

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

**Meeting #1611
May 8, 2012**

*******Draft Document subject to Commission Approval*******

The Meeting was called to order in the Cafeteria of the East Windsor High School, 76 South Main Street, CT. at 7:00 P. M. by Chairman Ouellette.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members (Devanney, Gowdy, Ouellette, Sullivan and Thurz) and one Alternate Member (Zhigailo) were present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. If any of the Regular Members need to step down for any reason Alternate Member Zhigailo would also join the Board regarding discussion and action on all Items of Business this evening as well.

Also present was Town Planner Whitten.

GUESTS: Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Selectmen Dale Nelson; Selectmen Dick Pippin, and Kathy Pippin of the Board of Finance.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, April 26, 2012, and Thursday, May 3, 2012, was read by Chairman Ouellette:

- Application of DMD Realty Family Limited Partnership for a 1-lot resubdivision and Special Use Permit, per Chapter 408, to establish a rear lot at 7 Dempsey Road. [R-3 Zone; Map 46, Block 49, Lot 2].

ADDED AGENDA ITEMS: None.

Town Planner Whitten advised the Commission and the audience that the following 2 posted Agenda items will not be heard this evening:

- **NEW BUSINESS: B & G Motors, LLC** – Site Plan Approval for property at 250 South Main Street, owned by James Balch. (The Applicant has requested this Item to be tabled this evening.)

- **NEW BUSINESS: Steve Dearborn** – Request from Atty. Bridget C. Gallagher for reconsideration of bonds for 68 Newberry Road. (The Attorney for the Applicant has requested this Item to be tabled this evening.)

PUBLIC PARTICIPATION:

Chairman Ouellette queried the audience for anyone wishing to speak; no one requested to indulge in Publication Participation.

APPROVAL OF MINUTES/April 24, 2012:

MOTION: To APPROVE the Minutes of Regular Meeting #1610 dated April 24, 2012 as amended:

Page #11, NEW PUBLIC HEARING: Benson Enterprises, Inc. – Special Use Permit per Chapter 502(6) to construct one residential unit below the first story commercial space at 8E Pasco Drive. [B-1 Zone; Assessor’s Map 71, Block 19, Lot 96]; Line 2: “.....Commissioner Sullivan felt the size of the parking GARAGE space.....)

**Page 13, BUSINESS MEETING/(3) Signing of Mylars/Plans, Motions:
“Mylars/Plans: 1) ~~Paul~~ PAL and Mary Szabo”**

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

RECEIPT OF APPLICATIONS:

Chairman Ouellette acknowledged receipt of the following applications:

1. Application of Gaetan Letourneau for a 2-lot subdivision of property located at 12 Hayfield Lane, owned by Letourneau Builders. [R-2 Zone; Map 66, Block 40, Lot 17-10].
2. Application of Mary L. Pepin and Marie T. Morris for a 1-lot resubdivision of property located at 50 Barber Hill Road. [A-1 Zone; Map 19, Block 68, Lot 13-39].

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD

ACCEPTANCE: Norton’s Crossing, Hayfield Lane – Request from Gaetan Letourneau for a 5-year extension for the Norton’s Crossing Subdivision (*Approved on 5/22/2007; Expires on 5/22/2012*):

Chairman Ouellette read the description of this Item of Business. He also noted receipt of the following documentation:

- Letter dated 3/20/2012 from Gaetan Letourneau for a 5 year extension.

- Memo dated 5/8/2012 clarifying the extension timelines.

Town Planner Whitten noted the Planning Office has just received an application for another lot; Mr. Gaetan has begun to start working again. She noted the Commission has the right to extend the subdivision for the full 5 years, or in any increments it chooses.

The Commission agreed they were comfortable with the request for a 5 year extension.

**MOTION TO APPROVE a five (5) year extension for Norton’s Crossing
Subdivision located off of Rye Street. The subdivision will expire on May 22, 2017.**

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

NEW PUBLIC HEARING: DMD Realty Family Limited Partnership – 1-lot resubdivision and Special Use Permit, per Chapter 408, to establish a rear lot at 7 Dempsey Road. [R-3 Zone; Map 46, Block 49, Lot 2] (*Deadline to close hearing 6/12/2012*):

Chairman Ouellette read the Hearing description. Mr. Jay Ussery, of J. R. Russo and Associates, LLC, representing the Applicant, DMD Realty Family Limited Partnership, was in attendance to make the presentation.

Mr. Ussery advised the Commission the Public Hearing sign has been posted; he also submitted the Affidavit, and proof that Certificates of Mailing had been sent to abutters.

Mr. Ussery reported the proposal is for a resubdivision of a 14+/- acre parcel located on the southerly end of Dempsey Road. This parcel is the land which remained when the Kingshire Subdivision was approved 5 or 6 years ago on Rye Street and Apothecaries Hall Road. Several lots within the subdivision have been completed. Mr. Ussery reported the 14 acre parcel originally went to the developer, but has now returned to the owner, DMD Realty Family Limited Partnership. The Applicant wants to create a new 3.2 acre lot; access would be provided via Dempsey Road. Two single family homes already exist on the 14 acre parcel; both homes would be located within the proposed new lot.

Mr. Ussery provided the Commission with a deed dated 11//27//1880 reflecting the acceptance of Dempsey Road by the Town; the right-of-way to the rear land was accepted at the same time. The existing homes are served by septic systems; the homes, and the barn to the east, are served by a private well located in front of the house “A”.

