; two in the front that can be seen from High Street. The middle section is a block section which is the business with a cupola on top which tries to hide some of the HVAC and the rear building is also a residence that is in bad shape that has some code issues. The rear building will be razed, the center building will be renovated but the roof will be taken off and a second story will be added to it, and the front section with the residential units will be renovated and used as residential units.

He noted the elevations depict the features that he just spoke about. The front building has somewhat of a country feel to it. Would like to keep the front the same and reface the siding. The center block section is ideal to have a brick face put on top of the block so it will not look like a warehouse. Sheet A-1 shows

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
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the foundation work that needs to be done, what is staying, being renovated and being added. The rear portion is what is being razed and rebuilt. The existing building in the front is nonconforming to the setbacks which are either 0 or 4 feet. This building is at one foot. That will be one of the waivers being requested, because the building is being renovated, but the new portion will meet the setback requirements that are either 0 or 4. They are choosing the 4-foot setback.

A-2 shows the first and second floor with the two residential units being renovated in the front. They are efficiency apartments. The four other units will keep the same theme of the middle will have two units in the center that are flats, (one over the other which is the same as the front), and the rear is the new portion and is the same two one-bedroom units.

The elevation of the structure will be kept the same, but some architectural details will be added, i.e. a cupola, changing doors for a nicer style, adding a canopy to keep with the character of the building. The base of the center section has brick. There is a proper entry in the middle. There will be a pitched gable roof. The front will have character enhancing features added. Locations of the air conditioning condensers and utility boxes were shown on the display.

Mme. Chair: Asked for a description of the landscape plan.

Mr. Wicko: In Steve Wing's absence, Mr. Wicko described the proposed landscaping plan. The front parking area is dedicated to residential parking and the rear portion will be the rented portion. The buffer strip will be located to the north. There is an existing privacy fence on the line. There are large leaf trees a variety of staggered evergreens and there is a good variety of the species within that. Towards the residential units there are more shrubs. There are more decorative features but heavily planted in an attempt to screen the building that is offensive to the neighbors to the north. On the south side of the railroad tracks the required parking lot trees and the standard landscaping will be planted. The front will have a continuation of the existing stone wall which will be an entrance and there will be decorative shrubs and trees in that front section. There is a public sidewalk from High Street for use by the residents of the building and tenants for parking. There are a number of existing trees that will be protected in between the railroad property and this property. Also a number of trees in the northwest corner that will also be protected and a lot of shade shrubs and bushes will be planted underneath those existing trees.

Mme. Chair: Asked Staff for comments.

Mr. Sulkis: Overall this is a very good plan. Asked about previous discussions he had regarding a grade change between the parking area and Railroad Avenue

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
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and the installation of a decorative fence along a specific area (indicated on the display). Because of the grade change between Railroad Avenue and the Agro property, there needs to be something to prevent the people using the lot from going up the hillside, the way they do now, which is a dangerous situation.

Mr. Curseaden: Had recollection of the discussion and agreed there should be a fence. Requested the fence be of an open style for security purposes and snow removal and be made of a decorative aluminum.

Mr. Sulkis: Agreed that the fence should be of an open style for security purposes.

He noted the office had received two letters from the public who could not be present at tonight's meeting. Letters from Wesley and Mary Thompson of 31 Darina Place and George Billis and Robert Sommo of 35 Darina Place were read aloud and are available in the file.

Mr. Ferrante: There seem to be good suggestions in those letters. Asked if the Board could receive copies.

Mme. Chair: Asked the public if there was anyone to speak in favor of the application.

Dan Aronowski, 737 Pope's Island Road. He is a paying commuter who uses the lot on a daily basis to commute to New York City. Please to see that the person who purchased the property is attempting to remove what he considers a blighted area. In his commute he sees many towns that have broken down buildings or open parking lots that are unsightly adjacent to the railroad. If he was looking for a place to live he would not choose these towns based on the way the run down properties near the railroad are kept. When commuters come to Milford they see this older building with a parking lot in disarray and not well lit at time. The buildings close to the trains in Darien and Southport are well kept and commuters get a good feeling about living in those towns from the way these properties are kept up. Would like commuters to have the same feeling when coming to Milford. Urged the Board to approve the proposal that would enhance this property.

