

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JULY 8, 2013, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Earl Kurtz, Chairman; Sean Strollo, Vice Chairman; Lelah Campo, Martin Cobern, S. Woody Dawson, Edward Gaudio, John Kardaras, Gil Linder, Louis Todisco.

Alternate – Leslie Marinaro

Absent: Alternate James Bulger

Staff: William Voelker, Town Planner

**I. CALL TO ORDER**

Mr. Kurtz called the public hearing to order at 7:31 p.m.

Mr. Kurtz read the fire safety announcement.

**II. ROLL CALL**

Mr. Strollo called the roll.

**III. DETERMINATION OF QUORUM**

Following roll call a quorum was determined to be present.

**IV. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**V. BUSINESS**

**Mr. Voelker read the call of public hearing for each application.**

(Commissioners Todisco and Strollo were recused from this application; Ms. Marinaro was the alternate).

1. **Special Permit Application**  
**Dalton Enterprises, Inc.**  
**71 Willow Street**  
**Alternate Truck Access**

**PH 5/28/13**  
**PH 6/10/13**  
**PH 6/24/13**  
**PH 7/8/13**  
**MAD 9/11/13**

David Carson, OCC Group, represented the applicant, Dalton Enterprises.

Mr. Carson presented some new information regarding the proposed Linear Trail (trail) extension from Cornwall Avenue to West Main Street. To accurately assess this information, he said it was necessary to review the history of how we got to this point.

At the last public hearing and numerous news articles over many years, Mr. Carson believes there is a misunderstanding of the facts relative to the proposed trail extension across the Dalton property. Residents think Dalton is responsible for this portion of the

trial not being built, and this may be true or untrue, but Mr. Carson said he could only talk about his experiences relative to the trail extension.

According to the history of the trail extension, Mr. Carson reported there was a conceptual plan in 2002, and based on that plan an easement across the Dalton property was negotiated and secured by the State of Connecticut (State). The final plan for the trail extension was made public in 2002, but the final plans bear no resemblance to the conceptual plan and are not within the easement secured by the State. OCC Group developed alternative schematic plans to accommodate specifics of the trail design while maintaining truck access for Dalton. There have been meetings with the Town, Dalton and consultants, but none of the meetings were fruitful.

In 2010 the State took over the design of this portion of the trail; has secured an easement; the trail is not in the easement; and Mr. Carson has worked on this since 2010. More recently, the discussion between the State design team and Dalton accommodates the needs of the trail, and truck circulation for Dalton Enterprises. As of 12 days ago the State shared the conceptual plan with Dalton which accommodates continued truck access out to Railroad Avenue. To accomplish this, the trail was completely redesigned; a new easement must be secured; and Dalton is in complete support of this conceptual plan and hopeful this will be the plan to be adopted. Mr. Carson noted that the goal from the beginning was for Dalton to have access off Railroad Avenue for truck circulation.

Mr. Carson commented that Dalton Enterprises may have been better served by proposing the current truck access in 2001. It went through IWW but did not continue through PZC. At this time the town needs the support of the Willow Street residents to make sure the continued access to Railroad Avenue is incorporated into the final plans for the trail. He said Dalton is a business that must plan for the future and future contingencies.

In 2001 the proposed driveway of the subject application was a fall back position, and is still a fall back position. Mr. Carson explained that Dalton wants to amend the current application to incorporate a self-imposed stipulation that – if approved, this access drive will not be constructed, unless the final plans for the trail extension terminate Dalton's access to Railroad Avenue. It was stated by Mr. Carson that had this been approved in 2001 the trail would have been built as it would satisfy everyone's needs.

Mr. Carson further stated that there is no reason for Dalton to expect, after 15 years, that because the conceptual plan is on the table, it will happen. Dalton has no control over the ultimate decisions on the trail; has provided numerous alternatives which were rejected; and now there is a design team recognizing the benefits of continued access without impact on the trail; and Dalton is hopeful this will happen.