Mr. Ussery referenced plans, noting there is an existing 33’ right-of-way to Dempsey Road. Under this Application they are proposing to give an additional 33’ to the Town for maintenance purposes. Mr. Ussery recalled that when the Kingshire Subdivision was approved the Town was given a 50’ right-of-way. He referenced Town Engineer

Norton's memo dated 4/20/2012 which notes Mr. Norton's disfavor for conveyance of the additional 33' to the Town, as "the conveyance would create a Town right-of-way that would allow the land owner or developer to require the Town to improve or create an extension of Dempsey Road."

Mr. Ussery suggested the existing right-of-way is NOT currently in Dempsey Road; it is outside on other land owned by DMD Realty Family Limited Partnership, which, Mr. Ussery indicated, has been that way for 30+/- years. He recalled a gravel operation application he worked on in the 1970s and the right-of-way was in this location at that time. As part of this Application proposal, Mr. Ussery is suggesting the right-of-way should be within Dempsey Road. He suggested the current situation causes the Town road to be on land of private owners; Mr. Ussery submitted a new GIS map during the Meeting to support his contention. Mr. Ussery suggested there are many trees in front of the home of Jeffrey Romel, which the resident probably feels are his trees; the trees would have to be cut down. The fix proposed under this Application would allow the trees to remain. Mr. Ussery also suggested his proposal is common practice in other towns.

Mr. Ussery then referenced Town Planner Whitten's memo of 5/2/2012, which noted that Subdivision Regulations require the installation of sidewalks and street lights. As the Applicant is NOT proposing to install either improvement approval of the Application would require a waiver.

Mr. Ussery noted that under the same memo Town Planner Whitten has referenced the requirement that when creating a rear lot an evergreen screening buffer must be installed/planted adjacent to the property along the driveway and front property line of the rear lot. Mr. Ussery referenced his NEW GIS map submitted this evening, noting the existing driveway configuration; he suggested the screening in back sort of already exists. He also felt the screening in front could be eliminated as it wouldn't be screening anything.

Commissioner Gowdy questioned what would happen if, in the future, the land to the south were developed? Mr. Ussery suggested DMD Realty Family Limited Partnership has somewhat of a master plan. DMD owns lot #2-9 and #2-10; Mr. Ussery reported the following alternative plans:

1. They have an interest from the person renting "this" building to purchase "this" lot (assumed to be lot #2-9 based on discussion below regarding lot #2-10), and continue renting the building. They would then reconfigure the lot line to create a 3+/- acre parcel.
2. They would then take lot #2-10, reconfigure its lot lines, and create another 3+/- acre parcel with an outbuilding, which would become a mini-farm. This would require another resubdivision application.
3. A small lot would remain after the above mentioned reconfigurations.

Mr. Ussery suggested DMD Realty Family Limited Partnership feels they have lots available in the Kingshire Subdivision which are not yet sold, so why create new lots? Commissioner Gowdy suggested that – the potential additional lots - was the reason the Applicant wanted the Commission and the Town to consider the road change. Mr. Ussery felt that changing the road doesn't change anything. Commissioner Gowdy noted Town Engineer Norton's concern is the Town would be responsible for that road. Mr. Ussery felt the Town already was. Commissioner Gowdy felt the Town was not responsible for the extension. Mr. Ussery reiterated his contention that the change in the road really didn't change anything.

Chairman Ouellette questioned if anything would be gained by creating another lot line by eliminating frontage? Mr. Ussery suggested they could do that, and it would alleviate Town Engineer Norton's concern for any future extension of the road. It would require a conveyance from the Town to the property owner. Chairman Ouellette questioned if it would still be a rear lot? Mr. Ussery replied that it would be a rear lot; he didn't know if Doug King/DMD Realty Family Limited Partnership would be happy with that alternative. Chairman Ouellette noted several file memos were exchanged; he questioned Mr. Ussery's conversations with Town Engineer Norton. Mr. Ussery indicated Town Engineer Norton didn't want any more road to maintain – it's a gravel road which is hard to maintain during the Winter – and Town Engineer Norton didn't want it to go any further. Chairman Ouellette questioned if his suggestion was worth pursuing; he noted the Commission rarely disagrees with the Town Engineer's recommendations.

Town Planner Whitten suggested she saw no point in accepting any more land for a right-of-way which already exists; there is no intention to make the road longer or wider. Why take more of a right-of-way? Chairman Ouellette questioned what if the additional lots were to become farms? Town Planner Whitten noted that if the existing barn were to be used to house animals it would require installation of a 100' buffer. She indicated she has visited the site; there seems to be evidence that there were 3 horse stalls or livestock there at some time. The change of the lot line would make it no longer useable to house animals.

Chairman Ouellette questioned what if the land was used for row crops? Town Planner Whitten suggested it would need a buffer. Chairman Ouellette indicated notes would be required to be added to deeds. Town Planner Whitten concurred, noting they are not proposing an agricultural use for the proposed lot but the reconfiguration of the buffer would need to be noted on the deeds.

Chairman Ouellette questioned Town Planner Whitten's opinion regarding the proposal for the evergreen screening? The Commission paused to review the new GIS map submitted by Mr. Ussery. Mr. Ussery suggested there is an existing driveway easement to the rear, which is on the Romel lot. It's a 25' right-of-way to Doug King/DMD Realty Family Limited Partnership in regard to driveway access reconfigured in the 1980s.

Chairman Ouellette opened discussion to the audience:

Jeffrey Romel, 11 Dempsey Road: reported that part of the easement isn't where it used to be; it appears to be on the neighbor's (Sean Hevner, 2 Napoleon Drive) property. Mr. Hevner agreed. Chairman Ouellette noted people have been using the right-of-way for many years; it's been 25+/- years since the road was cut out. Discussion returned briefly to screening.

Commissioner Sullivan referenced the relocation of the right-of-way; he questioned why would the Town have to take ownership of the additional 33'? Mr. Ussery and Town Planner Whitten clarified the Town doesn't need to take ownership; a right-of-way already exists. Commissioner Sullivan didn't see the need to take down the existing trees; he questioned why the right-of-way can't be moved and the Town not take the additional 33'? Chairman Ouellette questioned why can't the right-of-way be 33' on the south side, and the Town not take the additional 33'? Mr. Ussery suggested the Town has 33' now, just move it and center it on the existing driveway; there would be a land exchange between the Town and the developer, and Mr. Romel would probably have the 33' that he thinks is his lot now.

Chairman Ouellette questioned Mr. Ussery if, in concept, could he explore the change of the lot line? Town Planner Whitten replied affirmatively, noting a land swap calls for a Town Meeting, etc.

Commissioner Zhigailo suggested she has had experience where someone's land has encroached on another owner. It's a difficult situation; it's not easy; maybe it would be better to have easements.

Chairman Ouellette noted there didn't appear to be a consensus from the Commission; Town Planner Whitten and Town Engineer Norton aren't really in agreement with what the developer has proposed. Chairman Ouellette queried the audience again:

Bob Micelli, 6 Napoleon Drive: questioned if the Commission was approving the lot for houses or farmland? Chairman Ouellette the Commission is just approving a lot, but its use could go either way. Presently it's one large parcel being requested to be split in two separate parcels. Ms. Ussery clarified that at this point in time there is NO new construction proposed; it's just a change in the lot line.

Mr. Micelli questioned if the houses and barns behind Napoleon Drive would remain, and the new lot would be approved as a building lot? Mr. Ussery suggested the 2 house lot would become one lot, and the new buyer could go in and tear down the existing buildings and build a new house. Chairman Ouellette clarified that those actions would NOT be subject to a Public Hearing because the lot is presently an existing house lot. Mr. Ussery suggested the 2 existing houses are there and allowed because they pre-date Zoning Regulations; the new owner couldn't build an additional dwelling unit but could build a barn, or he could tear everything down and build one new house. Town Planner

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Meeting #1611 – May 8, 2012**

7

Whitten also noted that the remaining lot would NOT be approved for a building lot; they couldn't build a house on it without returning to this Commission to resubdivide again, and that would require a Public Hearing to be held. Mr. Ussery clarified that the remaining land is farmland, and they could farm it tomorrow.

Robin Yorio, 1 Napoleon Drive: if they didn't want to tear down the existing houses and build another house, what about something with a more commercial tone to it? Town Planner Whitten suggested only residential uses – a house, barn, shed, pool – could be built on the proposed 3 acre lot, but NOT a commercial garage. The structures you would be allowed to build on your lot they could build.

Chairman Ouellette queried the neighbors if they could offer any feedback on planting evergreen screening on the westerly property line? After some consideration the neighbors decided they WOULD prefer to have screening on the westerly property line as required.

Sean Hevner, 2 Napoleon Drive: could a quick claim deed be signed regarding the land going from Doug King/DMD Realty Family Limited Partnership? Chairman Ouellette indicated he wasn't comfortable with that; he would prefer that everyone go back and review other options.

Kelly Micelli, 6 Napoleon Drive: noted that originally 36 houses were proposed for the subdivision; did the developer return some of that property to Doug King/DMD Realty Family Limited Partnership? Mr. Ussery felt the developer had an option on the remaining 14 acres which are the subject of discussion this evening, and he believes those 14 acres returned to Doug King/DMD Realty Family Limited Partnership. Chairman Ouellette questioned Ms. Micelli if she had some concern? Ms. Micelli indicated that when they purchased their lot the intent was that the houses would be built by one builder. Chairman Ouellette clarified that architectural features would not be under the purview of this Commission, or any other Commission, in East Windsor.

Chairman Ouellette queried Town Planner Whitten regarding the evergreen screening on the westerly property line; it appears the consensus of the property owners is they would like it added. Town Planner Whitten reiterated that screening is a requirement of a Special Use Permit under the rear lot Regulations; the Commission has the right to require the screening. Mr. Ussery replied that screening to the rear makes some sense but he questioned planting on the property line for Mr. Romel, as it's already pretty heavily vegetated now. He would like to visit the property with Town Planner Whitten and "put the property line on the ground to see where it is and go from there."

The timeframe needed for the site visit and resolution was discussed. Town Planner Whitten noted the need to acquire Town Engineer Norton's positive agreement as well. Chairman Ouellette noted the need to review the need for the agricultural use notes on the plans as well.