Asked if anyone else wanted to speak in favor. (No reply)
Asked if anyone wanted to speak in opposition to the proposal.

Sandra Mossman, 51 Darina Place. Not opposed to the development of the property but has two big concerns. First concern is the safety issue that extra traffic will bring to an area that has many cars from many surrounding areas.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
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Schools are nearby, as is the train. Would like to see speed bumps put in the new residential area and extra thought given to the safety issue. Second concern is the sewer system. Adding six more residences will put a strain on the already taxed sewer system. Asked if it was necessary to have the 20-foot light. Could not hear what was being said and asked if the height of the light was going to be changed.

Tommy Edison, 39 Darina Place. Does not mind the development going in. Objects to where the dumpster will be placed, which will be right behind his home. Asked that it be moved to another part of the development. Praised Mr. Billis' letter, especially with regard to the terrible condition of the sidewalks, on which he has almost fallen many times.

Joseph Newman, 34 Darina Place. He uses the train station to commute to NY and that is why he moved to Darina Place. He agrees with the plan to reduce semi-urban blight and the idea of beautifying the property is fantastic. Has specific concerns, most of which have been mentioned by Mr. Billis in his letter about the proposed landscape issues. One issue in particular is the proposed location of the dumpster opposite the residential side of the street. The residents request that the dumpster be moved to the train station side of the street which should be a relatively easy change to make. The residents would like the fence to be eight feet high because they feel six feet high is not enough to guarantee safety. Eight feet, see-thru would be fine. The issue of the buffer between the fence and the parking lot is more than just a sidewalk. The developers need to consider the vehicles pulling in, often in haste, often late, sometimes in the dark, to make sure no one goes through the fence, because there is a lot of activity in the residents' back yards and any kind of buffer would be appreciated.

The residents realize the 20 foot lights are put in place for safety reasons to make sure people walking on the River Street side and High Street side know this is a well lit and secure area. Would like a compromise whereby the height of the lights would be reduced and increase the decorative value, that would be appreciated by the people on Darina Place who will be looking at the lights all the time.

The biggest issues for the residents of Darina Place are the unsafe sidewalks and uneven road surface as pointed out by Mr. Billis in his letter. Darina Place is among the most heavily used street in the City. Although it is up to the individual resident to maintain his sidewalk, it is an untenable situation due to the existing conditions. It would be in the City's best interest to have a cohesive sidewalk system that helps tie Darina Place in with downtown. With the extra six residential units, six parking spaces and 38 commuter spaces, the street will be saturated with traffic, both vehicular and pedestrian.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
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Mr. Ferrante: Told the audience that the Board has no control over sidewalks on Darina Place.

Mme. Chair: Stated she would like to hold off on that discussion.

Mr. Newman: There was a letter on file at the Office of Community Development asking them to consider using funds that are available to that office for that type of project and the Board's support would be very beneficial. Also, the residents do not feel it is unreasonable to ask the developers of 145 High Street to consider that funding in their plans.

Mme. Chair: Asked if there was anyone else to speak in opposition to the application. (No response)

Rebuttal by the Applicant:

Kevin Curseaden: Providing an eight foot fence would not be a problem and that could be a condition of approval, if the Board allows it. The condition would have to be as applicable, or as per neighbor request and work with the neighbors on that.

There is a sewer approval on file. The Sewer Commission has approved this project.

The dumpster was put on that location because that was the easiest access for removal. The only other place that it may be put on site is where the current handicapped spaces are located next to the building. Perhaps Staff would have a suggestion for a different location for the dumpster. The dumpster will be fully enclosed pursuant to the dumpster plans on file.

Safety and security: The Milford Police Department comments say they like the way the light system is as filed and they want that plan to be approved in adherence with that light plan.

The asphalt lips are the 4 to 6 inches that are required.

He commented that Mr. DeLeo has been very reactive to the concerns of the neighbors and has responded to them as quickly as possible. This has been an ongoing project for over a year.

