I. CALL TO ORDER
Mr. Strollo called the meeting to order at 9:00 p.m.

Mr. Strollo read the fire safety announcement.

II. ROLL CALL
Mr. Kurtz 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. ACCEPTANCE OF MINUTES – 11/22/10 S.M. P.H. and 11/22/10 Regular Meeting
MOTION by Mr. Cobern; seconded by Mr. Kurtz.

MOVED to accept the minutes of 11/22/10 P.H. and 11/22/10 Regular Meeting subject to corrections, additions, deletions.

VOTE The motion passed unanimously by those present.

VI. ELECTION OF OFFICERS – tabled to January 2011.

VII. APPROVAL OF 2011 MEETING DATES
MOTION by Mr. Cobern; seconded by Mr. Bulger

MOVED to accept the 2011 meeting dates as attached to these minutes.

VOTE The motion passed unanimously by those present.
VIII. COMMUNICATIONS

1. Letter from John Dorin and Deborah Kulik dated 12/8/10
   Re: In-Law Apartment renewal.

MOTION by Mr. Dawson; seconded by Mr. Cobern

MOVED that the Planning and Zoning Commission grant a five year extension of
the approval for the in-law apartment, property located at 1746 South Main
Street, Assessor’s Map No. 94, Lot No. 14, in an R-20 zone.

With the following stipulations:

1. All previous stipulations shall remain in effect.

2. This approval shall expire on December 13, 2015. The applicant may
   request an extension of the permit by providing the Commission with a
   notarized statement verifying that the use of the in-law apartment complies
   with the regulations, and that the resident of the in-law apartment qualifies
   under these regulations.

VOTE The motion passed unanimously by those present.

IX. UNFINISHED BUSINESS

1. Subdivision Application
   Diversified Cook Hill LLC
   Plank Road
   14-Lots
   CONTINUES TO JANUARY 10, 2011. mad 02/16/11

2. Special Permit Application
   Cheshire Fitness Zone
   716 South Main Street
   Physical Therapy & Women’s Fitness Gym

MOTION by Mr. Dawson; seconded by Mr. Cobern.

MOVED that after reviewing the evidence presented in writing and at the public
hearings, the Planning and Zoning Commission makes the following findings:

1. The proposed use constitutes a “Health and Exercise Facility” and is,
   therefore, permitted by Special Permit in an R-20A Zone per Section 30,
   Schedule A.37 of the Zoning Regulations.
2. Other occasional activities such as birthday parties, etc. are typical for a health and exercise facility. They constitute a reasonable and customary accessory use, and therefore do not make this an application for multiple uses.

3. The proposed use is not included in Sections 33.1.1 – 33.1.11 of The Zoning Regulations that govern parking and, therefore, constitute an “Other Use” as defined by the parking regulations of Section 33.1.13. The required number of spaces “shall be approved as adequate by the PZC to preserve the purpose and intent of this Section.” The Commission, therefore, has no discretion in deciding upon this number.

4. Based upon testimony at the hearings, the Commission finds that the proposed use would require approximately 25-30 spaces. This number, when combined with the regulatory number of spaces required for #714 would be below the 53 spaces currently available to the two-building condominium. (While the terms of the condominium agreement entered into the record are not binding upon the Commission, we note that 30 spaces would be below the 60% of the total allocated to 716 by this agreement.)

Based upon these findings the Commission hereby approves the Special Permit application of Cheshire Fitness Zone for a physical therapy and women's fitness gym at 716 South Main Street, as shown on a plan entitled “Property Survey Depicting Declaration of: 714-716 South Main Office Park Condominium, 714-716 South Main Street, Cheshire, Connecticut” dated August 10, 2007 and prepared by Milone and MacBroom, 99 Realty Drive, Cheshire CT 06410.

Discussion
Mr. Cobern said that considering the amount of controversy and back and forth on this, he put on the record some of the logic behind his decision.

The first question was whether this use was allowed in this zone or constitutes a multiple use. The section under which the application was made is just called “health and fitness facility” and is not further defined in the regulations. Section 23, Definitions, was read into the record by Mr. Cobern. The State statutes have been checked and there is no definition of a health and fitness facility and there is only a general description in the dictionary.