It is expected the State conceptual plan will be ready for the public in December 2013, and Mr. Carson hopes this meets the approval of the town residents, PZC and Willow Street residents.

The Commission and public was told by Mr. Carson that Dalton does not want to build this driveway. But, in 5 years, if access to Railroad Avenue is cut off, all the traffic will go down Willow Street to the existing entrance, and function for both ingress and egress. This is the reason the applicant wants the secondary access built.

It is 15 years after the initial conceptual plan for the trail, and there is still not a final plan. Mr. Carson said this is why Dalton is requesting a stipulation, on the record, that the proposed driveway will not be built unless the final plan eliminated Dalton's access to Railroad Avenue. He explained that the present easement to the State was based on the conceptual plan, and assumes some procedure will be followed for a new easement based on the plan. If the final plan varies slightly, and modifications are needed, this would not be a problem for the applicant. Dalton's only goal is to have access off Railroad Avenue.

Mr. Carson expressed appreciation and understanding of the consternation of the neighbors towards the Dalton operations. However, this is an Industrial zone. The application has nothing to do with the undesirability of the operation or its size. It is all about trucks maneuvering in connection with the configuration of the trail.

Commissioner Cobern thanked Dalton and OCC Group for the option presented, and if successful, it will meet Dalton's needs to operate in an industrial zone and alleviate some of the resident's concerns. A brief history was given by Mr. Cobern who stated that Dalton had to give an easement for the trail. The company appeared before PZC in 1998 requesting the same application, but the easement was further west of Railroad Avenue right-of-way. Dalton was not solely responsible for the trail delays, but they are not without some responsibility in this area. Given the new proposal, Mr. Cobern said it is a good solution, and similar to what he had proposed to the Town Planner. He hopes it comes to fruition, with concerns of Willow Street residents taken away, and traffic back to Railroad Avenue.

Mr. Carson advised that the applicant would provide more specific language on the amendment for review by town administration.

Town Planner Voelker said this should be submitted, in writing, to the Planning Department for review by the Town Attorney.

According to Mr. Carson the plans for the trail call for the west side of Railroad Avenue right-of-way being 80 to 100 feet wide. With the crossing there would be some type of wide crossing for tractor trailer trucks to make turns. The conceptual plan calls for moving the trail to the opposite side of the railroad tracks, closer to the canal, and trucks would be allowed to cross back where Dalton's outside storage is located. This would be a safe gated crossing.

#### PUBLIC

Kim Clark, 66 Willow Street, a 20 year resident, informed the Commission that residents have looked into the situation with Dalton, the effects of the proposal, and have hired a

land use attorney. She read some land use and special permit information from the attorney into the record. Ms. Clark commented on the applicant's proposal causing undue hazards to Willow Street, unsafe conditions, and devaluation of property. She said the PZC can make a choice whether to approve the application or deny it, and give Dalton other options. Dalton owns the Ball & Socket site which could be renovated; sold it for \$1 million; but the deal has not gone through at this time. Without the sale going through Dalton could use this property. Ms. Clark said completion of the trail impacts Dalton's access, and right now, no one knows whether the traffic can go out over the trail. With the State's permission to cross the trail, Dalton will not have to change, and this application does not have to be approved right now.

A letter from the president of Dalton Enterprises was sent to all the Willow Street residents, and Ms. Clark read an excerpt from the letter into the record. She further requested the Commission to not approve this application, to wait until the State makes its final decision, and deny the application.

Andrea Hale-Loutinho, 154 Willow Street, presented a petition of 156 signatures to the Commission, and read the petition statement into the record. These people are in opposition to the Dalton application, and believe it is not safe for Willow Street residents or anyone using this road. She requested the application be denied.

Holly Smith, 57 Willow Street, said there are other options for the Dalton trucks. She has met with Mr. Dalton and Mr. McPhee, and has seen the conceptual plan. She asked how residents can get involved in the decision phase of the trail plans, and when the Commission would meet on this application again.

In response, Mr. Voelker advised that the best way to get involved is to contact the State Dept. of Transportation; and, the next Commission meeting is July 22<sup>nd</sup>.

Norman LeClerc, Willow Street, asked what is allowed in an industrial zone, and the difference between a commercial and industrial zone.

It was explained by Mr. Voelker that there is no difference between an I-1 and I-2 zone. Uses in the I-1 zone are special permit uses and adjacent to residential neighborhoods and Route 10. The town does not have a light or heavy industrial zone; special permit requires a public hearing; and commercial zones include retail and service businesses. West Main Street is a commercial use zone. All the uses are written in the zoning regulations, and there are many uses permitted in either district. Residential use in an I-1 zone is a non-conforming use, and today, single family homes could not be built in an industrial zone.

When he bought his property, Mr. LeClerc said Dalton had drives in the back, with no tractor trailer traffic on Willow Street. He also commented on the difficulty of getting onto or off West Main Street onto Willow Street by the trucks and cars, and there is not enough room for two trucks going in and out.

West Main Street is a state highway, and Mr. Voelker said that concerns must be given to the State. Willow Street is a local/town road.

Mr. LeClerc stated that trucks cannot continue to do this, in and out, particularly after hours, and he noted that property values are being affected negatively.

With regard to the extension of the hearing, Mr. Carson said the applicant would submit approval of granting the extension, in writing, to the Planning Department.

In response to some of the statements and concerns made by residents, Mr. Carson said the applicant would prefer to continue the truck access off Railroad Avenue. The only entity to stop this is the State; and he said the petition should go to the State. Dalton and the PZC are not opposed to keeping Railroad Avenue available. If the State does not approve the final plan, then Dalton trucks would go down Willow Street as this would be the only option. According to Mr. Carson the proposed access drive does not increase the number of trips; it increases safety; and this application has nothing to do with the size or operation of Dalton Enterprises, only with safety. The proposed stipulation is proposed only if access to Railroad Avenue is removed for Dalton truck circulation.

There was a brief discussion about the number of access ways on the trail for commercial businesses in Southington. Mr. Linder commented on F&F Concrete Company crossing the trail, without warning signs, with heavy concrete trucks. Mr. Gaudio noted that within one half mile there are 5 or 6 cross roads on the trail, plus the F&F access way. If it can be done in Southington, it can be done in Cheshire.

Mr. Carson said it seems the State is ready, willing and able to permit crossing the trail, and if this happens, Dalton will not build the access driveway.

Ms. Campo commented on her understanding that this plan is at the conceptual state, and Dalton would not have to build the driveway. This could be 5 years down the road, and she questioned why this is before the Commission now for a decision.

It is the same reasoning as 1998, and Mr. Carson said Dalton did not expect the access to be cut off. The State has taken over the trail design; Dalton came up with an alternative which went through IWW, not PZC, because the plan was in place with no problems. The time frame to go through the entire process again is about 4 months.

Ms. Campo believes it would be 3 to 5 years before all of this will happen.

At this time there is a contract for the sale of Ball & Socket and Mr. Carson said Dalton wants to continue to use Railroad Avenue. With this access taken away, there must be an alternative plan for trucks traffic in and out of the Dalton site safely.

Willow Street resident, Ms. Clark agreed with Ms. Campo about the pressure to have this application passed now, and why it should be considered.

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| <b>2. Subdivision Application</b><br><b><u>Diversified Cook Hill LLC</u></b><br><b>Peck Lane</b><br><b>3-lots</b><br><b>CONTINUED TO 7/22/14</b>   | <b>PH 6/10/13</b><br><b>PH 6/24/13</b><br><b>PH 7/8/13</b><br><b>MAD 9/11/13</b> |
| <b>3. Zone Map Change Application</b><br><b><u>Cheshire Route 10 LLC</u></b><br><b>IC Zone to I-C S.D.D.</b>   | <b>PH 6/24/13</b><br><b>PH 7/8/13</b><br><b>MAD 9/11/13</b>                      |
| <b>4. COMBINED APPLICATION FOR ZONE CHANGE</b><br><b>TO AND APPROVAL AS AN I.S.D.D. AND</b><br><b>APPROVAL OF I.S.D.P.</b><br><b><u>Cheshire Route 10 LLC</u></b><br><b>1953, 1973, 2037 and 2061 Highland Avenue</b><br><b>Dickerman Road and I-691</b> | <b>PH 6/24/13</b><br><b>PH 7/8/13</b><br><b>MAD 9/11/13</b>                      |
| <b>5. Earth Removal, Filling or Regrading Permit</b><br><b><u>Cheshire Route 10 LLC</u></b><br><b>Highland Avenue, Dickerman Road, I-691</b>   | <b>PH 6/24/13</b><br><b>PH 7/8/13</b><br><b>MAD 9/11/13</b>                      |

Attorney Anthony Fazzino represented the applicant, and agreed that the call of public hearing from the June 24<sup>th</sup> public hearing would suffice for this public hearing.

Since the last public hearing the application has received approvals from IWW, favorable comments from RWA and Central Connecticut Regional Planning Agency.

Town Planner Voelker read the Regional Water Authority (RWA) and Central Connecticut Regional Planning Agency comments into the record.

Michael Galante, Frederick P. Clark Associates, Inc. reviewed the history and formal approvals of the traffic study prepared 2006-07 and in May 2013. He compared the traffic data in the two reports from Table 1 and Table 2. Traffic volumes have significantly decreased, by about 20%, in the a.m. and p.m. peak hours; outlet centers generate less traffic than mall type centers; and site traffic is lower than 10 years ago. Approval of the project in 2006-07 proposed a mitigation plan, and it is the same in 2013, and will accommodate the development as proposed today. A more detailed traffic study will be submitted to the State of Connecticut.

With regard to the peer review of the storm water management plan and traffic study review, Mr. Voelker said they are subject to peer review, and this is being coordinated. A meeting will be held on Friday, July 12<sup>th</sup>. This information will be used as the basis for the starting point of the new proposal.

Mr. Cobern asked about the effect of the new entrance further north on Route 10 in terms of traffic.

According to Mr. Galante traffic has decreased, but the mitigation is the same.

Mr. Cobern spoke about the relocation of the ramp from I-91, and asked if the State will be asked to relocate this ramp.

Mr. Galante stated that the State will be requested to add lanes and modifications to the ramps.

Regarding Dickerman Road and these two exits from the site, Mr. Strollo asked about truck traffic only on the front side, not through the back, the narrow road and the exit on the bend.

Mr. Galante said the commercial traffic is on the front side; there is one access road through the entire site and they are connected; all truck traffic is on Route 10, coming into the site from this side. There will be trucks, i.e. UPS, which could come to the back for small deliveries. Regarding the exits, one is on the south bend, and one is near the town line. Adequate site distance must be provided, and the final design will accommodate this.

It was stated by Mr. Voelker that the town assumes improvements will be made, and the State will look at the entire length of Dickerman Road, Johnson to RT 322, and may require some improvements.

In the final approval from the State, Mr. Galante said they will limit their conditions of approval to the state highway system. The town will look at town roads and requirements.

Attorney Fazzone stated that deliveries to the site will be mostly by UPS trucks, with little tractor trailer traffic once the project is up and running. He informed the Commission that the applicant has sent, certified mail, return receipt requested, information to the Southington Conservation Commission, Planning and Zoning Commission, Water Pollution Control Authority, and the Town itself with a complete set of plans, notification of the public hearing date, and legal notice for the hearings were sent to all abutting neighbors. An affidavit to this effect is in the file along with receipts from the Southington CT mailings.