Mr. Wicko: With regard to the lighting, the safety and security of the site is foremost by all who will be using it, as evidenced by the comments in the police

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

report. The decorative fixtures are more in the center of the site and the taller, shoe box fixtures will be on the north side where the property line to the residential properties are. The shoebox fixture is the best type of lighting for a full cutoff and that location is the best location for the type of light that is produced. It does not produce glare in the direction of the residents' backyard. That is the rationale from the lighting designer. The decorative fixtures that were highly noticeable on the site, then the taller fixtures, and the light trespass was not even .5, which it could have been, but went down to .1, which is a residential district value. The decorative fixtures do not have the full cut off that the specified fixtures have.

There are two decorative lower fixtures which are closer to the building and the rest of the fixtures are on the north property line.

Possible solution to the dumpster situation would be to relocate the refuse containers and use a half-yard or third-yard container and enclose them closer to the building near where the handicapped spaces are. It is a small building with only six users. The truck will be smaller for the pickups so there will be less noise.

Mr. Liddy: Since there are only six units would a compactor be more efficient?

Mr. Wicko: Explained why a compactor would not be practical for this small complex.

Mr. Davis: In this zone the lighting density allowed is 5 times greater than what has been proposed due to the proximity to the residential properties. The taller light structures have the full cut off on the residential side and the light is cast in the direction towards the railroad, reducing the light that is trespassed back to the residential property. Going with shorter fixtures you will need more fixtures to attain the light necessary for security. Adequate light would also be necessary if video cameras or security patrol was provided.

Pointed out that six inch concrete curbing would not prevent a vehicle from jumping the curb more than the six inch bituminous curbing proposed.

Noted the buffer on the side the next to the residents with a combination of trees and shrubs and other types of plantings that would help prevent any vehicles from jumping the curb and getting into those yards.

Mr. Curseaden: Said he spoke to Mr. DeLeo regarding the comment on criminal activity. Mr. DeLeo is not aware of any criminal activity currently on the site that is being utilized for residential and parking. Noted this will not be a

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

vacant lot. There will be six residential units at the beginning of that lot and that area can police itself with the people who will be living in the building once it is renovated.

Noted that the applicant is asking for four waivers and a lot of that is because they are doing more than 50 percent reconstruction of the building. The setbacks are being lost as the building is coming down.

Mr. Ferrante asked the Chair to ask the public if there was anyone else who wished to speak in opposition.

Mme. Chair: Asked if there was anyone in the audience who had not spoken before, who wished to speak now in opposition to the project.

(No response)

Rebuttal by the Public:

Mr. Newman: Said he was speaking on behalf of some residents who could not be present tonight. Appreciated the explanations given with regard to the lighting. It makes sense. Would like to see this in writing. With regard to the difference in curb materials, the residents were not speaking about the curb height but the distance of the curb between the parking lot and the back side of the fence. If there was a concrete sidewalk that would run between the curb and the fence that would increase the distance between the vehicle and the fence by about 2.5 to 4 feet. That additional buffer would create the additional safety.

Most people are in favor of this project but the residents want to make sure it is done in such a way that it will not negatively impact their lives. Willing to have additional meetings with the developer and want to remain involved in the process.

Ms. Rose: Asked that a break be taken to give the public an opportunity to view the material that has been presented.

Sandra Mossman: Still concerned about the safety and traffic issue. Has not seen the plans. Should be a speed bump installed to protect pedestrians.

Mr. Curseaden: There is no room for an additional sidewalk on the site.

Mr. Sulkis: Suggested holding the public hearing open to receive some new information or plans by the applicant to address the issues that were raised tonight. That way the Board can move to the next item on the agenda.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mme. Chair: If the Board has any questions for the applicant, now is a good time to address them.

Mr. Mead: Asked if there would be a stairway to the railroad for the commuter parkers.

Mr. Curseaden: Could not provide a stairway because they did not have an easement with the Connecticut railroad and DOT. There is a combination of owners of that land and they do not have an access easement to the property.

Mr. Mead: If a fence is put up the commuters will have to walk all around to get to the train station.

Mr. Curseaden: That is correct. Now there is currently a structure that connects from behind the building not on the other side of the building where an additional easement would be required.

Mr. Liddy: Who will oversee parking for the commuters?

David A. DeLeo, 236 Georgetown Road, Weston, CT. There are current monthly parkers that are issued parking permits which are displayed on their window. Commuters can call and get on the waiting list. There are currently approximately 48 people on the waiting list.

Ms. Harrigan: Noted the City of Milford's parking waiting list is three and a half years.

Ms. Rose: Asked how many parking spaces are on the lot now.

Mr. DeLeo: Twenty-nine.

Mr. Ferrante: Stated anything that could be done to increase the buffer and add more trees to the residents' side would be appreciated. Cannot do anything about the sidewalks. How will the eight foot fence be addressed?

Mr. Curseaden: Conditional approval pursuant to the neighbors' request. The applicant can be required to send a certified letter to the neighbors and give them two weeks to respond.

Mr. Ferrante: Noted some flooding issues in the High Street railroad area. Noticed the second half is permeable and a whole pad of concrete is being added. Asked if there was any way to make the area more permeable as there is

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

an incline and a water shoot, even though there are the underground water retention wells.

Mr. Davis: A permeable surface will not be as durable as a paved surface. It will also be subject to erosion, rotting and sedimentation, which degrades the quality of the runoff coming from the site. The galleries are sized large enough so that there will be no increase in runoff.

Ms. Rose: Would it be feasible to put in bollards?

Mr. Sulkis: Along the residential side of the parking lot there is almost eight feet between the edge of the pavement and the property line where the fence would be. That's a good distance and it will also be landscaped.

Mr. Liddy: Asked what four waivers were being requested.

Mr. Curseaden: Referred to Sheet C-1 where the waivers were listed: Side and rear yard. At the bottom there are existing nonconforming waivers requested and that is with respect to taking down the existing building, which is more than 50 percent renovation, so they have to ask for that as a setback waiver.

Mr. Vetter: Concerned about traffic, especially in the morning when children are around. Asked about having the adjoining parking lots be connected such as the adjoining access on Route One that was enacted.

Mr. Curseaden: It abuts to Mr. Agro's parking lot.

Mr. Vetter: Asked if it would be feasible to have a pass thru if they are both parking lots.

Mr. Curseaden: Responded, no, it is not something that could be done at this time. A legal easement would have to be obtained and Mr. DeLeo would not be in favor of this at this time. This would also require an additional site plan review.

Mr. Dickman: The plans have concrete curbs written on them.

Mr. Davis: The front portion with the driveway coming in is a decorative Belgian block curb that is being proposed. This is not bituminous as was said earlier. This is the extruded concrete curb that would be placed around the parking area. It is correct that there will be concrete curbs.

Mme. Chair: A suggestion has been made to keep the public hearing open. The outstanding issues are: Dumpster placement; 8-foot fence requires

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

discussion with the neighbors or action by the Board. The other issues have been addressed by the applicant with regard to the lighting; the buffer for the cars; the fencing which requires talking to the neighbors at Darina Place; moving the locations of the dumpsters; and specifications for the decorative fencing along the railroad line and the Agro property.

The public hearing will be left open to receipt of the decorative fencing plan and the dumpster location.

Mr. Sulkis: Anything that will require a change to the plans. Dumpster relocation, lighting, fence along the DOT right-of-way, the buffer.

Mr. Vetter: Would like to see an alternative plan to the lighting, even if it means putting in more lights to achieve the necessary lighting.

Mr. Curseaden: Mr. Mead was correct in pointing out there is a ramp directly behind the building that connects to the railroad property right now, for which there is an easement. It was not used as a staircase in the plans because it is directly behind the residential property. It could be used, but it would most likely require a variance or a waiver (from this board) to put steps directly behind the residential building where that current ramp exists. That would be something else.

Mr. Vetter: Asked if it would be possible to walk from the parking lot to behind the building up to those stairs or cut through?

Mr. Curseaden: That is why it was not done in the first place. They could walk off the parking lot to the sidewalk and walk behind the building but it is a residence. It is one of the applicant's suggestions, but the reason it was not done is because there are six residential units.

Mr. Liddy: Stated he believed the residents would rather have people walk up the stairs versus walking in front of the building all the time. Suggested the applicant work on this aspect of the plan.

Mme. Chair: Hearing will be kept open until ...

Mr. Sulkis: The public hearing does not have to close until June 24th. Chances are the applicant will have the necessary information by the next meeting or the meeting after. It is not necessary to assign a date at this time.

A recess was taken from 9:02 pm to 9:15 pm)

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
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CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

3. PROPOSED ZONE TEXT CHANGE - BUSINESS DISTRICT (ZONE BD)

To allow drive-in restaurant and drive-in bank window service in the Business District (BD) Zone.

Kevin Curseaden, Esq., 26 Cherry Street. Handed out documents for the record, which include: The list of property addresses on the map that was prepared that shows all the zones. Acreage has been inserted based on Appraisal Vision Technology website and a note as to what is on that property now. Notices were sent via certified mail as required. Certified receipts were date stamped into the record.

Mr. DeForest Smith, the property owner of 607 Wheelers Farms Road, which is one of the parcels in the Milford BD zone.

They came before the Board on January 5th for an informal discussion to propose text changes to the BD zone. Received comments back from the City Attorney. The definitions in the original proposed text change have been removed.

Mr. Curseaden gave the history of the Wheelers Farms Road parcel in the BD zone. This parcel was originally residential years ago. As part of a court order in 1994, it was ordered to be General Business. Approximately 5-6 years ago the General Business zone (GB) was changed to the Business District (BD) zone. A provision for banks to have drive-ins was left in, but the provision that restaurants could have drive-ins was left out.

Right now a restaurant can be put on the site, but it cannot have a drive-thru. The list distributed shows the properties that would be affected and the map shows where they are dispersed throughout the City. Indicated on the display where Mr. Smith's property is located.

Discussed the other properties within the BD zone, the size of the properties and what use may exist on those properties.

The statutory requirements that the Board needs to find is: 1) This proposed zone text change is not inconsistent with the current Plan of Conservation and Development and 2) if a zone text change is to be granted, an effective date will have to be indicated. The Board is allowed to do this by statute. The current site is surrounded by DO-10 and DO-25. It is not incompatible with the neighborhood.

DeForest Smith, President of George J. Smith Real Estate, 247Broad Street. Has owned this property for over 20 years. Did not pick up on the Board's change of zone from GB to BD a few years ago. The office tenants in the

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Wheeler's Farm Road vicinity, i.e., Kinder Care and other businesses would like to have a restaurant or coffee house in the vicinity. Right now they have to go across the bridge to Stratford or Route One for a cup of coffee. This would generate over \$20,000 a year in taxes and 15-20 jobs. He owns the property and will build on it. Has built many buildings in Milford and will keep the building in the character of the neighborhood.

Mr. Sulkis: They are asking for a drive-in for a restaurant and if the Board were to make such a change, they can add a drive-in for a pharmacy.

Mr. Ferrante: Not concerned about Mr. Smith's property as opposed to other properties in BD zone throughout the city that are surrounded by residential.

Mr. Smith: There is only one property that could potentially be developed is on Melba Street. The property on New Haven Avenue where Adams is and which has a Dunkin' Donuts drive-thru is fully developed, which is non-conforming.

In order to have a drive-in, you need to have stacking of eight cars and the other properties are too small to accommodate a drive-in, other than the Melba Street property.

Mr. Curseaden: Mentioned that development of the properties with a drive-in would come before the board as Special Permit applications.

Mme. Chair: Asked if there was anyone to speak in favor of the application. (no response) Anyone to speak in opposition?

Mary Ann Baccash, 627 Wheeler's Farms Road. Opposed to this text change because it is related to a site that is right across the street from her residential property. Since she moved into her home in 1997 there have been numerous accidents in front of her house, as well as cars driving onto her front lawn as recently as March 6, 2010. The area is already congested. Should the zone change go through, a drive-in restaurant will be built. Believes here neighbors are not aware of what a snowball situation this text change would start, and she will let them know.

Rebuttal by the Applicant:

Mr. Smith: Understands Mrs. Baccash's concern, but the property is zoned and it will be developed this year. When Mrs. Baccash bought her property it was zoned BD or GB which allowed for the drive-in. Does not feel the traffic flow will be increased by a Dunkin' Donuts or Friendly's.

Mme. Chair: Noted Mrs. Baccash had left the hearing.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mr. Liddy: Asked about the court order that mandated the change in zone.

Mr. Smith: Went for a zone change and was turned down by the Planning and Zoning Board. Went to court on it and the court overruled the Board's decision and it was re-zoned to GB which allowed for the drive-thru.

Mr. Liddy: Asked if it would not make more sense to re-zone the property.

Mr. Sulkis: Explained why it would not be feasible to re-zone the property which would entail spot zoning.

Mr. Smith: Stated he had no interest in changing the zone. Just wants to bring it back to what it was four years ago when the text change was made, taking away the drive-thru.

Mme. Chair to Mr. Sulkis: There is a definition in the regulations for coffee house. What is the reason for not having a drive-in coffee house? Is it harder to distinguish between other drive-in restaurants?

Mr. Sulkis: The applicant is proposing a change to Section 3.8.2, adding a new subsection which is drive-in banks and drive-in restaurants, not allowing for one drive-in establishment per site. The drive-in restaurant portion is being added. Section 3.8.5.4 says no drive-in establishment shall be permitted except for drive-in banks and drive-in restaurants. That is the addition.

Mme. Chair: Asked if there was a reason the Board could not on its own limit it.

Mr. Sulkis: If the Board wanted to create a new category of drive-in, it could. The problem Staff and the City Attorney had with the original language is it is very hard to enforce a definition that was counting on a particular percentage of the business being one thing versus something else.

Mr. Smith: Confining it had been discussed at meetings with Mr. Sulkis and also with the City Attorney. The feedback had been no, just leave it a restaurant.

It was determined that the Board had not received the correct wording for the proposed text change for Business District Subsection 3.8.2.10 and 3.8.5.4 of the Milford Zoning Regulations. The Board will receive the correct text change wording.

Mr. Dickman: Said he regretted that the resident who spoke left abruptly. He got the sense from her presentation that she was not specifically opposed to the drive-in portion of the application, but to development of any kind. He would have liked her to remain so as to further clarify her position.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Mme. Chair: Agreed. The issues of traffic and safety will be addressed when there is a site plan presented. For the Board, the issue is if there is a zone change, what effect will it have on all the other BD zone properties and the one area which has a restaurant drive-in, which is nonconforming.

Mr. Dickman: Asked if the site that is currently nonconforming already has two drive-thrus on it, would this text change still leave that site nonconforming?

Mr. Sulkis: Yes. The Adams Plaza currently has a drive-thru bank and a DD or DQ drive-thru.

Mr. Curseaden: The reason a drive-thru is being limited to one site was to limit the impact throughout all the BD zones, even though there are only one or two sites in the City that can accommodate a drive-thru.

Ms. Rose: Stated that there are two parcels that would be impacted by this text change; Treat's Farm property and Melba Street.

Mr. Sulkis: Clarified that the text change would affect every property within that zone and it would have the ability to do this if they meet the Special Permit criteria. There are multiple properties that potentially, if properly designed may or may not. He does not believe that out of the 20 properties there would be less than 5 over time and most like 2-3 that would incorporate this text change.

Mr. Smith: Whether or not the text change is approved, he will be back with a site plan for the Board's approval. Engineers have drawn up preliminary plans which include a lot of landscaping with no entrance on or off Wheelers Farms Road. He thinks the Board will like the end result of the building which will keep the spirit of Milford in the neighborhood.

Mme. Chair: Closed the Public Hearing.

E. PROPOSED REGULATION CHANGES - None

F. LIAISON REPORTS

Mme. Chair: Ms. Rose has agreed to be the liaison to the Zoning Board of Appeals.

G. APPROVAL OF MINUTES – (4/6/10)

Ms. Rose: Motion to approve.

Mrs. Golden: Second.

**MINUTES FOR TWO(2) PUBLIC HEARINGS OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 20, 2010; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

All members voted in favor of approving the minutes as recorded.

H. CHAIR'S REPORT - None

I. STAFF REPORT

Mr. Sulkis: Last night the Land Use Department gave its budget presentation to the Board of Alderman. He took part in the presentation was asked about some budget items, such as overtime and hopes it works out well.

Mr.Liddy: Motion to adjourn.

Mr. Dickman: Second.

All members voted in favor of adjourning the meeting at 9:46 p.m. The next meeting will be held on May 4, 2010.

Phyllis Leggett, Board Clerk