The Commission is free to use its best judgment and the uses being discussed by the applicant...exercise classes, physical therapy...fall within the same rubric of health and fitness activity or center. The occasional birthday party is totally consistent with the typical use of this type of facility and does not constitute another use.
Section 33 has a more specific definition, and talks about commercial recreation facilities located within the building, with the idea of a sports training facility. These are typically more specific, more intense uses with more equipment designed for a particular sport, i.e. football, ice skating, hockey etc.

The second question was whether the Commission had flexibility regarding parking. Mr. Overton showed new figures based on assumptions, but it is not clear either of the uses described fit any of those. Mr. Cobern said the best evidence is the testimony provided about the current use of the applicant’s parking at their facility which is not as intense.

Mr. Cobern stated he understands the concerns of Mr. Hecht and his clients, but he believes they went into the condominium agreement knowing how many spaces there were, and that there was another building there that could have a potential use.

Mr. Cobern stated his disagreement with the contention that there is no control over the parking. There is a condominium agreement; there are two owners of the buildings; and they can work out the modes operandi among them.

Mr. Cobern feels this is a consistent use with the regulations; that the parking is going to peak at different times; and there is no reason to vote against this application.

It was stated by Mr. Cobern that there is a fair number of court cases which say that where there may be some ambiguity in the regulations, the PZC must err on the side of the applicant. The Commission must use less restrictive definition to give the applicant more flexibility.

For these reasons, Mr. Cobern stated he would support the application.

Ms. Flynn Harris said she would also vote in favor of the application. She noted it was unfortunate that Mr. Hecht was making and presenting as fact, assumptions, as to the usage. She understands the concern because this proposed use will require a larger volume than this property is used to now. At the time Milone and MacBroom was in this building it was heavily trafficked. The peak time will be at off business hours and not affect the other businesses.

Mr. Kurtz said there will be a benefit if the two business work together on the parking situation.

Mr. Todisco is in favor of this application. He commented on Mr. Hecht's client having legitimate concerns, and a good presentation was made to the Commission on their behalf. He said the peak parking hours are outside of the hours of operation of the existing business, and this was not contested or challenged. This proposed use is a good fit for this site and a good result. If
the applicant was doing something not permitted in the zone, a complaint can be made and addressed. Mr. Todisco considers the proposed use as a good fit on the site and it should be approved.

Ms. Nichols agreed with the statements made by the Commissioners. She will vote in favor of the motion.

Mr. Linder commented that there were many prognostications about what may happen to businesses, whether they would expand, need more parking demands, a business growing and needing more parking spaces. There was discussion on whether the gym would grow and need more parking. This can be said for any business in town or area where there is shared parking. Problems can grow all over town, and for the PZC to make a decision based on what might happen in the future, and what is a business problem among common tenants/owners, is getting dicey with decision making. He will vote in favor of the application.

Mr. Linder also commented on it being disturbing that the Commission was being handed totally contradictory square footage numbers. It started with an 8,000 s.f. building. It is unfortunate that applicants come before the Commission and throw square footage terms around. The PZC must grapple with square footage issues. The concerns of the Commission for this application were alleviated by the latest square footage calculations, which is around 6,300 s.f. Mr. Linder asked about a method to require more precise numbers or backup.

Mr. Dawson said it is important for the PZC to listen to all the testimony and be either convinced, individually or not, what will work. He said this application had a good presentation, and will work. He will vote in favor of the application.

VOTE The motion passed 8-0-1; Strollo recused.

3. Special Permit Application
   Cornwall Properties LLC
   500 Cornwall Avenue
   Building Addition, parking lot extension, Relocation of accessory structure, and addition Of secondary structure for storage.

MOTION by Ms. Flynn Harris; seconded by Mr. Gaudio.
MOVED that the Commission hereby approves the Special Permit application of Cornwall Properties LLC for a building addition, parking lot expansion, relocation of an accessory structure and addition of a new secondary structure for storage at 500 Cornwall Avenue as shown on plans entitled “Site Development Plan, Property of Cornwall Properties LLC, 500 Cornwall Avenue, Cheshire Connecticut”, prepared by Juliano Associates, Wallingford CT dated September 2, 2010.
VOTE  The motion passed unanimously by those present.

4. **Subdivision Application**
   - Jason Welles
   - Welles Properties LLC
   - Maple Avenue
   - 2-lots
   - CONTINUED TO JANUARY 10, 2011.

5. **Special Permit Application**
   - 1607 Reinhard Road LLC
   - 1607 Reinhard Road
   - Section 30, Sch. A. Para 71
   - Add a recycling use to existing
   - Approved site plan

MOTION by Mr. Dawson; seconded by Mr. Bulger.

MOVED that the Planning and Zoning Commission hereby approves the Special Permit application of 1607 Reinhard Road, LLC for the establishment of a recycling facility as regulated by Section 30, Schedule A, Item 71 of the Cheshire Zoning Regulations, as shown o plans entitled “Property of 1607 Reinhard Road LLC, Schoolhouse Road and Reinhard Road, Cheshire Connecticut, November 5, 2010” prepared by Milone and MacBroom, 99 Realty Drive, Cheshire CT 06410.

Discussion
Mr. Strollo commented on having received a complaint about this property and its operation, and noted that the applicant resolved the concerns and the site is cleaned up.

Mr. Voelker said this was a good response to a complaint. We now have buildings being constructed which are permitted under the regulations, and the applicant has been responsible every step of the way.

VOTE  The motion passed 8-0-1; Strollo abstained.

6. **Special Permit Application**
   - Dana Bartone & Company LLC
   - 1151 South Main Street
   - Change use from office to Hair And Beauty Salon

MOTION by Mr. Dawson; seconded by Mr. Cobern.
MOVED that the Commission approves the Special Permit Application of Dana Bartone & Company, LLC, 1151 South Main, Cheshire CT for a change of use from office to hair and beauty salon as shown on plans entitled “Site Plan Proposed Parking Layout, 1151 South Main Street, Cheshire, CT prepared by Milone and MacBroom, 99 Realty Drive, Cheshire CT. The approval is contingent upon the applicant installing and maintaining a Fire Department approved emergency key box and pavement of the parking lot within 12 months of the approval.

VOTE The motion passed 8-0-1; Todisco abstained.

7. TABLED APPLICATIONS

a. Resubdivision Application
   Richard Abbate
   Terrell Farm Place & Yalesville Road
   2-lots
   TABLED FOR PUBLIC HEARING 1/10/11

X. NEW BUSINESS

1. Final Development Site Plan Modification MAD 02/05/11
   Application
   Brodach Builders
   210 Wiese Road

Attorney Anthony Fazzone represented the applicant, stating that this is an application for modification of a prior approved final development plan for Richmond Glen in 2005. This a 41 unit age restricted planned residential development off Wiese Road which runs from Wiese with an emergency access off Buckland Court.

In September last year the Commission approved a five year extension of the approved plan. The delay has been due to the effect of the State of Connecticut Plan of Conservation and Development (Plan) which came to the attention of the town as a result of this project. The Plan has a multi colored map telling towns if they allow sewer or public improvements in these conservation areas they cannot accept public funding. At the time the problem was that the applicant could not get WPCA approval due to fears that future public funding for sewers could be cut off. Mr. Fazzone said they went to the State Legislative Committee, got the property changed, and now we have all WPCA approvals for the entire project, extending out into the future. IWW approval has been received as of December 7, 2010, for changes to the plan which the PZC will see. The legal notice and motion for the IWW approval will be made part of the record if this application.
Section 43.4.7C talks about the preliminary Plan of Development approval, and there was also a final development plan approved at that time. The regulations state that you treat the Final Development Plan as a site plan approval, and this is why the presentation is being made to the Commission. The regulations state that the Commission can approve minor modifications, a change to the final development plan, if it does not significantly depart from the original final development plan or preliminary development plan.

Darin Overton, Milone and MacBroom reviewed the changes, and showed the current plan which has been submitted. All local, state and federal approvals have been achieved, including the Army Corp of Engineers and DEP.

In 2005 the WPCA saw this application. At that time there was a gravity sanitary sewer collection system going into a common pump station located at a low point on the site adjacent to the pond. There was a forced main pumping that back up to the northern part of the site, connecting to the existing gravity sewer system there. This is a site sewered by individual grinder pumps, pumping into a common forced main, achieving the same goal. There is no longer a common pump station on the site. The gravity sewer system forced fill in the northern part of the site to get proper cover over the system. With a forced main the fill for the project can be reduced.

The DEP and Army Corp changes were made to create larger buffers to the wetlands. Minor changes were made to the horizontal shift in the road, less than 30 feet, and this lessened the wetlands impact. There were minor shifts in the units away from the wetlands on site, larger buffers were created leaving more natural wooded area. Emergency access culvert for the crossing of Honey Pot Brook to the north was changed to a three sided box culvert. DEP encouraged incorporation of low impact design principles; the curb was eliminated from the first 1200 l.f. or roadway; and this worked out well. Three rain gardens were added; central island was changed for water to run into it with a storage for natural infiltration; and permeable pavers will be used in the visitor parking areas. There are painted islands near the center island near the boulevard, and they have been changed to a permeable paver as well. With all the changes and adjustments, all storm water management computations were updated. The storm water basin is now out of the wetlands; the shape was changed; the road was shifted; and there is still the same storage volume and it functions the same way. Computations were updated and sheet flows change very little; there is still a decrease in peak runoff similar to the 2005 approval.

There was an update for the flood plain in this area in August 2010, and now the plain follows the contours and represents the actual flood plain. It did not affect anything on the property. This was all reviewed by the DEP.

In summary, Mr. Overton said that we have the same road way system, same unit count, and all zoning criteria remains the same. He displayed the 2005 and
2010 renderings of the development which are the same with very little difference in the plans for the project.

Mr. Cobern asked about the changes in the sewer and storm water handling, assuming the condo agreement would be modified so the homeowner’s association will be responsible for maintaining the sewer and rain gardens properly.

As part of the DEP review, Mr. Overton explained that the maintenance schedule was written for these, and there is little change for the pavers or curbless roadway. The sewer system was always a private system and will be maintained as part of the HOA.

Attorney Fazzone clarified, for the record, that in accordance with the regulations, the HOA has been incorporated. The HOA is responsible for the main trunk line; individual owners are responsible for their own grinder pumps. As part of the WPCA approval there is a requirement for a maintenance agreement through the HOA fees charged.

Ms. Flynn Harris was glad to see the project is using more pavers, and asked why they are not being used for the entire road. DEP is using a New London development where everything was done with pavers as an example for other developments.

Mr. Overton said there is an initial increase in cost of installation of pavers and there is maintenance required. There has been opposition from the Fire Department on pavers but they have accepted what was in Stonegate, and still have resistance to a full paver roadway.

MOTION by Mr. Dawson; seconded by Ms. Flynn Harris.

MOVED that after reviewing the evidence the Planning and Zoning Commission finds that the proposed modifications to the Richmond Glen Active Adult Planned Residential Community at 210 Wiese Road Final Development Plan do not differ significantly from the approved Final Development Plan.

Based upon this finding the Commission hereby approves the modifications to the application of Brodach Builders, Inc. for modifications to the Richmond Glen Active Adult Planned Residential Community at 210 Wiese Road Final Development Plan as described in a letter from Darin L. Overton, P.E. Milone and MacBroom, dated November 29, 2010, and received on November 30, 2010, and as shown on plans entitled “Richmond Glen, 210 Wiese Road, Cheshire, Connecticut.”

VOTE The motion passed unanimously by those present.
2. Special Permit Application
   Nhi Anh San & Phat H. San
   533 West Main Street
   Nail Salon
   SCHEDULED FOR PUBLIC HEARING 1/10/11

3. Special Permit Modification Application
   KJD Cheshire Properties LLC
   726 South Main Street
   To increase sq. footage within the interior and
   Increase parking facilities.
   SCHEDULED FOR PUBLIC HEARING 1/10/11

4. Other Planning and Zoning Commission Business
   b. Other.

XI. ADJOURNMENT

MOTION by Ms. Flynn Harris; seconded by Ms. Nichols.

MOVED to adjourn the meeting at 9:50 p.m.

VOTE The motion passed unanimously by those present.

Attest:

________________________________________
Marilyn W. Milton, Clerk