MINUTES OF THE CHERISH PLANNING AND ZONING COMMISSION
PUBLIC HEARING HELD AT 7:30 P.M. HELD ON MONDAY, DECEMBER 13, 2010, IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHERISH CT 06410

Present
Sean Strollo, Chairman; Earl Kurtz, Vice Chairman; Martin Cobern, S. Woody Dawson, Patti Flynn Harris, Gil Linder, Sylvia Nichols, Louis Todisco.
Alternates - James Bulger, Ed Gaudio, Leslie Marinaro
Absent: Tali Maidelis
Staff Present: William Voelker, Town Planner

I. CALL TO ORDER
Mr. Strollo called the public hearing to order at 7:31 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. BUSINESS
Before the start of the meeting, Chairman Strollo recognized that this is the last meeting for Ms. Flynn Harris before she assumes her duties as a member of the Cheshire Town Council. On behalf of the Commission, Mr. Strollo thanked Ms. Flynn Harris for her 10+ years of service and wished her as she undertakes her new duties on the Council.

1. Subdivision Application
   Diversified Cook Hill LLC
   Plank Road
   14-Lots
   CONTINUED TO JANUARY 10, 2011
   PH 10/25/10
   PH 11/8/10
   PH 11/22/10
   PH 12/13/10
   MAD 02/16/11

   Mr. Voelker informed the Commission that the applicant is working with the City of Waterbury and Cheshire Fire Department on issues of getting water to the site.

2. Special Permit Application
   Cheshire Fitness Zone
   716 South Main Street
   Physical Therapy & Women’s Fitness Gym
   PH 11/8/10
   PH 11/22/10
   PH 12/13/10
   MAD 02/16/11
Darin Overton, Milone and MacBroom, represented the applicant. At the last meeting there were some concerns by the Commission, and Mr. Overton submitted a letter to the Town of Cheshire PZC which answers the questions. He informed the Commission that another version of the parking count was done making a more conservative analysis. He clarified the square footage in the building, verified with an affidavit by the owner, at finished space of 6,387.75 s.f.

In the last parking analysis the applicant looked at the 1993 application for the new building at 716 South Main Street, and there was information of the square footage at 714 South Main Street with a gross square footage of 3,217 s.f. The square footage leased to Dr. Ackley is 1,500 s.f. of gross space, and based on the outside dimensions of this building, the numbers check out. Subtracting that number from the total there is 1,717 s.f. remaining in the rest of the 714 building.

Regarding the parking estimates for 714, Mr. Overton said it recognizes Dr. Ackley’s medical use under the regulations, and the parking applies at 1 space for every 150 s.f., calculated at 8 spaces. This is consistent with the testimony from the last public hearing. The medical office has 4 employees; the doctor saw 4 patients per hour; and the 8 spaces fits with Dr. Ackley’s testimony. The remaining office space is professional office space, computed at 1 space per 200 s.f. of space, or 6.87 spaces. This is a total of 15 spaces for 714 South Main Street.

Mr. Overton said that he looked at the regulations again for a definition of “personal services” and the gym use will apply. 50% of the space in the new building will apply to personal service, at a rate of 1 space per 150 s.f. The other half of the building would be professional business office at 1 space per 200 s.f. Based on the square footage of the affidavit, this totals 38 parking spaces needed. Adding the 38 spaces and the 15 spaces there is the 53 spaces, which is consistent with what is available on the site.

With regard to the number of employees at Milone and MacBroom when they leased the building, Mr. Overton stated it was 30 to 40 people. The office was crowded, and the firm moved to another location.

The affidavit of the owner was reviewed with the Commission, and Mr. Overton advised that measurements were taken by the owner, John Ricci. The affidavit was signed by the owner and it was notarized on December 1, 2010.

Mr. Cobern read the affidavit into the record of the meeting, and the document is part of the file.

Mr. Overton stated that in the prior letters submitted there were tables of data showing actual use versus computations based on the regulations. When you back into a number based on the peak hour which is 26 spaces, this equates to
one space for every 250 s.f. of office space. From the actual numbers it can be seen how the parking is used, and equates to a more conservative number than the parking computations. The applicant has proven, under the regulations, that this parking lot works and when you apply the actual tables for the realistic parking use, the demand is less than what is required.

Attorney Kevin Hecht represented David Brzozowski. He said that Mr. Overton’s statements would be true if this was a free standing lot and not a condo complex. The Commission must ask whether each of the uses described by the applicant should be conducted at 716 South Main Street are permitted under the R-20A zone. Mr. Hecht submitted that they are not based on the applicant’s description. Another question is whether all the activities proposed at 716 South Main Street have sufficient parking spaces to meet the requirements of Section 33 of the Zoning Regulations. Mr. Hecht submits that they are not.