MOTION: To CONTINUE THE PUBLIC HEARING on the Application of :
DMD Realty Family Limited Partnership – 1-lot resubdivision and
Special Use Permit, per Chapter 408, to establish a rear lot at 7
Dempsey Road. [R-3 Zone; Map 46, Block 49, Lot 2] . Application
continued until the Commission's Regularly Scheduled Meeting to be
held on May 22, 2012, AT THE EAST WINDSOR HIGH SCHOOL, 76
SOUTH MAIN STREET, AT 7:00 P.M..

DISCUSSION: None.

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

MOTION: To TAKE A FIVE MINUTE BREAK.

Gowdy moved/Sullivan seconded/**VOTE:** In Favor: Unanimous

The Commission RECESSED at 8:05 p.m. and RECONVENED at 8:15 p.m.

Chairman Ouellette suggested the Commission considering going out of the posted Agenda Order to consider hearing the Walmart request, as the other Items of Business may require considerable discussion.

MOTION: To GO OUT OF ORDER and take **OTHER BUSINESS:** Walmart – Request from Walmart to amend approval for 44 & 54 Prospect Hill Road regarding bonding.

Gowdy moved/Devannney seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

OTHER BUSINESS: Walmart – Request from Walmart to amend approval for 44 & 54 Prospect Hill Road regarding bonding:

Chairman Ouellette read the description of the Item of Business. Town Planner Whitten noted that one of the conditions of approval for this property was the posting of bonds for landscaping, and erosion control. Walmart has requested that they be able to post a Surety Bond. The amount of the bond would be \$164,904.09. Town Planner Whitten noted neither she nor Assistant Town Planner Newton have a problem with a Surety Bond for landscaping, as there is not the instantaneous need to fix landscaping as there might be for erosion control.

Town Planner Whitten noted that based on Town policy, the Erosion Control Bond must be posted in cash, or passbook.

MOTION TO ACCEPT a Surety Bond for required landscaping for Super Walmart, to be located at 44 & 54 Prospect Hill Road.

DISCUSSION: None

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

OTHER BUSINESS: None.

NEW BUSINESS: American Auto Wholesalers – Site Plan Approval to allow used car dealership and carwash at 157 North Road, owned by 157 North Road, LLC. [B-2 Zone; Map 125, Block 16, Lot 28] (*Deadline for decision 6/28/2012*):

Chairman Ouellette read the description of this Item of Business. Mr. Jay Ussery, of J. R. Russo and Associates, LLC, representing the Applicant, American Auto Wholesalers, was in attendance to make the presentation.

Mr. Ussery indicated this proposal is for a used car dealership/repair facility to be located at 157 North Road on the northwest corner of Mullen Road; this is the site of the old Mobil station. The Applicant currently operates out of a site on the west side of Main Street across from the hotel (Baymont Inn). The Applicant deals with Southern Auto Auction buying and then selling cars. The Applicant purchased this property 2 years ago with the intent to move his business to North Road; on reconsideration he has thought the used car dealership might not be the best use for the property and has had it advertised for rental. Mr. Ussery indicated the Applicant recently received notice in the mail regarding the zone change, and found it would prohibit the auto dealership. The Applicant was advised to bring in an application if the dealership was his intent. Mr. Ussery is present this evening with designs worked up a couple of years ago - which the Applicant didn't follow through with. He is here tonight because of the zone change, but really wouldn't be coming to this location tomorrow.

Mr. Ussery referenced plans which show the existing building, with two additions on the first floor – an office to the east, and a wash bay for detailing work on the west; additional office/storage space will be located on a new second floor. Mr. Ussery indicated the basic building will be the same as the old Mobil station. There are 4 existing curb cuts, 2 on Mullen Road and 2 on North Road. They are keeping the curb cut furthest to the west on North Road, and keeping the curb cut the furthest to the north of Mullen Road. Cross-hatched areas on the plans indicate proposed parking - 18 in front, 5 more across the front of the building, employee/visitor parking to the rear. Existing pavement and the septic system in the rear will be removed as they will be connecting to the new sewer line. There will be an oil/water separator in the wash bay, and they are adding some landscaping. Mr. Ussery indicated the Applicant has received Inland/Wetlands approval, and has also received a ZBA site approval for a dealer location.

Commissioner Thurz suggested with this Applicant already being a used car dealer he should realize the other side of town is where the auto uses were intended to be located. Mr. Ussery suggested there are 20,000 cars going by North Road every day. Commissioner Thurz noted Coachlight Autos has been a problem for the Commission; he promised to follow his site plan and parks cars everywhere. Mr. Ussery suggested the bulk of this Applicant's business is wholesale, although you and I could walk through and purchase an auto.

Commissioner Sullivan questioned if the new additions would be block as the current building is? Mr. Ussery felt that they would be similar – block with horizontal siding.

Chairman Ouellette referenced the architectural drawing used during Mr. Ussery's presentation; he asked if that would be the plan referenced if approval were granted this evening? Town Planner Whitten replied affirmatively, noting that drawing had been submitted at this evening's meeting.

Commissioner Devaney referenced Town Planner Whitten's comments about barriers under her memo dated 5/1/2012; she suggested the barriers are being recommended to prevent parking outside the permitted area. Mr. Ussery indicated they are showing curbs. Town Planner Whitten indicated we don't want to see vehicles parked on the grass; the Applicant could put in a 3' fence which wouldn't block the visibility of the cars. Commissioner Devaney questioned if something could be put in outside the line? Mr. Ussery noted they are planting trees and plantings around the front.

Commissioner Gowdy cited concern for the wetlands with parking proposed nearby. Mr. Ussery suggested the area is full of water.

Mr. Ussery reported to Town Planner Whitten that he realized there have been some issues in the past with signage and advertisements, which they were asked to remove, and he was told they did. Chairman Ouellette clarified that the Commission can't pre-judge the Applicant on other issues. Town Planner Whitten suggested that regardless of the applicant, this is a used car sales application; she would recommend some barrier to prevent cars from being parked in the location noted. Discussion followed regarding barrier options, including: a block wall, split rail fence, wood guardrails with heavy beams.

Mr. Ussery returned discussion to past violations. Town Planner Whitten indicated it didn't matter who the owner is. There is only one car dealership on Route 5 who hasn't had a violation, and that includes Southern Auto Auction. This Applicant has been up front with her; he is trying to find another tenant. He understands the Commission isn't in favor of this.

Commissioner Zhigailo questioned what would happen if the Commission gave approval and the work wasn't done in 3 to 5 years? Town Planner Whitten indicated the Applicant must do something in a year, and the Commission doesn't have to allow an extension. If

the Applicant came in with a completely different use and didn't do it in one year he would lose his right to an extension. Town Planner Whitten indicated this is an as-of-right application, but the Commission has the ability to make the site very detailed. She noted the Applicant is proposing to make the site better; Chairman Ouellette noted he appreciated that the Applicant is closing the curb cuts closer to the traffic light. Chairman Ouellette questioned what would happen if a berm went across the entire front and the only access would be on Mullen Road; that would create a continuous fence along North Road and the berm would be the barrier.

Discussion following regarding the effect of the recent zone change on submission of this Application. Commissioner Gowdy cited dissatisfaction denying the Application as it is a permitted use now although it would be prohibited under the new zone. Commissioner Thurz requested guidance regarding the timing of the regulation changes. Town Planner Whitten clarified that this Application came in under the previous regulations. She also noted ZBA approved a dealer's location for this site. Mr. Ussery recalled that when the Mobil station was in business they had a dealer's license, and had cars there all the time.

Discussion returned to installation of the barrier and its aesthetic effect on the site. Chairman Ouellette suggested the wood guard rail was a positive addition, and suggested closing the curb cut would prevent people from going behind the guard rail to park cars. Commissioner Zhigailo noted the Commission was seeking a certain level of aesthetics for the new zone; she felt a request to install something aesthetically appropriate – whether it's boulders or plantings – is a reasonable request. She cited McDonald's in Sturbridge was asked to conform to the historic character of the area when bringing in their restaurant. Chairman Ouellette referenced the proposed Landscape Plan (Sheet 5); he questioned if more red maples or other plantings could be added to enhance the area? Town Planner Whitten questioned installation of the guard rail would be considered? Mr. Ussery felt they could go with the guard rail and probably add more plantings and shrubbery. He noted that most of the lawn area is located within the State right-of-way; he can only plant in that area. Chairman Ouellette suggested the Applicant can submit a Landscaping Plan to the State with an Encroachment Permit – as was done with the Walmart site.

Chairman Ouellette questioned Town Planner Whitten if she was on board with the additional landscaping and guard rail? Town Planner Whitten indicated while she isn't crazy about this use in relation to the new zoning regulations for the B3 Zone she indicated the Commission must look at this long term; the Route 140 Business Corridor won't get built in a year. She felt the landscaping and guard rail would be an improvement. The owner has been in discussions regarding options. He is improving the site by taking out some of the impervious area, etc.

Discussion continued regarding Site Plan Approval Applications – including extension privileges – vs. Special Use Permit Applications. While the Commission currently lacks architectural requirements Town Planner Whitten noted the Commission does have the right to ask an applicant to beef up landscaping, etc. Chairman Ouellette questioned if

Staff was comfortable working out the landscaping improvements with Mr. Ussery? Town Planner Whitten and Mr. Ussery were both agreeable to that recommendation; Mr. Ussery indicated he was comfortable with the suggestions.

Town Planner Whitten raised a couple of questions regarding the car wash and the area in the rear of the building. Mr. Ussery indicated the car wash will only be used to wash cars in preparation for detailing. The bay will contain a waterproof membrane on the walls; employees will hand wash cars with a hose. It will NOT be an automatic car wash open to the public. It will be no different than taking your car to someone on Route 5 for detailing.

Regarding the area to the rear, Mr. Ussery indicated they will be removing debris in the back and they are proposing to remove some of the arborvitae. Town Planner Whitten suggested some of the existing arborvitae are rather nice, they are just impacted by junk. Mr. Ussery suggested they do provide screening from Chester's driveway; maybe they will keep something.

MOTION TO APPROVE the Application of American Auto Wholesalers and owner 157 North Road , LLC requesting site plan approval for a used vehicle sales facility with a proposed car wash bay to be located at 157 North Road, in the B-2 Zone. Map 125, Block 16, lot 28. This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions)

Referenced Plans:

Sheet 1 of 5 :Cover Sheet. American Auto Wholesalers, 157 North Road, East Windsor CT prepared for American Auto Wholesalers, 263 Main Street, East Windsor CT 06088, prepared by JR Russo and Assoc. LLC, 1 Shoham Rd, East Windsor CT, 06088 860/623-0569, Fax 860/623-2485, dated 3/30/12

Sheet 2 of 5: Existing conditions/Demolition Plan

Sheet 3 of 5: Site Plan

Sheet 4 of 5: Landscape Plan

Sheet 5 of 5: Erosion control notes & Details

Add Sheet 6 – Architectural Plans presented at 5/8/2012 Commission Meeting.

-Conditions which must be met prior to signing of mylars:

1. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.
2. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final plans.

Conditions which must be met prior to the issuance of any permits:

3. Two sets of final plans, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. Both sets shall be filed in the Planning and Zoning Department.
4. A cash (escrow) or passbook bond shall be submitted for sedimentation and erosion control maintenance and site restoration during the **construction of the project**. Any funds that may be withdrawn by the Town for such maintenance or restoration shall be replaced within five (5) days or this permit shall be rendered null and void. The applicant's engineer shall submit an estimated cost of the E & S controls to the Town Engineer. The amount of said bond shall be determined by the Town Engineer.

Conditions which must be met prior to certificates of compliance:

5. Final grading and seeding shall be in place or a bond for the unfinished work submitted.
6. Final as-built survey showing all structures, pins, driveways and final floor elevations as well as spot grades shall be submitted.
7. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all of these components have been completed, the Zoning Official may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

General Conditions:

8. In accordance with Section 900.3.h of the Zoning Regulations, any approval of a site plan application shall commence the construction of buildings within **one year from the date of approval** and **complete all improvements within five years of the date of approval**, otherwise the approval shall become null and void, unless an extension is granted by the Commission.
9. A Zoning Permit shall be obtained prior to the commencement of any site work.
10. This project shall be constructed and maintained in accordance with the filed plans. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
11. Any modifications to the proposed drainage or grading for the site plan is subject to the approval of the town engineer.
12. Additional erosion control measures are to be installed as directed by town staff if

field conditions necessitate.

13. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.
14. Cars may not be parked at any time beyond the approved limits reflected on the site plan. Non-compliance will lead to violation notices and ultimately fines of up to \$150.00 per violation per day.

ADDITIONAL CONDITION:

15. **Details on additional landscaping and guard rails along curbing to be worked out with Staff.**

DISCUSSION: None.

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan)

Opposed: Thurz

Abstained: No one

MOTION: To TAKE A FIVE MINUTE BREAK.

Gowdy moved/Sullivan seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 8:55 p.m. and RECONVENED at 9:07 p.m.

NEW BUSINESS: Armster Reclaimed Lumber Company – Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2 & A-2 Zones; Map 12, Block 5, Lots 84-1 & 87] (*Deadline for decision 6/28/2012*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery, of J. R. Russo and Associates, LLC, representing the Applicant. Klaus Armster, the Applicant, was also present.

Mr. Ussery submitted revised plans to the Commission at the Meeting.

Mr. Ussery indicated the property is located on the south side of South Main Street, and is part of the Balch/All American Products properties. This site is located behind the Hotcakes restaurant. The building for this operation was previously a body shop for Balch Motors when they were a dealership going back to the 1950s; the building is located over the hill and can't be seen. There is an office within the building; there is

storage behind the building which can't be seen, there is storage in front of the building and to the south of Hotcakes which is behind a board fence. Mr. Ussery indicated the Application before the Commission is for expansion of storage in front of the fence.

Mr. Ussery referenced the new plan, noting the following:

- Line indicating original Phase I approval by PZC, including location of board fence 1/1/2011.
- Line showing area from the location towards the road which is the actual location of the board fence to be removed.
- Line showing the proposal before the Commission this evening for three 3-sided buildings in which lumber will be stored under cover. Buildings to be made to look like tobacco sheds.

Mr. Ussery indicated Mr. Armster is looking to expand, and has had issues with the Planning Office regarding past compliance.

Discussion followed regarding:

Aesthetics of shed design:

Commissioner Gowdy:

- indicated he would like to see sheds with windows, either real or fake, and window boxes to break up the appearance. The shed with a metal roof and no windows isn't appealing.

Commissioner Devanney

- questioned if the shed was of more value than the outside storage? Mr. Armster concluded the shed allows storage; he also has a sawmill and could put up pines and take them down in 20 years.
- How long to construct: Mr. Armster indicated he didn't know; he wants to concentrate on the 3 near Hotcakes first.
- Would they be portable: Mr. Armster replied they would NOT be portable.

Chairman Ouellette:

- noted the Commission doesn't want to lose Mr. Armster but visually, all the proposed wood structures are doing is hiding something. Mr. Armster concurred, but suggested it would also be storage for him.

Commissioner Thurz:

- Would you contract out the sheds, or build yourself? Mr. Armster suggested he would contract them out.

Commissioner Sullivan:

- Suggested using the Amish; they can construct the sheds in 3 days. Mr. Armster suggested just to move the wood around straps his cash flow. Commissioner Sullivan liked the tobacco shed look; he has seen them used elsewhere.

Compliance:

Chairman Ouellette:

- questioned why the fence isn't working? Mr. Ussery indicated the approved fence height is 7' while the approved stack height is less than that, and Mr. Armster goes over that. Chairman Ouellette suggested if the fence were gone Mr. Armster could move closer to have more storage; why the need for the barns? Mr. Ussery indicated he does need to keep some materials out of the weather; the wood cups and moves as it becomes wet and then dries. It has more value and creates a better product. Mr. Ussery indicated Mr. Armster had similar buildings at another location in another town; he was able to use a fork lift to access material.

Chairman Ouellette requested education; why the need for this whole additional area? Mr. Armster suggested he is of the mentality to do as little as possible for the property because he doesn't own it. The building industry has been one of the hardest hit in this economy; he doesn't have gobs of money to invest. He looks at the business as his livelihood as long as he works. Mr. Armster indicated he looks at the value of the wood at any given time; it's a recyclable resource which won't be around as people continue to take buildings down. For that reason he is stockpiling the material, especially now while it's less expensive or available for free. Mr. Armster suggested it's a cutthroat business; he anticipates he will be around for 15+/- years with this stock. Chairman Ouellette suggested there is a cost, and Mr. Armster was willing to go to that extent? Mr. Armster replied affirmatively. Chairman Ouellette questioned if Mr. Armster could request storage closer to the road? Mr. Armster suggested he needs an opportunity to get another facility while he gets this site in compliance. He indicated he was looking at another facility in Manchester, but that has fallen through. Mr. Armster indicated he received a Notice of Violation the same day he was told he couldn't go into the Manchester facility. He agreed another space is an option, but he's so heavily invested in this location.

Commissioner Gowdy:

- felt Mr. Armster should seek compliance, and then come in and ask to expand.

Commissioner Thurz:

- questioned if Mr. Armster had a long lease with his landlord? Mr. Armster replied – no. Commissioner Thurz questioned what's to keep him from not renewing? Mr. Armster suggested they had been discussing him purchasing the property but he didn't know how realistic that was.

Commissioner Sullivan:

- felt the sheds were an improvement but he indicated he has problems with the short term lease. He cited he has a problem seeing Mr. Armster go through all this and 3 months down the line find there is no lease. Mr. Armster suggested he has a good relationship with the landlord but his health isn't good.

Chairman Ouellette questioned if Mr. Ussery had read the Staff comments? Mr. Ussery replied he had not; the plans were revised this afternoon. He suggested he did need to discuss comments made by Town Planner Whitten; those issues included:

- Some of the storage in front is in a B-2 Zone where the height (of the stacks) is 6'. He noted they expanded it at the first approval and it's probably not in compliance; they will need to request a waiver. Chairman Ouellette questioned if a waiver provision was a possibility? Town Planner Whitten replied negatively; if it's inside it isn't storage. Chairman Ouellette questioned if they would need to seek a ZBA (Zoning Board of Appeals) variance? Town Planner Whitten suggested they could meet the height requirements of a Special Use Permit.
- Also, the recommendation for a drop off area, the area where Mr. Armster gets his deliveries is so cramped now. He takes his deliveries in front of the fence now, but Town Planner Whitten has designated an area for deliveries. (See additional comments by Town Planner Whitten regarding the drop off area on page 19).
- The drainage treatment proposal has not yet been done; they must submit plans/proposal to Town Engineer Norton. They are changing a grass area to gravel.

Commissioner Sullivan questioned the timeline for completion? Mr. Armster suggested he is looking to the Commission for guidance; his goal is to work on "this" and work forward. Chairman Ouellette noted the way the conditions of approval are written outside storage isn't allowed until the sheds are completed. Town Planner Whitten suggested the sheds must be behind the existing fence; Staff must see Mr. Armster become in compliance at this site. Commissioner Sullivan questioned could he become in compliance, and what would that take? Town Planner Whitten suggested Mr. Armster needs to become a good business owner; he is in constant non-compliance. Chairman Ouellette suggested, based on Mr. Armster's business plan, he will keep becoming non-compliant. He suggested he is hearing a problem. Mr. Armster can't overcome the height requirement in a B-2 Zone; outside storage is limited to 6'. He questioned that a waiver would work. He again referenced a ZBA variance, or consideration of other options.

Commissioner Sullivan questioned that if there is no outside storage and everything else fits inside then the site would be in compliance? Town Planner Whitten reiterated the sheds and planters as proposed on the plan before the Commission is 35' in front of the existing fence, which is already 50' in front of the approved storage line.

Town Planner Whitten suggested the Commission should also hear from the property owner, as she understands he still intends on having used cars sales out there as well. Chairman Ouellette questioned how the approved fence line was determined? Mr. Armster suggested the line location was based on an agreement with Jim (Balch). Town Planner Whitten felt the Commission had wanted the fence back from the road. Mr.

Ussery concurred with Mr. Armster; the fence location was based on Jim's comments. Town Planner Whitten questioned that Mr. Balch doesn't want cars on this site now? Mr. Armster suggested Jim has said if you need more room move it up.

Chairman Ouellette questioned if Mr. Balch's signature is on the Application? Town Planner Whitten suggested she didn't know if Mr. Balch has seen the plans as they were revised this afternoon.

Chairman Ouellette questioned Town Planner Whitten, aside from the issues with the owner, what's the significance of the fence line? Town Planner Whitten indicated she felt the Commission's concern during previous applications was encroachment on other nearby businesses; she questioned why that wasn't their concern now if it was before? She noted there is still another use out here that this plan encroaches into; there is an approved Site Plan for this location. And, the original fence line was approved at 50'. L-E-N-G-T-H-Y discussion continued.

Town Planner Whitten indicated she is seeking input from the Commission on the length of the buildings. They are proposed for 125' long (each) and will be parallel to the road. Should they be in front of the fence line, or behind it? Commissioner Thurz felt they should be behind the fence line. Commissioner Zhigailo cited concern for more wood, and the heat. Town Planner Whitten suggested those issues were more the concern of the Building Department. Commissioner Sullivan had no problem with the tobacco sheds; he has seen them everywhere. Chairman Ouellette questioned if Mr. Armster could bring in an architectural drawing for a visual of the sheds? Mr. Armster indicated "the architecture couldn't, but a student could". Chairman Ouellette suggested he is looking for a visual, and how the sheds will fit on the site. Mr. Ussery suggested it would be better for everyone to look at it on site.

Town Planner Whitten noted the shed proposed in the back is called a concrete pad; which is it? Mr. Armster suggested it will be a concrete pad with a shed on top.

Commissioner Gowdy questioned what if the property is sold tomorrow, and the Commission has approved this, and the new buyer says Mr. Armster is on his property? Chairman Ouellette suggested the Commission needs to look at the other approved Site Plan; if this proposal is encroaching on the other Site Plan the Commission needs to review options. Town Planner Whitten reiterated she is trying to work towards compliance, but she needs direction from the Commission to move forward. Commissioner Gowdy suggested if moving forward means approving this plan then he isn't in favor of that. Chairman Ouellette suggested Mr. Armster probably will never come into compliance unless he takes materials off site. Commissioner Thurz questioned what the Fire Marshal's comments were? Town Planner Whitten indicated the Fire Marshal hasn't even seen this plan because they weren't presented to the Commission until tonight. Mr. Armster reported she (the Fire Marshal) did come down to the site and was concerned with the drive isles and was in favor of getting into compliance. Commissioner Sullivan indicated he would like to see Mr. Balch sign off on the

Application; Town Planner Whitten agreed, noting Mr. Balch would probably need to modify his plan due to this proposal.

Town Planner Whitten questioned the Commission if they want to see Phase I before they consider Phase II? Commissioner Gowdy indicated he didn't want to move forward unless the process was followed; he cited concern with putting Mr. Armster in jeopardy if the property is sold. Commissioner Thurz noted Mr. Armster started with a blank slate and put himself in this position. Mr. Ussery indicated this proposal deals with property owned by All American Products; there is a property line. This property is not the same property the showroom/repair garage/dealership is on; that's a different property. Town Planner Whitten suggested then he can't park cars there. Discussion continued regarding ownership, ramifications of expansion in relation to ownership, options for approving or denying the Application.

Chairman Ouellette questioned the timeframe for returning to the Commission with the required information/recommendations? Mr. Armster indicated he is trying to get into compliance as he was told the Violation couldn't be addressed until this Application is addressed. Town Planner Whitten indicated Mr. Armster must get into compliance quickly; he must stop having wood dropped off in front of the fence, which is 50' in front of the approved line already. She suggested Mr. Armster create an area to get the wood into compliance – either move some of the wood to another spot or move it into the building.

Chairman Ouellette suggested continuing this Application until the Commission's first Meeting in June.

MOTION: To CONTINUE the Application of Armster Reclaimed Lumber Company – Modification of Approved Site Plan for 232 & 244/246 South Main Street, owned by All American Products Corp., for modification of Phase II wood storage area adding 6 wood storage sheds. [M-1, B-2 & A-2 Zones; Map 12, Block 5, Lots 84-1 & 87] . Application continued until the Commission's Regularly Scheduled Meeting to be held on June 12, 2012; location to be determined.

DISCUSSION: None

Devannney moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannney/Gowdy/Ouellette/Sullivan/Thurz)

NEW BUSINESS: B & G Motors, LLC – Site Plan Approval for property at 250 South Main Street, owned by James Balch. [B-2 Zone/ Map 12, Block 5, Lot 89] (*Deadline for decision 6/28/2012*):

Town Planner Whitten indicated there is no presentation for this Application this evening.

BUSINESS MEETING/(1) Executive Session to discuss pending litigation:

MOTION: TO GO INTO EXECUTIVE SESSION AT 10:07 P.M. Attending were: Chairman Ouellette; Commissioners Devannev, Gowdy, Sullivan, Thurz, and Zhigailo; Town Planner Whitten; Recording Secretary Hoffman.

Devannev moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannev/Gowdy/Ouellette/Sullivan/Thurz)

MOTION: TO COME OUT OF EXECUTIVE SESSION AT 10:14 p.m.

Devannev moved/Gowdy seconded/

VOTE: In Favor: Unanimous (Devannev/Gowdy/Ouellette/Sullivan/Thurz)

Chairman Ouellette noted no actions were taken; no motions were made.

BUSINESS MEETING/(2) Correspondence:

Town Planner Whitten reported the Economic Development Commission is holding a stakeholders meeting at the Golden Gavel, on Wednesday, June 13. The PZC and Board of Selectmen have been requested to attend.

BUSINESS MEETING/(3) Staff Reports: None.

BUSINESS MEETING/(4) Signing of Mylars/Plans; Motions:

- **Benson Enterprises, Inc.** – Special Use Permit per Chapter 502(6) to construct one residential unit below the first story commercial space at 8E Pasco Drive.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 10:14 p.m.

Gowdy moved/Thurz seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(8182)