The RWA response was received, and they received a follow up set of plans. Because of the implication of the aquifer and seeking determination from the Aquifer Protection Agency in Cheshire, proper forms were filed with the Department of Public Health.

Mr. Fazzone stated that very little of consequence has changed with respect to this project in terms of design, traffic generation, etc. The change is positive, specifically in reference to the three additional parcels on Route 10. The entire front of the project will be part of the application and design; traffic impact is reduced with decrease in project size; and the actual fiscal impact has improved for the Town of Cheshire.

With regard to the fiscal impact study, Mr. Voelker said the information will be reviewed by the Town Manager. There will be review of the storm water analysis and traffic study by the Town Engineer.

Attorney Fazzone informed the Commission that the applicant is willing to speak with the adjacent condominium association residents, and letters were sent to these residents about the public hearings.

Stating that the redesign may generate fewer trips, Mr. Cobern feels that the analysis should stick to the 2006 traffic numbers. This recession will end, and the applicant and tenants are operating on the economy improving when the project opens. He believes the current numbers are on the conservative side, and there is the opportunity for them to rebound closer to 2006 numbers. He said the original project was approved based on the 2006 numbers

Lou Masciello, W.S. Development, stated that the reason for the background traffic data has to do with the economy. If it changes there could be other factors as well as work schedule changes, use of public transportation, etc. He said the proposed mitigation program would work for the higher volume center and the proposed center.

Mr. Fazzone referred to the May 31<sup>st</sup> report from the Regional Planning Commission, Council of Governments of the Central Naugatuck Valley, and he read their recommendation and statement into the record. Mr. Fazzone stated that this project is consistent with the Regional Plan and the Town of Cheshire Plan of Conservation and Development.

Town Planner Voelker stated that the Planning Department staff is willing to meet with the condo residents on this application.

THE PUBLIC HEARING WAS CONTINUED TO JULY 22, 2013.

**6. Subdivision Application**  
**Ricci Construction Group Inc.**  
**Sperry Road/Crestwood Drive**  
**4-lots**

**PH 7/8/13**  
**MAD 9/11/13**

John Gabel, Connecticut Consulting Engineers, represented the applicant. This is a four lot subdivision proposed right off Crestwood Drive, a 500 foot extension. Three lots will be served by private water and septic systems, with feasibility received from Chesprocott. One lot is a remaining home, 1142 Sperry Road, served by a well and septic system. IWW deemed this project as an insignificant activity.

As part of the improvements, the existing cul de sac on Crestwood Drive will be eliminated, and revert back to the adjacent property owners. At the end of the proposed road will be a new cul de sac. The applicant provided the Engineering

Department with drainage computations, new design for road drainage, which will discharge into the wetland area.

The applicant is requesting two waivers, and Mr. Gable cited these waivers. One is waiver of sidewalk as there are no sidewalks on Crestwood Drive. Second is the waiver of public water access. Mr. Gable reported the applicant went before the RWA and State Dept. of Health, and received approval to install wells due to shallow ledge in this area, and a hardship was proven.

At this time Crestwood Drive is served by wells; the closest water is along Sperry Road; and the distance from city water to the property line is within 30 feet of the water main.

There is an existing home on the site which is separate from the proposal, and Mr. Voelker noted there are three new lots on Crestwood Drive extension. The water line runs across the frontage of the already developed lot on Sperry Road. This home is separate from the rest of the proposal. The larger lot will become three smaller lots. From Sperry Road to the nearest new residential lot is over 500 feet. Technically, this is still a waiver requirement because even though it is an existing lot, it is part of the proposal.

The Fire Department comments have been received and their concerns are provision of fire protection and life safety.

Mr. Gaudio stated there must be consideration of the Fire Department statement and concerns, and if water is required to be in, then it should be brought in.

This is something which can be discussed and Mr. Gabel said the applicant will discuss it with the Fire Department. On the plans he pointed out the existing house and three proposed homes. He also said he does not believe this project falls into the criteria on the length of road and driveways as related to water. There is about 600 feet to the closest home, and 700 feet to homes #2 and #3.

With regard to bringing in water, Mr. Voelker said the closest place to bring water in would be off Sperry Road.

Mr. Todisco questioned the legal requirements for a waiver.

The Commission was told by Mr. Gabel that RWA approval was received first, and without hardships established there would be a denial. The next step was Chesprocott approval, with a hardship, and partial approval was received. The RWA approval is pending State DOH approval. Once all approvals were received, they were given to the Planning Department and are in the packets. This allowed putting in foot wells at this point.

Stating his understanding that other approvals were received, Mr. Todisco said they cannot change the Cheshire regulations, and this is his focus. He asked what the standard is to waive the requirement.

In response, Mr. Voelker said waiver approval is discretionary, and the Commission has to make a finding that the property is unique. The standards are written to enable flexibility with application of the regulations, and where the Commission finds it appropriate and unique to the special circumstances of the property.

Mr. Cobern read an excerpt from the Chesprocott letter into the record. The letter states there are hardships and issues and uniqueness which makes installation of water lines to serve the lots very difficult. So, there is a unique feature on this property, making some degree of hardship if the Commission insists on installation of water lines. There are Fire Department concerns deal with safety and fire protection, and if they oppose this waiver, the applicant would have to find some other way to insure these lots would be adequately protected. This could be sprinklers or other water storage system, and would have to negotiate this with the Fire Department.

Given the length of water to the homes to have water supply, Mr. Todisco has not heard anything about reasons for the waiver.

It was noted by Mr. Cobern that Chesprocott has indicated there is a hardship based on the requirements to install water lines.

Regarding the Fire Department, Ms. Marinaro asked if there has been discussions with them on the safety of residents in the homes. She said there must be an action plan for the Commission to review.

The public hearing will be continued to July 22<sup>nd</sup>, and Mr. Voelker said this would enable the applicant to discuss all the issues with the Fire Department.

Mr. Gable reported there were discussions with RWA on wells vs. water lines, and RWA had an understanding of the hardship and concurred with approval of the wells.

Mr. Voelker read the Fire Department comments dated 6/20/13 into the record.

#### PUBLIC

Peter Wickenheisser, 399 Crestwood Drive, abutting property owner, expressed concerns about fire protection. He said public water in the area is not accessible by truck, and the length of Crestwood would be added to the longest driveway, and you are over 1000 feet from the nearest hydrant. Extension of the water main from Sperry to the cul de sac would provide access to water. Regarding relocation of the cul de sac, this is desirable to the property owners, and otherwise the plan has no great resistance from Crestwood residents. Mr. Wickenheisser commented on abutting neighbors not receiving written notice of public hearings on this application.

Town Planner Voelker explained that public hearing notices are published in local newspapers, and written notices are not given to abutters.

THE PUBLIC HEARING WAS CONTINUED TO JULY 22, 2013.

(Mr. Todisco was recused from application #7; Ms. Marinaro was the alternate)

**7. Special Permit Application**  
**Danlin Partners LLC**  
**883 Peck Lane**  
**Rear Lot Access**

**PH 7/8/13**  
**MAD 9/11/13**

Daniel Boutellier and Linda Cariello, 799 Peck Lane, applicants, requested a modification to the rear access, taking 10 feet from lot #1, and moving the rear lot access way 10 feet to the north.

Mr. Voelker said this is a minor revision to an already approved subdivision, and will not involve any changes to the physical development of the property.

THE PUBLIC HEARING WAS CLOSED.

## **VI. ADJOURNMENT**

MOTION by Mr. Cobern; seconded by Mr. Strollo.

MOVED to adjourn the public hearing at 9:40 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk