

Town of Watertown
Planning and Zoning Commission
Regular Meeting

Time: 8:16PM
Date: February 4, 2009
Place: Watertown High School Technology Center
324 French Street
Watertown, CT

1. Call meeting to order
2. Roll call

Members Present: D. Minnich, R. Russ, M. Masayda, G. Martin, C. Mancini,
G. Duplissie, J. Blais, D. George, K. Demirs

Members Absent: R. Rondeau

Others Present: Ruth Mulcahy, Administrator of Land Use
Paul Jessell, Town Attorney

**Text of Motion: Amend agenda to add item 10-e – Appointment of Legal Counsel
for removal from office complaint.**

Motion made by: J. Blais
Seconded by: G. Martin
Aye: 7 Nay: 0

3. Public participation

Minnich: Is there anyone who would like to address the Commission? Hearing none we will
move forward.

4. Executive Session

- a. Joseph D. Masi and Margaret Laflamme v. Watertown Planning and Zoning Commission

Text of Motion: Move 4 to 10-f

Motion made by: G. Duplissie

Seconded by: G. Martin

Aye: 7 Nay: 0

5. Communications and bills

- a. The Habitat, Fall, 2008, Volume 20, Number 4
- b.

Minnich: Is there any comments the Habitat, Fall? We will file this in the office.

Text of Motion: By Unanimous Consent place on file

6. Minutes

- a. Regular Meeting January 7, 2009 (meeting not held due to weather)
- b. Special Meeting January 9, 2009
- c. Special Meeting January 14, 2009
- d. Motion Sheet Special Meeting Public Hearing January 21, 2009
- e. Motion Sheet Special Meeting January 21, 2009

Text of Motion: By Unanimous Consent approve minutes 6-a to 6-e

7. Staff Report

Mulcahy: The decision by the Post Office they are going to discontinue door to door mail for new subdivisions until the roads are accepted by the community.

Ms. Dunnaway I sent her a copy of the letter that was sent to the Chairman of the Police Commission because we could not contact her by telephone and I have not heard from the Police Commission.

Getty Gas Station they want to get rid of the repair shop and expand the convenience store. In the Section 83 that concerns the fire district that is a permitted use. I will ask because the site plan that did go to the fire district and he had not totally complied with that in the past and I did ask him to come in for site plan approval. I am looking to see if I am processing this in the right manner.

Martin: I see his issue more with parking than anything else?

Mulcahy: He has met the parking requirement there. The repair shop actually takes up more parking because they park the vehicles that they are going to repair. Outside the Fire District is comes before the Commission but it is listed as a permitted use in the Fire District area where he is.

Minnich: Are you asking if he needs a site plan? What is he doing exactly?

Mulcahy: He is going to eliminate the repair shop and he did have a filed site plan that was not in total compliance. Technically it could be an administrative permit.

Minnich: Is he going to change anything on the site other than the repair shop.

Blais: That is an old garage and there might be an issue with contamination.

Minnich: Myself I don't see a need to get a site plan and he is not changing anything on the site, it is a permitted use.

Martin: This is an opportunity for us to make him do landscape in the front as opposed to that curbing that he has there now in front?

Mulcahy: When he had his Fire District approval he was suppose to have a landscaped area across the front that disappeared somehow he never put it in and I asked him to continue to plant the plants that is submitted on his location approval.

Martin: I would like him to dress it up a little bit it is the center of town.

George: He does not need a site plan from the Fire District.

Minnich: I concur with Duane, the statement you made to us he is not changing anything on the outside if that is true he does not need a site plan and that is an administrative use. If he is changing anything on the outside then he needs a site plan.

Mulcahy: He has not complied with the landscaping that was approved and for the future how I should proceed.

George: The only reason he need a site plan was for the Motor Vehicle Department.

Mulcahy: I believe so.

Martin: Is removing two garage doors and replacing a glass wall of doors a change? I guarantee he is not leaving two garage doors there. So that is an exterior change to the building.

Minnich: He has a permitted use and administratively Ruth you can consider the approval. The statement that is coming to us is nothing is changing on the site or building.

Mulcahy: At the end of this section that he is in prior to approval of any application for certificate of zoning compliance a site development plan shall be submitted and approved in accordance with section 51. On one hand it is saying it is permitted at the end of this section it is saying he does require a site development plan.

Minnich: This change of use does not require a site plan excepting for what I said.

Mulcahy: He is in a central business district and it lists, the permitted uses, the special uses, the prohibited uses, the lot area requirement, the building bulk, then at the end site plan prior to approval of any application for certification of zoning compliance. Then the site plan shall be submitted and approved.

Martin: If we have any means of him coming to us we can improve that site and I think we should take the opportunity and do it.

Duplissie: He may not require a site plan, he never did the landscaping, and we can enforce the site plan that he had.

Minnich: This appears to be as a commission we can interpret our regulations. Does anyone want to make a motion?

Text of Motion: Getty Gas Station on Main Street, Watertown, CT is required to provide a site plan for approval in accordance with Section 51 of the Regulations

Motion made by: G. Martin

Seconded by: C. Mancini

Aye: G. Martin, C. Mancini, G. Duplissie, J. Blais

Nay: D. Minnich, R. Russ, M. Masayda

On a vote of 4 in favor and 3 opposed, the motion is approved

Minnich: **Could you give the status of Echo Lake and Brownfield.**

Mulcahy: Is still in the Inlands and Wetlands Commission and they have not approached me for any additional meetings. They have changed their attorneys and that was the last I heard. We are working with the assistant on drafting their Inland and Wetlands motion which should be coming up at their next meeting Thursday, the 12th.

Duplissie: They are still under the cease and desist order they we gave them right?

Mulcahy: Yes

Minnich: **Where do we stand with Cornwall Drive in terms of it coming back to this Commission for referral to the Town Council for acceptance as a road?**

Mulcahy: Maybe Carl knows that they discussed it with him.

Mancini: Monday night Town Council meeting with Roy Cavanaugh said that the street light on Cornwall and Middlebury is going to be put in but they are getting a price for the one on Cornwall and Old Colony because Old Colony is all underground wiring and they have to put a pole up and come back to Town Council and see if they want to spend the money there.

Minnich: Our task is to recommend acceptance of the road and Mr. Cavanaugh wants to be certain that the distance of road that we are plowing and have it an approved road so it becomes part of the street mileage to which we are getting state reimbursement on.

Text of Motion: Add 10- G to agenda to consider the street acceptance of Cornwall Drive.

Motion made by: G. Duplissie

Seconded by: R. Russ

Aye: 7 Nay: 0

Minnich: **Next question I have the letter regarding Belden Street parking. The letter went to the Police Commission so it's at their level at this point.**

Mulcahy: Yes, Carl said they are meeting on that.

Minnich: **On the St. John's School the question I had last time and I have not been back there is behind the rear of the lot at the time they were putting in parking they were using the adjacent residential driveway.** I understood that was temporary access, and I am making sure the residential neighbor driveway is not accessed to the rear lot of St. John's School is that the case?

Mulcahy: That is the case I drove there and tried to get access to that residential lot and could not get there. I also went with Dennis O' Sullivan and asked are you using this and he said no. I understand they have changed their plans they are going to have a pedestrian bridge going from the parking lot to the school. Now they have a sidewalk and stairway, which is the prerogative for you and them to change. At that entry where that rear parking lot is it was not of the same material.

Mulcahy: I pointed that out and I said they have to come back to get it changed by the Commission and this was an issue.

Minnich: Could you follow up and make sure that gets done with them coming back. Take a look at all the signage on St. John's school. Does anybody else have anything for Ruth? Hearing none.

Duplissie: **The Swift School parking they are no longer parking buses in the front or on the side of the building.** It has been 3 or 4 weeks they have moved all of the buses to the back of the building. It has made a world of difference and people are able to coming in and out, the flow is much better.

Minnich: Should we keep the subcommittee open.

Mulcahy: I am still waiting on a update to get the final Mylar's on Swift. I could not find in the plans that the front parking lot is actually visitor parking and I know we discussed it in the meetings.

Martin: The guardrail

Minnich: That is another issue the guardrail and the soundproofing for the ac unit.

Mulcahy: He should be giving me an as-built.

Minnich: On those two issues of the guardrail and the screening if you could give a call to Bob Porter and find out the status.

8. Articles on agenda

a. Applicant: AT&T
Agent: Alan Lagocki, Ames & Whittaker
Re: Site Plan/Special Permit #258 -above
ground 2,000 gallon diesel fuel tank
At: 1053 Main Street, Watertown
Zone: B-G

Minnich: It is our practice we will read through it. On number 3 Ruth is says no exterior dumpsters and it should say in addition to that the words or approved.

Mulcahy: Yes

Minnich: Any other comments? Hearing none.

WHEREAS, the Town of Watertown Planning and Zoning Commission received a Special Permit #258/Site Plan application from AT&T at 1053 Main Street, Watertown, CT, for an above ground 2,000 gallon diesel fuel tank located on the southeast side of the building in a B-G General Business District which includes a Site Plan dated 11/24/08 with a revision date of 01/08/09, a Grading Plan dated 11/24/08 with a final revision date of 1/08/09, Site Details dated 11/24/08 with a revision date of 1/08/09, Part Plan & Elevations dated 11/24/08 with a revision date of 1/08/09, Elevations & Details dated 11/24/08 with a final revision 1/08/09, Support Pad Details dated 11/24/08 with a final revision date of 1/08/09, Partial Plan dated 11/24/08 with a final revision date of 01/08/09, Partial Plan dated 11/24/08 with a final revision date of 01/08/09, Tank Details dated 11/24/08 with a final revision date 1/08/09, Partial Plan dated 11/24/08 with a final revision date of 1/08/09 and Details dated 11/24/08 with a final revision date of 1/08/09 prepared by Ames & Whitaker Architects, 21 Church Street, Waterbury, CT 06702; and

WHEREAS, the Commission held a public hearing on February 4, 2009; and

IT IS THEREFORE RESOLVED the Watertown Planning and Zoning Commission **APPROVES** the Special Permit #258/Site Plan application from AT&T for an above ground 2,000 gallon diesel fuel tank located on the southeast side of the building in a B-G General Business District with the following conditions:

1. All exterior lighting shall be full cut off fixtures as required in Article VI Section 61 Outdoor Lighting.
2. Trees and plantings removed shall be replaced with trees and plantings acceptable to the Town Engineer and the Land Use Administrator. The four 30 inch trees noted on the Site Plan shall not be disturbed.
3. No exterior dumpster is proposed or approved.
4. All conditions of approval shall be listed on the final filing mylar map.
5. Prior to Town officials signing a final mylar map and two paper copies, the final map with a signature block for the Chairman of Planning and Zoning with an expiration date shall be submitted to the Land Use Office for review and approval by the Town Engineer and the Administrator of Land Use and are subject to review and approval by the Commission at the discretion of the Chairman or Commission.

In accordance with Section 8-3(i) of the Connecticut General Statutes, all work in connection with this Site Development Plan shall be completed within five years after approval of the plan. Said five year period shall expire on February 26, 2014.

Martin: In your reading of the motion you made an error on the last 10809 you stated 110809 just for the record.

Motion made by: G. Martin
Seconded by: G. Duplissie
Aye: 7 Nay: 0

Minnich: This is also a special permit is there also something else coming with that?

Mulcahy: Yes

Minnich: In the portion that says regarding is there resolved means of amendment that Watertown Planning and zoning Commission approves the site plan application and special permit #258 from AT&T the above ground diesel fuel tank in the southeast side of the building in a B-G general business district and the following conditions: and the rest is the same.

Text of Motion: Amend the motion to add "special permit #258"
Motion made by: G. Duplissie
Seconded by: C. Mancini
Aye: 7 Nay: 0

- b. Applicant:** Legends Auto Group, LLC
Agent: Lou Hart - Valenti Motors, Inc.
Re: Site Plan, Special Permit #259
And Motor Vehicle Location
New and used vehicle sales (renovate
existing medical building)
At: 694 Straits Turnpike, Watertown
Zone: B-SC

Minnich: Is there a motion to table?

Text of Motion: Table
Motion made by: G. Martin
Seconded by: C. Mancini
Aye: 7 Nay: 0

- c. Applicant:** Hardrock Development
Re: Text Amendment to Section 42 –
Restricted Industrial IR-80 and IR-200
Districts Add: Section 42.3.10 Building
or Construction Contractors with no
outside storage of unregistered vehicles,
equipment, materials or supplies in an
IR-200 to the Permitted Site Plan Uses.

Minnich: Is there a motion to table?

Text of Motion: Table
Motion made by: G. Martin
Seconded by: G. Duplissie
Aye: 7 Nay: 0

- d. Applicant: Garsan Corporation**
Agent: Steven Whittaker
Re: Site Plan Approval
Proposed 15,000 Sq. Ft. contractor
business building
At: Mountain View Drive, Watertown
Zone: IR-80 zone

Dupliesse: There is a letter that they had a problem.

Mulcahy: They want to table.

Text of Motion: Table
Motion made by: G. Duplissie
Seconded by: G. Martin
Aye: 7 Nay: 0

- e. Applicant: Mrs. Antoinette Pelagano**
Agent: Attorney William Stevens
Re: Proposed 3 lot subdivision
And request for \$1,030 fee waiver
At: 83 Chimney Road, Watertown
Zone: R-90

Mulcahy: The applicant has asked to have it tabled but they are under a strict timeline of the subdivision application. There are some issues to be resolved on the joint driveway which serves 3 lots, there are also issues on the fee and you can consider denying and they have not paid any fee. So if they reapply next month, some of these issues might be resolved possibly.

Duplissie: Why have they not paid?

Mulcahy: They asked for a fee waiver?

Duplissie: They did not give a reason. The application is going to be very similar to the one we had approved a couple of years ago.

Mulcahy: We have incurred costs with this application. Carol and I called the attorney and discussed the fees and they asked for waiver and I said they did not meet the conditions of the waiver.

Duplissie: Have we incurred any expenses?

Mulcahy: In the past we have and waived them twice before. Your consideration is that you can table it but subdivisions have very strict timetables and they are automatic approvals or you could deny without prejudice for incompleteness. There is a situation here that has to be resolved.

Martin: So that is your recommendation?

Minnich: We have nothing before us other than the item on the agenda with regards to documentation. What do you have in the office for this application other than the form application?

Mulcahy: I do see copies of the map tonight just before the meeting.

Minnich: That is one option to deny the application they have 65 days. The other way to go is to continue to keep this open, the next time they come in everything needs to be completed on that application in terms of the site plan and if everything is not that will be the reason for denial. I will entertain a motion to deny the application.

She is welcome to come back, this has been through us 5 times problems with site plan review on it, two 90 day extensions, another site plan approval and they did not complete that in time.

Mulcahy: Now it would be a resubmitted and you just passed a new regulation that does not allow joint driveways and if you do allow it, it can only be two so therefore it will not comply with the regulations effective January 30th.

Minnich: I will take Ruth's comments and as one of my reasons also for denying the application.

Text of Motion: Deny the subdivision application for the Pelagano Estates Subdivision without prejudice because the application is not complete, information has not been provided to the Commission and no fees have been submitted.

Motion made by: D. Minnich

Seconded by: G. Duplissie

Aye: 7 Nay: 0

M. Masayda recused himself from the New Millennium Development applications and also left the meeting at approximately 9:15PM

D. George was seated for M. Masayda

- f. Applicant:** **New Millennium Development, Inc.**
Agent: **Atty. Robert Reeve, Scully, Nicksa & Reeve, LLP**
Re: **Subdivision Application – One lot Affordable Housing Development to Be know as Mount Fair Village**
At: **Corner of Buckingham Street and Nova Scotia Hill Road**
Zone: **R-30 (PCD)**
(Public Hearing Required)

Attorney Robert Reeve

There are 4 separate parts of this.

1. Is the subdivision.
2. An application for a text amendment to your zoning regulations.
3. There is an application to change the zone on the subject property to the new proposed zone.
4. Application for a site plan.

There are a total of 89 units proposed and under state law to qualify as an affordable development 30% of those units must be deed restricted which sets limitation on the maximum sale price and the maximum income on the people who reside in those units. These are not low income housing. Under the deed restricted units 27 half of them be sold or rented to people who are no more than 80% of area median income and half will be sold to people who are no more than 60% median incomes. The balance of the units those will be sold at market rate.

The state has adopted a law for affordable housing in every community. Here in Watertown your percentage for affordable housing has decreased in the past several years.

In order to encourage towns to meet that state goal the state has changed the rules that apply for affordable housing applications. An application cannot be denied just because it is not in compliance with your existing zoning regulations. Our densities are a little higher than what is permitted on this piece of land. We are proposing a new regulation that would be in compliance with it whether you choose to adopt this regulation. All four of our applications are submitted under that statute. They cannot only be denied if there is

a substantial public health or safety interest that clearly outweighs the need for affordable housing and that cannot be addressed for the reasonable changes to the development (He referred to the 78 acre piece Westview Village Condominium).

We are asking to receive the application tonight and 90% of the documents were filed with the land use office a week ago. We have two additional maps to submit.

Minnich: For the record Dave Whitney – Professional Engineer

This is a supplemental submittal which includes a drainage report, calculations, pre-post development, watershed maps, and overall vicinity map prepared by DeCarra Land Surveying Services for the zone change application. A plan for the reconstruction portion of Nova Scotia Hill Road so there is supplemental information I am submitting 12 sets of those, and I left one with the land use department.

Minnich: Where do we stand with the issue with the fees Ruth?

Mulcahy: We did get a copy of the check that is coming.

Reeve: There was a discussion with the Land Use Administrator with the fee. The fee now is \$22,000 or \$23,000 or a little more and that was Federal Expressed out. It is being paid under protest that we have a disagreement of what fee is required by the way we originally calculated the fee was quite different than the way the Land Use Administrator told us that you have calculated. We think it is unreasonable high and it is not calculated properly.

Minnich: I would like you to contact our attorney Paul Jessell and I would like to have analysis to compare affordable housing plan that you submitted with the affordable housing plan that we have adopted we used as kind of a standard and I want to understand what the differences are.

Reeve: Are you referring to your affordable housing overlay zone?

Minnich: The affordable housing we approved on Echo Lake Road. I am not understanding you have submitted an application of the zone change as part of this process as to the normal orderly process of having zone change and then have that go through a administrative process of having it become effective and published in the newspaper and the 15 day appeal period and we take upon the site plan and these are done together. I do not understand but you don't think you have to have a zone change why did you give us one?

- Reeve: If the Commission chooses to move our development so that comes into conformity with your zoning regulations it is an administrative convenience or if you choose not to adopt it then you still need to look at our site plan application in terms of the affordable housing statute. Perhaps you want to discuss that with your attorney.
- Minnich: I understand the issue of the affordability. There is a statutory process by which when you have a zone change, when you submit a site plan the site plan is only applicable to the regulations which are in place at the time you submitted site plan at the next regular meeting. My point is if the site plan does not comply with the regulations you have also submitted an application for a site plan. From our perspective we cannot comply with the state law with the zone change and then have you do the site plan and I do not know why you are submitting both to us?
- Reeve: What I am suggesting even if you do not approve the zone change or text amendment you still have an obligation under state law to act upon the site plan and approve it, unless there is substantial public interest in health, safety or welfare that clearly outlines affordable housing. The Connecticut Supreme court has decided cases where the applicant has found affordable housing application for text amendment and change the zone and site plan under the application. It is affordable housing, the rules are little bit different all the burdens are shifted here. Your attorney might be a better one to help you understand that.
- Minnich: Obviously we are going to contact our attorney. In the last go around we did not go through the zone change to which you are proposing and I know the process as well. If you do not want the zone change and your intent is go forward and proceed with the affordable housing.
- Reeve: We are giving you the option if you want to adopt this zone such our project would be in compliance and not a non conformity we giving you the ability to do that.
- Minnich: That would then mean submission of the site plan would come after the effective date of the zone change that is where I am coming from.
- Mulcahy: It would still be non conforming.
- Reeve: I guess it would be non conforming until the effective date of the zone change. You still need to act on that site plan irrespective of zone change or not.
- Martin: On the water and sewer effect of a development like this that has to go through the proper channels is that correct?
- Reeve: It still has to go through the Fire Department.

Mulcahy: On the subdivision applications that I have I do see that you are creating some non conformities with the lot lines that you have proposed here. Does affordability subdivision allow you do that?

Reeve: The violation of the regulations does not entitle you...

Mulcahy: This is not a regulation this is a statue and also you are putting your lot line through an access way and I was curious on that aspect of it. On the subdivision map could show you label one lot 3a but is this other lot right next to it. Is this the lot you are subdividing?

Reeve: It was 78 acres at one time and it has been reduced because conveyances have been made out to town as open space for the Westview Village approval.

Mulcahy: How could you divide someone's property that the other owner is not involved in it?

Reeve: Let me give you some history on this happened. In the 1980's your Commission approved a PCD overlay zone on this piece it was originally 78 acres. Thirty something acres got conveyed to the town and made part of the park. The original developer was the village; he did not place all of the remaining land in the condominium form of ownership. He was apparently was going to do that in stages, so what he placed in the condominium ownership the unit owners or association is roughly half of what was left the other 23 acres that we are asking for one last subdivision is the remainder. The ownership in these two parcels of land has always been separate. The other thing was that my client purchased the fee to the remaining land that has not been brought into the condominium form of ownership and he also purchased the development rights under the condo documents to build out.

Mulcahy: Was it based upon site plan approval?

Reeve: Probably, but he purchased the right to build out. The rights under the condominium document to continue to add land continue the units have lapsed. So the owner of the property now has no more development rights left on the association's land and he has left is the fee ownership of the parcel next door. Many years' the Town of Watertown has treated it as a separate lot for taxation. The New Millennium gets a tax bill based on 23 acres of land and assumes the units pay taxes on their portion on their side of the line. That line has never been formalized in the subdivision and that is what we are proposing to do in our application.

- Mulcahy: The complication that I see is that this line you created is cutting into their approved access way to these buildings back here. Also your line is cutting off their parking for those two buildings.
- Reeve: They do not own that land. They do not have any ownership claim to these acres.
- Mulcahy: The site plan approval approved this access way down here.
- Minnich: Normally we get the subdivision land as a separate process here, is that an administrative process?
- Mulcahy: No, this is an application for a subdivision and I do not have the other owner on the application. The lot is being divided, it is a very complicated legal issue for me, and the other parcel is not labeled. You are cutting into an access way that has been used for twenty years and parking.
- Minnich: When we have subdivision the lines are already done for us in the process of a subdivision, apparently that is not the case? It is all part of the one parcel and you want to divide into two is that what I am hearing you say?
- Reeve: I do not completely understand that, all I can tell you is New Millennium owns that land. The land I am referring to is the assessor's lot 3a that is how the Town of Watertown has treated it for many years.
- Mulcahy: It was deeded as one parcel. That is why you are applying for a subdivision.
- Reeve: We have a deed for the 23 acres.
- Mulcahy: You can have several owners of the same parcel.
- Reeve: It was not a division in a typical sense it ended up that way because the prior developer did not add all of the land in the Town interest of ownership as you apparently assumed he would. By doing that he in essence divided the two separate owners. He filed a declaration on the land records on the area where the condos now stand into the ownership condo association.
- Duplissie: Do you have a legal description of that somewhere?
- Reeve: Sure. We are applying for a subdivision to formalize what is out there on the ground, the fact that there is one owner of the vacant lot and the other owner of the condo complex.
- Minnich: Why wouldn't you want to do that process first to get the lot line squared away before you submit an application?

- Reeve: We do not think it is required. We think it would be better to have one public hearing on all of these applications.
- Minnich: That is our right and process of how we go through the process and I understand your issue of affordability. The normal process is we have a zone change, we have a lot line change, and then you submit a sight plan that is the process we go through.
- Reeve: I was told us to bring everything at once I guess I am a little confused.
- Minnich: Which one?
- Reeve: Mr. Nick, he was criticized for asking for a zone change without having a site plan.
- Minnich: That is not the issue on that. Your intent is to submit these all at once, I am having a problem processing all of these at once. We will need some legal advice on this. Why could you not do this process in a more orderly way we do here?
- Reeve: I am not saying we did not. It is not required to break the statutes to your regulations. I heard you say that is your preference but I respect that.
- Minnich: Having said that would you submit it that way?
- Reeve: No, we have submitted all at once under regulations and state statutes, the courts decisions you are obligated to receive it at your next regular meeting is tonight. If you chose not to receive it is my opinion that the clock is running regardless of what you do. I was told there was a problem with the fee and it not a problem we were having with the maps.
- Mulcahy: I did do some review of your subdivision maps and they are quite a bit of information missing from them. I do not know if all of that is waived from your subdivision maps this is normal information that is supposed to be included on the maps. You said it does not have to comply with subdivision regulations because it is affordable.
- Reeve: If it is not something that goes to public health or safety it outweighs the need for affordable housing the fact that it might violate the regulations will not support the condition of turning down the application.
- Mulcahy: Can you site a case for subdivision that I can review. You are saying creating non conformity is okay, which is not normally under subdivision regulations. The statute is 8-30g.

Minnich: We have asked and your response is you are going to use the affordable housing application as what you want to go forward with, you are not willing to do this in a orderly way of getting a zone change, lot line change, and then submitting a site plan.

Duplissie: This has to go through Wetlands first that is our procedure.

Mulcahy: They are claiming no wetlands.

Dupliesse: It is not just wetlands, the procedure is also if this has significant impact with the coverage on this property alone would require that this go through Inlands and Wetlands.

Mulcahy: They can submit simultaneously and we also have the right to wait for the Wetlands report and we have 35 days after receiving the Wetlands report to make a decision even if our time clocks have run out.

Minnich: We obviously need to consider the accepting for you the application that they have for the site plan and just setting a public hearing? The clock has started in terms of what they wish to do.

Blais: Could we table this?

Mulcahy: They did grant an extension in a letter Attorney Reeve.

Reeve: I granted a extension for your decision on this site plan which does not need a public hearing until the time that you are statutorily required to make a decision on the applications which do require public hearings, the text amendment and the map change in the subdivision.

Blais: Could we table until we get legal advice.

Minnich: We can do that but the clock begins. We need to make some decision on getting some things going here.

Joe Seacrest – 401 Nova Scotia Hill

Today I filed a formal notice intervener in this project and as such I am prepared this evening to point out and I have studied all the site plans and all the documents that have been submitted and there are significant violations of the application process. I would lean against accepting this application as it is because it is incomplete it fails to meet the rules for a site plan or subdivision application.

Minnich: The best route is to get some legal advice and we need to meet again this month. We need to do the right things in terms of accepting this for review and getting a public hearing started, this is a very different process. I am disappointed in the applicant that he does not wish to go through our normal process that we have. Is there a motion to table the application and I will schedule a special meeting for the third Wednesday of the month?

Seacrest: Is it not an option to deny tonight until the application is complete?

Minnich: Under affordable housing we deny it goes to court and the issue is on the reverse. When people go to court on a subdivision they are the ones that have show why it failed the regulations and it is on the role of the Planning and Zoning Commission to do that and I know nothing other than what we received on the application. Mr. Seacrest's comments and others are best done in public hearing rather than done here. Mr. Seacrest can get his comments through the Town Attorney and we can come back and have it done more orderly fashion.

Mulcahy: As an intervener he can speak at any time.

Minnich: I do not have a notice of him as a intervener. Why could you not wait in two weeks and speak to our Town Attorney and come back with information with our Town Attorney and then we can decide.

Seacrest: My issue is if you deny the clock has not started.

Minnich: We are not taking any action we might be tabling it and get legal advice.

Seacrest: I have talked with my council and they tell me that you do have the option to deny until it is complete. That is certainly your call.

Minnich: My preference is to get legal advice and table this.

Martin: Does the tabling of this infer acceptance.

Minnich: No

Mancini: If we deny this tonight what are the ramifications?

Duplissie: Lately we have had a problem with paying large bills for attorneys and I think in this case and I do not want to be sued because we denied it. It is to our best interest to table it and talk to the attorney and go from there.

Text of Motion: Table application and schedule a special meeting for February 18, 2009 to obtain legal advice. Chairman Minnich also stated that Mr. Joe Seacrist has filed a Notice of Intervention.

Motion made by: G. Duplissie

Seconded by: D. George

Aye: 7 Nay: 0

Minnich: Also for the record the chair will note that Joseph Francis Seacrest has filed a notice of intervention pursuant the table of statue 22-A-19 Joseph F. Seacrest hereby intervenes in the above reference proceedings of the support of notice of intervention I allege and state that:

1. I am entitled owner of the real property of Nova Scotia Hill Road, Map 72 Block 87 map 6 directly across the street from the proposed affordable housing development.

2. The above referenced application will likely have an adverse impact on the air, water and other natural resources and on the physical environment of Watertown, Oakville in the state of Connecticut including without limitation increase sediment loading from storm water and surface water discharge indirectly and directly into wetlands and water courses. Such activity will adversely affect the environment ecology of this area within which is proposed.

3. The environmental protection Act of 1971 Ct General Statue 22a-19 sequence provides in part that any person may intervene in any administrative proceeding where the proceeding involves conduct for which likely to have an effect on the unreasonable polluting and pairing and destroying the public trust on the air, water and other natural resources of the state.

Where of the above named person intervenes in this proceeding soon to be environmental protection the act of 1971 upon the filing of notice of intervention. Dated 2-4-2009 and it is for an application of New Millennium Development, Inc. 23.64 acres in the town of Watertown that map 72 Block 89 lot3a.

g.	Applicant:	New Millennium Development, Inc.
	Agent:	Atty. Robert Reeve, Scully, Nicksa & Reeve, LLP
	Re:	Zone Change Application from PCD Overlay/R-30 to Affordable Housing Development to be known as Mount Fair Village

At: Corner of Buckingham Street and
Nova Scotia Hill Road
Zone: R-30 (PCD)
(Public Hearing required and Regional
referral required)

h. Applicant: New Millennium Development, Inc.
Agent: Atty. Robert Reeve, Scully, Nicksa
& Reeve, LLP
Re: Text Amendment Application –
To add Section 31 Affordable Housing
District Affordable Housing Development
Zone: R-30 (PCD)
(Public Hearing Required and Regional
Referral Required)

i. Applicant: New Millennium Development, Inc.
Agent: Atty. Robert Reeve, Scully, Nicksa
& Reeve, LLP
Re: Site Plan Approval Application for
Affordable Housing Development for 89
housing units to
Be know as Mount Fair Village
At: Corner of Buckingham Street and
Nova Scotia Hill Road
Zone: R-30 (PCD)
(Public Hearing Recommended)

Minnich: The next item all fall under the category. Is there a motion to table g, h and i.
Before we table is there anything you wanted to say on it.

Reeve: Just record my previous remarks.

Text of Motion: Table 8, g, h, i
Motion made by: G. Martin
Seconded by: C. Mancini
Aye: 7 Nay: 0

The Commission recessed at 9:43PM and returned at 9:52PM

9. Old Business

a. Text amendments initiated by Commission members:

1. G. Martin: Parking regulations

Mr. Martin stated he is waiting for proposed parking regulations from Attorney Hess

3. G. Dupliese: Lot sizes – No information given

4. R. Rondeau: Open spaces – Mr. Rondeau was not present

Minnich: We approved that on common driveways for public hearing in March. One thing that might come up and take a look at the first two sentences of what you proposed for that ordinance and you compare it to what we approve being that we are having only one common driveway. A driveway can only have one additional lot. Think about revising the first two sentences of yours to comply with the regulation just approved.

5. Other text amendments- None

10. New business

a. Southridge Estates, request for first 90 day extension to record map and documentation

Text of Motion: Approve 90 day extension
Motion made by: G. Duplissie
Seconded by: G. Martin
Aye: 7 Nay: 0

b. Watertown High School Bond Release –None

Mulcahy: We do not have anything for the High School.

c. Judson Elementary School Bond Release

Mulcahy: Judson put in a request for \$35,000.00.

Martin: They are having a lot of problems at Judson.

Mulcahy: You could condition the bond release on satisfactory letter from W M C.

Minnich: All we need is documentation of what they did O & G is requesting this.

Mulcahy: Our part is P & Z drainage 26,800 plus the sedimentation erosion 9,100.00 for a total of \$35,900.00 is what you need to approve.

Martin: Retain age is held against every payment happens. \$35,900.00 minus 5% .

Text of Motion: Approve bond release in the amount of \$35,900

Motion made by: G. Duplissie

Seconded by: G. Martin

Aye: 7 Nay: 0

d. Amendment to Town Ordinance 07-01-85-123 ZBA and P&Z Commission

Minnich: In your packet is the town ordinance that enables the Commission to be authorized by the town council act as the Planning and Zoning Commission statues. It also describes in here removing officials and in recent experience the language needs to get developed. We all concur that we need to get that process clear. So the suggestion tonight is to request the Town Attorney to help prepare a document which is more clear and I have some guidelines that I would like to include in that, it would then comes back to us in our meeting in March for us to then approve that and sent off to Town Council who will take it from there. We need the Town Attorney to develop standards to which complaints would be filed under this ordinance in terms we have two: one is an attendance issue in terms of 3 successive regular meetings as well definition of what misconduct and he help to develop that. Inclusive in this is the process of where a complaint goes to and d how it gets reviewed and then the process of it going to an investigation and then finally going to a hearing if that is the decision of the council. Let it be clear that these rules by which this investigation is governed by the Ct rules of evidence for administrative procedures and that they are conducted in uniform administrative procedures. That process by how it is going to be handled by the council is an important one. The rest our Town Attorney will have a lot of input on how to make it better but those are my general thoughts. Is there a motion to revise the ordinance dealing with the Planning and Zoning Commission?

Blais: Is this document you are reading say how the complaint is taken against the person?

Minnich: I did have a consensus that the complaint should be notarized signed of penalty of false statement and sealed envelope marked confidential complaint and delivered to the Town Manager.

Text of Motion: Request Town Attorney help revise the ordinance dealing with the Planning and Zoning Commission.

Motion made by: G. Martin

Seconded by: G. Duplissie

Aye: 7 Nay: 0

e. **Appointment of Legal Counsel for removal from office complaint.**

Minnich: You received tonight a package that has two complaints and also has a petition which is of those people who have been signatory to this and they are not pleased at what we had done with regards to the Route 262. Their request is for the Town Council to investigate that and remove all of the members from the Planning and Zoning Commission. This is going to be presented further to the Town Council by these individuals by February 17th and I would like to suggest to all the members to attend that meeting. It is not a hearing it is just listening. The issue before us tonight is as I see it we need to have legal counsel at the outset of all of this. I understand with my discussion today with the Town Attorney that this was going to be put on the Town Council's agenda so therefore there is a need for us to have legal council on the onset.

Text of Motion: I move the Watertown Planning and Zoning Commission appoint Edward Fitzpatrick of Fitzpatrick, Mariano & Santos, P.C., having an office in Naugatuck, as special counsel to the Commission and its members for legal services responding to complaints requesting the Town Council remove a Commissioner(s) from office. Attorney Fitzpatrick shall be reimbursed for expenses and paid an hourly fee for services the same as the Watertown town attorney hourly rate of compensation. The term of this appointment is effective this date and continues until such time as the Commission by resolution ends the appointment.

Motion made by: G. Duplissie

Seconded: D. George

Blais: I have a question Blanco in their complaint they said in their two statements on their knowledge and thinking that they have heard which is hear say. We want facts not something you heard. Tackle right from the beginning on their complaint.

Martin: Especially what is when it says Gary Martin behind the scenes.

- Minnich: I understand we all have to make some statements but this issue is somewhat complicated and we need to get the legal advice and take the advice of our Attorney as to when to say things and when not to say things we don't want to give up any of our rights and say things that is going to hurt us. This appointment is for the Commission and members.
- Duplissie: There were funds that were expended and I understand that is was in the \$40000.00 dollar range that the town has to reimburse your Attorney for these allegations and to come to find out there was nothing. So now we have these other people coming in are allegations from what you are reading there is really nothing there and they want to remove the whole Commission. At this point we are hiring one Attorney and then it could get ugly and hire individual Attorneys then the Town will be responsible again. We did this in god faith to pass this resolution to bring funds into the town. But they are looking to take all the funds off of the Attorneys from what I understand, when does it stop?. Let's say they win and then they put in their own Commission now reverses the decision so we turn around and say we don't like that decision we want them removed. So does this keep going back and forth?
- Minnich: This process on the 17th is just hear complaints, and we are going through our Attorney. The decision of the council will be that night is to decide whether they will begin the process and then it will go to formal hearing as did with me and I am hopeful that there will be some wisdom in the process before hand and we will do something different. However this motion we approved previously will establish a process and standards for this whole process to go through. Which in the draft I will include things to which we are doing in our responsibilities and duties. The ultimate decision is the Town Council in terms of it. You will get to hear exactly what is being said this is not public participation.
- Duplissie: You had to hire an Attorney is because you won the case the Town is going to reimburse the Attorney even if you had lost would the Town reimburse your Attorney?
- Minnich: My contention is yes.
- Duplissie: There is \$40,000.00 dollars that is being paid to Attorney in defense of Mr. Minnich. Is there anything for the town to turn around and recoup the funds from the people who brought these allegations? Can we get some fees against them?
- Jessell: I do not know the answer to that question.
- Duplissie: Should we look into that question?

- Blais: The complainant has to have consequences for their allegations. The only way to get it is to go after them civilly. They cannot just smear us and do all the things that they are doing with no consequences.
- Jessell: If the question is can the Town bring an action? I do not know the answer to that question. An individual for false complaint could potentially I imagine has some kind of cause of action but keep in mind public officials you are open to far more public criticism of others. So it is not the same as a private individual making accusations made.
- Duplissie: Is their some president.
- Jessell: The decision would be the Town Council's it seems to me if you are talking about the town.
- Blais: I am sure that every Commission in every Town is going to be concerned opening themselves up to this kind of litigation if they are not going to be covered. I suggest you attend the meeting and listen and let Mr. Fitzpatrick be our spokesman.
- Martin: May I recommend that everyone be there.

Aye: 7 Nay: 0

F. Executive Session

- a. Joseph D. Masi and Margaret Laflamme v. Watertown Planning and Zoning Commission

Text of Motion: Enter Executive Session at 10:20PM for purpose of Joseph D. Masi and Margaret Laflamme v Watertown Planning and Zoning Commission litigation

Motion made by: R. Russ

Seconded by: G. Martin

Aye: 7 Nay: 0

Those entering Executive Session are all the members of the Planning and Zoning Commission present this evening, Town Attorney Paul Jessell, Ruth Mulcahy and Carol Allen.

The Commission came out of Executive Session at 10:39PM. No motions were taken. The topic of discussion was Joseph D. Masi and Margaret Laflamme v Watertown Planning and Zoning Commission. Approximately 5 minutes into the Executive Session Jim Blais left the meeting. All other members that went into Executive Session came out of Executive Session and no votes were taken in Executive Session.

J. Blais returned to the meeting after Executive Session

- g. Acceptance of Cornwall Drive and recommend acceptance to the Town Council. Is there a motion to accept Cornwall Drive to the Town Council? It is recommended in a memo by the Town Engineer.**

Text of Motion: Recommend acceptance of Cornwall Drive to the Town Council.

Motion made by: J. Blais
Seconded by: G. Duplissie

Mr. Blais withdrew his motion

Mancini: You said he was going to give back to us and let us know about putting the light in. The reason why I am saying that is because the Town is trying to save money they are eliminating street lights and poles to save money. They are going to take out lights at the end of cull de sacs where there are no lights at sights. The only lights that are going to be kept up are at intersections. My motion is that we do not approve Cornwall Drive until we have something from public works department Roy Cavanaugh is saying that lights will be put up on both ends of Cornwall Drive on Middlebury Road and old Colony Drive. I will approve it on the condition that on fact that lights will be installed.

Minnich: Your motion is that the Commission recommends the acceptance of Cornwall Drive contention on two street lights being installed one on the end of Cornwall Drive & Middlebury Road the other one on Cornwall Drive & old Colony Drive.

Text of Motion: The Commission recommends acceptance of Cornwall Drive conditional on two street lights being installed; one at the end of Cornwall Drive and Middlebury Road and the other one on Cornwall and Old Colony Drive.

Motion made by: C. Mancini
Seconded by: G. Martin
Aye: 7 Nay: 0

11. Chairman's Report - None

12. Adjournment

Text of Motion: Adjourn at 10:43PM
Motion made by: G. Duplissie
Seconded by: G. Martin
Aye: 7 Nay: 0

Michael Masayda _____
Secretary