In the December 6, 2010 letter from Mr. Overton, page 2, parking requirements of 38 spaces, Mr. Hecht disagreed with this. He said all the uses described are 1 space to 150 s.f. under Section 33.1.7 (a) and 33.1.7 (c). This is not just a professional office use; it is a medical office use as described by the regulations; or sports training/other uses which are clearly 1 to 150. This is a concern to his client because if the application is approved, it is irrevocable. Mr. Goldstein, the applicant, may have a lesser intended use in his business description. If the use is permitted the special permit runs with the land and will never be removed, except by voluntary agreement.

Mr. Hecht stated that Mr. and Mrs. Brzozowski made an investment at 714 South Main Street and would be stuck with this. If it is a mistake they must live with this and should not have to do that.

According to Mr. Hecht his calculations on the 1 space to 150 s.f. is 43 spaces of a total of 53. The Ackley space which was measured by Mr. Brzozowski at 1,630 s.f. is larger and requires 9 spaces. The remaining space is not 1,717 s.f., and Mr. Hecht said this came from an application submitted by Mr. Ricci to the Commission for building purposes for approval to build 716 South Main Street.

Mr. Hecht commented on the Assessor’s Card for 714 South Main Street (submitted for the record at the last public hearing). On this card, Dr. Ackley’s finished space is 1,200 s.f.; it is shown on the card as finished basement space. Then there is a two story section which is 1,792 s.f.; there is another single story space of 630 s.f.; another space of 368 s.f. and another space of 100 s.f. The total square footage, aside from Dr. Ackley’s space, occupied by the Brzozowski business is 4,090 s.f. At .8 accepted ratio for lavatory, hallways, etc. it is 16.36 spaces required. The total spaces, given these numbers and calculations, which are on the Assessor’s Card, is 25 spaces for 714 South Main Street. If you take these 25 spaces and Mr. Overton’s number of 38 spaces, it still requires more than the 53 spaces which are present and existing.
According to Mr. Hecht one of the risks here is that Mr. Goldstein is trying to grow his business, and described having earlier and later classes of up to 25 people in the morning. If you have a 7 to 8 a.m. and 8 to 9 a.m. class with 25 people in each class, there is the potential for 25 people on site and 25 people coming in, for a total of 50. Even 20 coming in and out, plus 2 to 3 employees for early classes and 6 to 7 employees for later classes, it far exceeds available parking. There are other activities occurring; there are 150+ gym members; and if they all show up, Mr. Hecht asked where they will park, and where will the Brzozowski employees park. This is a recipe for disaster. Mr. Hecht does not think his clients have to incur this problem as they were innocent purchasers from Mr. Ricci. The condominium was formed…and here we are.

Mr. Cobern asked Mr. Hecht if his client signed the condominium agreement submitted in evidence, it is assumed he was aware he was entitled to only 21 parking spaces within the 60-40 ratio.

In response, Mr. Hecht said that he was entitled to use of all spaces in the parking lot, either by virtue of their being limited common elements or common elements.

Mr. Cobern said the allocation of space was in the 60-40 ratio.

Mr. Hecht commented on the parking spaces having no allocation.

The condominium agreement, Exhibit B, Table of Allocated Interest, was read into the record by Mr. Cobern. The percentage of undivided interest in common elements, unit #1 – 60%; unit #2 – 40%. Mr. Cobern said that Mr. Hecht’s client has a 40% interest in the parking spaces as part of the common elements.

Mr. Hecht said he has undivided interest; anyone can park anywhere under this document.

In terms of expectations, Mr. Cobern said that Mr. Hecht’s client has a 40% interest.

Mr. Hecht said the 716 building was not described as being an 8,900 s.f. building at that time, and this came out later.

Mr. Todisco asked about a use not allowed in this zone.

In one of the brochures submitted in evidence, Mr. Hecht noted there is sports training which is specifically prohibited in the R-20 A zone, and birthday parties are not permitted. The sports training is addressed in Section 30, para. 36C, and birthday parties are Section 30, para. 36 A. Mr. Hecht has questions about the other uses, but these two uses are strictly prohibited in the zone.
It was noted by Mr. Todisco that the birthday parties were only on weekends and this parking would not have an impact on Mr. Hecht’s client because they are not there on weekends.

Mr. Hecht replied that in the summer time there are parties during the week, at any time, and there is food, party hats, and debris from kids’ goodie bags. It is a commercial activity in an R-20A zone.

Whether it is allowed or not allowed is a separate issue, and Mr. Todisco said that with 6,400 s.f. building, and a large professional law firm moves in there could 32 cars between 8:30 a.m. to 5 p.m. Whereas, with testimony so far, this will not happen during the day with this applicant. It seems if the parking area is too small for the various businesses going to be there, and the applicant is correct on the times cars will be parked, Mr. Todisco asked if this is not an ideal solution because they will not be there when Mr. Hecht’s clients are there.

The problem, according to Mr. Hecht, is if this was a lot with a single structure on it and one owner occupied, then the tenant and owner would deal with the issue. Here we have two owners of condo units and nothing can be done once the commission approves this special permit for this use. This is irrevocable harm to his clients.

Mr. Kurtz stated that Mr. Hecht’s client is stuck now with the parking the way it is.

According to Mr. Hecht his client does not have the prospect of 35 gym members and 30 people taking classes.

Mr. Kurtz said that a law firm could come in at the same time as the Brzozowski business and the foot doctor.

Under the regulations, Mr. Hecht said there would be 32 spaces, but there will not be 60 people and no place for parking by the current occupants. There is an influx of people in the morning for classes and other activities without enough parking spaces, and the issue is how to deal with this. His client knew the parking was tight given the office use. The object is that the proposed use is potentially a use which is more intensive and with more intensive parking requirements.

Mr. Todisco stated that this is speculative. Talking about 60 cars is one car for every 100 s.f. of space, and there is no use that intensive being discussed here. Stating he appreciates the concerns of Mr. Hecht and his client, Mr. Todisco said the Commission must go on the record for what they have as evidence.

The parking regulations are minimum standards, and Mr. Hecht said there must be assurance of enough parking.
Taking it one step further, Mr. Todisco asked what can come into the other building, as this owner has the right to have it occupied. He said Mr. Hecht cannot say they must come in with a use not having any cars or a smaller number of cars.

If it was used as a professional office, Mr. Hecht said his client would not be here.

Regarding the birthday parties, Ms. Flynn Harris missed where this was stated in the regulations that they are not allowed in an R20 A zone.

This is a commercial activity, and Mr. Hecht said they cannot be held in the zone.

Ms. Flynn Harris said she missed in the regulations where Mr. Hecht said birthday parties were not allowed in an R-20A Zone, and said there was also an assumption being made about parties being held outside with hats, food, garbage, etc.

In response, Mr. Hecht said with 20 or 30 kids coming out they drop goodie bags and hats, and it is a mess.

Mr. Overton made some clarifications on the regulations. Under 23-6, definitions, professional and business offices are defined as...offices of doctors, dentists, attorneys...and there is nothing in the regulations which defines what is proposed as a medical use. It applies under professional and business office on 23-6. Under Section 30, Sch. A, Permitted Uses in R20 A Zone, professional offices are permitted. Under #49 is professional offices; under #37 is health and exercise facilities; under 36C is sports training facilities. They are not allowed in an R20A Zone, and the applicant is not proposing a sports training facility.

Mr. Overton read an excerpt from the regulations into the record on sports training facilities. In this section of the regulations he sees sports training as a large training facility, such as the UConn facility for the football team. The applicant’s proposed use is primarily a physical therapy use under the professional office. It is recognized that part of this under the definition of personal service, the gym may fall under this, and the higher parking rating has been applied accordingly. Regarding the discussion about birthday parties and sports training, Mr. Overton finds it hard to believe that any gym is used for sports training; it is a reasonable and customary accessory use, as well as the birthday parties on weekends which will not be in conflict with the parking because they would be held on weekends. They are not in conflict with the parking or anything in relation to the existing use.

There were no further comments or questions. The public hearing was closed.
Christopher Juliano, P.E. 405 Main Street, Wallingford CT represented the applicant. At the last public hearing there were two outstanding issues – the Engineering Department regarding the dry well, and 7 parking spaces shown over the public parking area of the Linear Trail. The plans have been revised, and the parking spaces over the Linear Trail are off the table. The applicant had no right to ask for these spaces and the Commission could not grant those spaces.

With respect to engineering comments, Mr. Juliano said the dry well has been discussed with Mr. Disbrow, and there is a letter from Sima Drilling which answers the questions. When the well was abandoned it was determined the depth of the water table was 15 ft. below ground surface. Percolation tests were done and it was determined the dry well would drain in about 35 hours. The letters were submitted for the record.

In the Sima letter, Mr. Cobern asked about the temperature of the surface water table and it being below 4 feet when the well was abandoned.

Mr. Juliano is not certain about this either, and said temperature has nothing to do with it, but this does not fit in.

Regarding the porous pavement, Ms. Flynn Harris they are expensive, but NEMO points out they are very effective as natural infiltration. If done correctly there should not be a settling issue. She still wants people to consider these pavers particularly in uses like this one.

Mr. Juliano understands the comments but there is a construction problem with porous pavement if not done correctly.

Mr. Gaudio checked the parking situation at the site, and said there are 33 spaces there now, and the applicant is not using the trail parking spaces.

If they use these spaces, Mr. Voelker said they cannot be included in the parking ratio and the Commission cannot allow them to be dedicated. People may park there, but they are not part of the applicant’s parking.
There were 33 cars on the site and Mr. Gaudio noted another 13 cars at the trail parking lot. He doubts 13 cars were from the trail, and does not see where parking will come from with this application.

With the reconfiguration, Mr. Juliano said they are picking up more spots. There are cars parked all over the place, and whether or not the spaces for the trail are being used by the businesses from the site is unknown. He did say that the parking meets the regulations for Logo Sportswear.

Mr. Voelker said the applicant is asking to go to 32 spaces. This is good news because the business is growing. But no more spaces can be put on this site. The applicant cannot use the Linear Trail spaces. The Town does not own them, and there is an easement for this parking.

Mr. Dawson asked who owns the property where the Linear Trail parking is located.

The owner is Arisco, and Mr. Juliano said Logo Sportswear has an easement for egress and ingress for utilities. The Town leases these spaces for the Linear Trail only.

Mr. Voelker stated that this fact has no implications with this application.

Ms. Nichols asked for clarification on the other business surrounding this area, how much they fully utilize their assigned parking spaces, and if there is overflow from them into the trail parking.

Mr. Juliano said he was not sure of the exact businesses in the area. The front property is McMillan, and there is Arisco and Cornwall properties in the rear. There is parking all around the building. Some businesses are cyclical depending on the time of day, and the trail parking is used for over flow. For the applicant, everything will be lined and painted.

Mr. Strollo asked about the garage door on the back side of the building and if it will be used.

Mr. Juliano said this is not utilized now.

The public hearing was closed.

4. Subdivision Application  PH 11/22/10
   Jason Welles  PH 12/13/10
   Welles Properties LLC  MAD 02/16/11
   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

Attorney Anthony Fazzone represented the applicant for the special permit to allow recycling use at the property with frontage on Schoolhouse Road (210) and also designated as 1607 Reinhard Road. The site plan have been preliminary approved by the Commission. One use is a contractor’s storage yard. As part of the contractor’s business there is a relationship with the utility companies and the company is called upon to remove scrap metal and wiring and bringing it to the site. The materials are recycled, and various metals are separated into different roll off dumpsters and taken from the site to scrap metal dealers. Some of the wire is encased in plastic which is recyclable after being stripped off. The purpose of the application is to bring the operation into conformity with the regulations. Under the regulations you can only have two dumpsters, with the recycling materials stored in the outside. The additional buildings will allow the entire operation to be done within the building.

Matthew Duscay, P.E. Milone and MacBroom reviewed the site plan changes. This is a 5.8 acre site, in the north end of Cheshire, at the corner of Schoolhouse and Reinhard Roads, in an I-2 zone surrounded by other industrial zoned parcels. There is landscaping buffer surrounding the majority of the property on the eastern, western and northern property lines. The grade slopes away down Schoolhouse Road to #219. The highest elevation is 234 on the south eastern portion of the site. There are no wetlands on the property.

The application calls for a number of improvements; elimination of four green houses; and construction of a new warehouse storage building. This building will be 165 ft. long and 80 ft. wide, 13,200 s.f. of space. On the plans, Mr. Duscay pointed out the location of the scale for truck weighing. There will be a 25 ft. overhand covering the scale. Everything is in compliance with the regulations.

The second improvement is an addition to the current recycling sorting facility located in the northern half of the property. This building addition measures 75 ft. x 80 ft., 6,000 s.f. of additional space. This is the recycling sorting facility where the current operation takes place. The plans call for realignment of one of the access points on Reinhard Road and Mr. Juliano pointed it out on the map. There is an acute angle, and the egress point will be more perpendicular with Reinhard Road, and made wider for turning maneuvers and circulation through the site.
Storm water management – Mr. Juliano said that roof leaders will be routed to underground infiltration chambers, shown on the plans (4 of them). Testing was done on site earlier this year to insure these will not be within the ground water table and can handle the increase in storm water from these site improvements. The galleys have been designed to provide a zero net increase in rates of runoff in compliance with town engineering standards.

The nature of the buildings will be standing construction, metal roof, 6 bay doors and matches the buildings on site now. The addition has a small retaining wall and grade break between the old and new buildings.

Ms. Nichols asked about the existing green houses and operation of the farm stand continuing as it is today. She noted there is traffic associated with them as well.

Mr. Duscay said they will stay. There is traffic associated with the farm stand and it is located on the southern portion of the site with access from Schoolhouse Road.

In response to a question on when this site had a prior approval, Mr. Fazzone said it was approved in 1992 for a contractor’s facility and storage yard. Over the years metal recycling has taken place and grew out of the contracting business.

Ms. Flynn Harris asked about the curb cuts and if they are new.

Mr. Duscay said the curb cuts at the acute angles will be realigned.

Mr. Bulger asked about paving the entire area.

According to Mr. Duscay the entire site will remain gravel.

It was pointed out by Mr. Fazzone that the town has indicated zero increase in runoff, and to pave the parking lot would be impossible to find a storm water storage area on the site.

Mr. Voelker read staff comments from the Fire Department and Engineering Department into the record, and noted they have been addressed.

With some of the metals, Mr. Fazzone said the site is secured. The fire department will review the type of gates to be installed. There is consistent access for the fire department.

Mr. Duscay advised that the height of the building is 24 ft. 2 in. and the new building is 43.4 ft to the peak.
The public hearing was closed.

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

Mr. Todisco recused himself from this application.

Attorney Anthony Fazzone represented the applicant.

Mr. Voelker explained that at the time the application was submitted there were medical office buildings with residential units over each, plus parking improvements, and this is a new use. The building was represented as a professional office and it was intended to be continued as a professional office. This application will introduce a new use into the existing building of a beauty salon, which is a special permit use. The applicant submitted revised plans today because the proposed use must demonstrate it can stand on its own...meaning the salon wants to occupy the building before construction of the improvements and new use.

Attorney Fazzone said the plan shown is the one approved by the Commission last month. Originally this was to be a modification of the use in the building. The hours of the salon will be different than those of the other uses. For the beauty salon use which is different from the office use, Mr. Fazzone thought he could utilize the section of the regulations which allows for shared spaces. As approved, the office building finished space is 1750 s.f. which required 9.5 parking spaces. The salon is a personal services business and has a different regulation of 1 space per 150 s.f. or 11.5 spaces.

It was stated by Mr. Fazzone that it is possible the two rear buildings will never be built, so the subject building is shown that it can stand alone. On the plans he pointed out the parking lot immediately behind the existing building with 12 spaces. The applicant would like to move in as soon as possible, and they looked at the conditions in the existing parking lot. The question is getting 12 spaces in the gravel area, and this plan was submitted today showing the existing gravel lot lined with 800 s.f. extension of the gravel to accommodate 12 parking spaces including one handicapped and a turn around area. The intent is to seek approve of this based on the use of the gravel parking lot, and in spring 2011 the applicant will build and complete the parking lot to the rear to the Town specifications.

Mr. Voelker said this is with the assumption that there are uses here with different peak hours. When the other plan is implemented and improvements constructed, there would still be the number of spaces protecting the maple trees
on the site. Nothing is changed relative to the prior approved plan; the emergency access is to be constructed as approved; and it is staff’s opinion that the subject use can function together with the uses proposed under the prior approval.

Mr. Fazzone noted that this use has no exit onto King Road.

Mr. Cobern clarified that we are leaving the original approval as the end goal, and it remains the same. This approval is for an interim plan until the winter weather clears up and the parking area can be paved.

The Commission was advised by Mr. Fazzone that the owner of the property is in agreement and has signed the applications.

Ms. Flynn Harris asked if we would be putting in a stipulation with a time frame for paving the parking lot.

Mr. Voelker does not believe this should be done. We cannot presume the other applicants will execute their plan as stated due to factors out of the Commission’s control.

Mr. Cobern recommended an approval with the stipulation that this portion of the parking lot be approved with the assumption that it be consistent with the prior plan approved.

It was recommended by Mr. Voelker that the applicant be given one year to complete the parking lot construction. He noted that approval of this plan does not amend the prior plan approval in any way. The Commission was informed by Mr. Fazzone that the application has received WPCA and IWW approvals.

The public hearing was closed.

VI. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Mr. Kurtz.

MOVED that the public hearing adjourn at 8:57 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk