



Town of Hamden
Planning and Zoning Department

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September 11, 2009

MINUTES: THE PLANNING & ZONING COMMISSION, Town of Hamden, held a Special Meeting on Tuesday, September 1, 2009, at 7:00p.m. in Thornton Wilder Hall, Miller Memorial Library Complex, 29601 Dixwell Avenue, Hamden, and the following was reviewed:

Commissioners in attendance:

Joe McDonagh, Chairman
 Ann Altman
 Don Moses
 Ralph Riccio
 Bob Roscow
 Peter Reynolds
 Ralph Marottoli, sitting for Ed Grant
 Len Grabowski, sitting for Lesley DeNardis

Staff in attendance:

Leslie Creane, Town Planner
 Dan Kops, Assistant Town Planner
 Stacy Shellard, Clerk

Mr. McDonagh called the meeting to order at 7:05 p.m. He introduced the panel and reviewed the procedure for this meeting. Mr. McDonagh explained that they are using the information received from the public and commissioners to help finalize the document. A formal application will then be sent to the Regional Council of Government for comments and the Commission for a public hearing. Mr McDonagh acknowledged the residents, neighborhood and civic associations that were in a attendance at this meeting.

A. Special Meeting:

1. Working session regarding the proposed Zoning Regulations

Mr. McDonagh referred to the list he has compiled, the issues that have been tentatively resolved, and the issues that are still unresolved. He stated that letters have been received from many residents and the Commission will revisit several issues this evening.

Ms. Altman asked for a summary of the contents in the letters received. Ms. Leslie Creane, Town Planner stated that many of the letters were from residents regarding James Street to the Route 10 Connector becoming a T-4 zone. She explained that the Commission had agreed to leave the area as a T-3 zone. She said that she has since met with many residents to address their concerns, and if there were any further concerns they should be addressed at this meeting.

Mr. McDonagh said that the Planning Office has had meetings with residents and civic groups with regard to the permitted uses that would be allowed in the proposed zoning regulations. He stated that letters have also been received with regard to agricultural uses being allowed in the proposed T-3 zone from West Woods Road north to the Cheshire Town line. The original map showed a T-4 zone designation from the center of Town to the cemetery on Whitney Avenue. It was determined by the Commission that a T-3 zone would be a better designation .

Ms. Joan Migliozi, 15 Pinewood Road , addressed the Commission and stated that she had collected letters from the residents of the area, and submitted them to the Clerk of the Commission. The letters were in response to a flier she

had distributed to the area from James Street to the Route 10 connector regarding the proposed change to a T-3 zone. The main theme of the letters is to leave the area as an R-4 zone. She submitted to the clerk a list of the properties in the areas. According to Ms. Migliozi there are 21 private homes, 19 homes used as businesses, and 3 establishments that are not in homes. These establishments are Whitney Manor, Our Lady of Mt. Carmel, and a brick building with physicians in it. The businesses fit into the neighborhood and their hours of operation do not create additional traffic or noise. Ms. Migliozi said that an article in the newspaper had stated that this area would remain a T-3 zone, and that it should have said the area is an R-4 zone. The residents of this area had a meeting with the Planning Office and Mr. McDonagh. The meeting addressed how a T-3 zone with restrictions would affect their neighborhood. However, the residents were told that a final decision had not been made, and did not agree to a T-3 zone. They would like the area to remain an R-4 zone. Ms. Migliozi stated that the new uses for a T-3 zone such as a kennel, businesses, office buildings, personal services or retail that could be built up to 10,000 square feet. The business would be too big for the area. The residents do not want any retail, package stores, public parking, public assembly areas, civic clubs or B&B's in their neighborhood. These uses could bring traffic, noise, light pollution, and possibly crime to the neighborhood. It could also reduce the value of their properties. She said that buildings with mixed-use could be purchased by individuals that would become absentee landlords who are only concerned with collecting rent. This could affect their neighborhoods negatively. Ms. Migliozi advised the Commission that at the meeting Mr. McDonagh said that if the residents were objecting to the change it would not be forced on them. Mr. McDonagh stated that he was not speaking for the entire commission and it was in his opinion. Ms. Migliozi stated that she hopes the Commission will listen to their concerns, and they could remain an R-4 zone.

Mr. Sylvester Botte, 303 West Todd Street, addressed the Commission and stated that he is concerned with the corridor from James Street to the Route 10 Connector. He believes the proposed zoning regulations should be changed to a T-4 zone. There are many established businesses in this area that would meet the T-4 regulations. A T-4 zone would encourage small businesses to open without encroaching on residential areas. Many of the lots in this corridor are limited in size and it would inhibit their use if left as a T-3 zone. He feels that this is because of setback guidelines and gross leasable space. As a current property owner there is a high volume of traffic on a daily basis. To increase small business development in this area would be a natural progression, and an economic stimulus that Hamden cannot afford to lose. Most of the businesses are locally owned and to stall development would be a loss of business and tax revenue. He stated that he owns property on Whitney Avenue which is hard to rent, other than to students. He has good tenants, but the property next to him is rented to students and he constantly must pick up their trash.

Mr. Matthew Corcoran, 2420 Whitney Avenue, addressed the Commission and stated that he supports that the corridor from James Street to the Route 10 Connector remain an R-4 Zone. He said that the desire of the residents in the neighborhood should be the driving force since they prefer that the area remain an R-4 zone.

Ms. Wendy Gniady, 42 Glenham Road, addressed the Commission and stated that James Street to the Route 10 Connector should remain an R-4 zone. She lives off Whitney Avenue and the area already has traffic congestion which would increase if there were more commercial use.

Mr. Dick Fiske, addressed the Commission and stated he had written a letter in August and would like to address his concerns regarding a parcel he owns and the impact if the area becomes a T-3 zone. Mr. McDonagh advised Mr. Fiske that his issues will be addressed this evening.

Dr. Denes, 2693 Whitney Avenue, addressed the Commission and stated he owns three businesses at 2693 Whitney Avenue. He is in favor of the area being changed to a T-4 zone. Mr. Denes stated that he and many owners of businesses would like to see consistency on Whitney Avenue from James Street to the Route 10 Connector.

Ms. Creane explained the differences between an R Zone and a T Zone and she outlined the individual uses. The R zones 1 through 5 are residential zones. They are the traditional use base zoning, and described the density of the zone. The R-1 zone is the least developed residential zone and the R-5 is the most densely developed residential zone. What the R zone, do not have and the T zones would have, is control over the form of buildings on a site. The Commission, has more control over a T zone and how buildings fit together and describe the public realm. The buildings that are far apart, as they are in a less dense residential area, gives you one type of character.

Ms. Creane stated that The Planning Office and the Commission often get complaints for a new application under the current regulations. The Commission may be unanimously in agreement that the design is not ideal, but they are unable to say “no” and ask the applicant to place or design the building differently to comply with what already exist in the area. Ms. Creane explained the proposed list of allowable uses: A kennel would require 5 acres of land and there are no lots between James Street and the Route 10 Connector with a parcel of that size. Ms. Creane said she has never had a new application for a civic club. Personal and business services tend to be anything from a nail salon to an accounting firm and have normal business hours. The buildings that exist in the area are houses which are the form of the neighborhood. If the existing buildings are not kept, you would lose the fabric of a neighborhood. Many of the single family homes are expensive to up keep and if certain uses are not allowed the neighborhood could become blighted. Business and retail uses have been divided into different categories by size. 1,500 square feet is about the size of a small house in the older neighborhoods. A 10,000 square foot building would be about 2/3 to 3/4 of the size of Walgreens. A bed and breakfast could be a good income for some families and would allow them to keep their home. Public parking would only be allowed if a parcel were big enough and there are none from James Street to the Route 10 Connector. Places of public assembly such as theaters and places of worship would be listed separately. The Commission is listening to the concerns of the residents and will need to determine what will be allowed. Ms. Creane emphasized that the difference between an R zone and a T zone is not just about the use, but the control over how things look. The residents are asking that things stay the same, but something that has not been done in the past may still be allowed under the current regulations.

Mr. McDonagh explained that back in 2000 the Commission had established Section 727 in the Zoning Regulations. This restricted commercial development is located between James Street and to the Cheshire town line. He would like to incorporate Section 727, because the restrictions speak to the issues the residents are raising. More than half of the properties in this area are not residential, but commercial properties. The commercial properties are professional offices that were converted from single family homes and the buildings have been preserved. He read the description of Section 727 and explained its intent. The purpose of the T zone is to establish the notion of what the streetscape should look like. The T zone tries to discourage someone from purchasing a building and tearing it down for the purpose of placing it in a different location on the parcel. Mr. McDonagh stated that he agrees that the sale of alcohol is not a good idea. Under the current regulations office buildings up to 10,000 square feet are allowed in an R-4 zone. He would like to restrict some activities like they have done in the West Woods area, and a T-3 zone would be able to keep the intent of Section 727 in the current regulations.

Mr. Roscow asked for an explanation of the character of the area with professional offices, nursing homes, and a new brick building that fit with the character of the neighborhood. The problems of the past have been on the east side of Whitney Avenue because the lots drop off and owners have tried to convert homes into multi-family homes. Mr. Roscow would like to see an association for the James Street to the Route 10 Connector area. He asked what the difference would be between a T-3 zone and T-4 zone. It could be a nice transition area with the older homes preserved and adapted reuse for professional offices. He would not like to see homes converted into multi families. Retail business would create additional traffic. He would like to preserve the area with a T zone to control the form for uniformity. Ms. Creane stated that a T-4 zone would allow a more intense use with regard to the number of uses on a parcel and encourages mixed-use. A T-3 zone would protect what exist more effectively.

Ms. Altman sympathizes with the residents and what they want to achieve. She feels the Commission would like to achieve the same if the area were to be a T-3 zone for what exist now. The restrictions would control the form and use which is what the residents want. The area is now an R zone and there could be uses placed in an R zone that they did not want. She fees the residents need to understand that a T-3 zone would not impose uses they do not want.

Mr. Kops, Assistant Town Planner stated that the Commission may want to re-evaluate the maximum size of a building for retail and offices. One proposal is for there to be a category of under 1,500 square feet , a second category for between 1,500 square feet to 10,000 square feet. The Planning Office has had discussions with regards to the 1,500 square feet to 10,000 square feet, which may be inappropriately to large for the T-3 zone, and should be scaled back . The Commission may want to compromise with a category of between 5,000 square feet and 10,000 square feet. Ms. Altman asked Mr. Kops how it should be phased so a proposal could be made to protect the neighborhood , and the Commission could reach a consensus. Mr. Kops stated that it may not be able to be done in one statement. One issue is the types of uses that are allowed now and the types are uses that would be allowed in a T-3 zone. Another issue is the scale of an operation. Ms. Altman stated that item one is the type of uses for what exist now for commercial uses which are professional offices. Mr. Kops said the problem is that under the current regulations there are uses allowed

that no one has taken advantage of because they did not work for the area. Ms. Altman suggested that it say a T-3 zone which allows control over form would restrict the commercial uses that exist now. The commercial uses are professional. If the Commission is not considering retail she asked why there would need to consider square footage. Mr. Kops stated that if the Commission was not considering retail then square footage would not be needed. He would like the members to determine if all retail should be excluded, because it is currently allowed in the current zoning regulations. Ms. Altman stated that the Commission is looking to stabilize the area and that what has been allowed has not been instituted. Many neighborhoods have not been aware that many things could have happened, but have not. What the commission needs to do in the future is to limit what is allowed and what the residents would consider acceptable and feasible. The regulations could say that the commercial business could be limited to professional office and that no retail be allowed. Even if retail is allowed now, it would not be a non-conforming use. Mr. Kops explained there is presently retail uses in the corridor from James Street to the route 10 connector would then become non-conforming. If size were restricted it would limit the potential impact on the neighborhood. Ms. Altman asked if the existing retail square footage is considered and what would be a reasonable estimate for the largest square footage allowed and propose it be made the maximum. Mr. Roscow asked what a good reference for square footage would be. Mr. Kops stated that it would be the gross leasable area for a particular use. Mr. Roscow referred to Spring Glen and stated that most of houses are small and have been added to which would be approximately 750 square feet. The buildings across from the middle school are 3 stories and approximately 20,000 square feet, which would be roughly 7000 square feet per floor. The gross leasable area would be anywhere from 3000 square feet to 5000 square feet. Mr. Roscow does not feel that 10,000 square feet is acceptable and proposed it be 4,000 square feet of leasable space. He stated that the buildings on Whitney Avenue have consistent setbacks and this is what makes its characteristics unique. Multi-family homes should not be allowed, because of the problems they create. Mr. McDonagh stated that multi-family dwellings are in the proposed regulations and the R-4 zone would require a Special Permit to control the adapted reuse. He referred to footnote "g" in the proposed regulations from West Woods Road going north and that this footnote could be adapted in the area from the James street to the Route 10 Connector. The sale of alcohol or retail should be restricted in size with a limit of up to 5,000 square feet. Restricting civic clubs is reasonable because their uses could go late into the night. He would like to see restricted the sale of alcohol, retail, office buildings, civic buildings and public parking over a certain size.

Mr. Riccio stated that the residents would like to remain an R-4 zone and it seems as if it is being ruled out. He asked if this would include multi-family housing. Mr. McDonagh stated that a multi-family home in the current R-4 zone and requires a Special Permit. There have been those interested in the area that would like a more intense use of a T-4 zone. He feels that a T-3 with restrictions would provide what the neighborhoods would like. Ms. Creane explained that multi-family housing in the current zoning regulations allows adaptive-reuse. An R-4 and T-3 zone would require adaptive-reuse for a multi-family dwelling of 4 or more units, which would require a Special Permit, and public hearings would be required. She advised that new construction is currently allowed and would be allowed under an R-4 zone, but not in a T-3 zone. Mr. Moses stated that multi-family housing is allowed in the current regulations, and asked why a Special Permit would be necessary in the proposed regulations. Mr. Kops explained that a Special Permit is required for multi-family housing in the current regulations because of the impact it could have on the area around it. He said that regardless of the zone, it is appropriate to need a Special Permit. Mr. Roscow stated that in terms of the 1,500-5000 square feet most of the homes in the area are two family homes. He asked with form base zoning the proposed regulations could have a requirement that if a building goes beyond 1,500 square feet a second story must be added. A 5,000 square foot 1 story building would be out of character. Ms. Creane said it would be appropriate in a T-4 zone to have a two story maximum. In a T-3 because it is primarily residential the restriction is not there. Given the threshold criteria for a Special Permit you have the right to look at the characteristics of a neighborhood. This allows the Commission to put emphasis on the importance of form. Mr. Kops explained that many of the businesses in the proposed T-3 zone are converted homes. If someone was proposing to use an existing residential dwelling for retail purposes it would not make sense to have a square footage requirement. If it were new construction it would make sense to require two stories.

Mr. Botte asked if the proposed regulations under the T-3 regulations would allow retail up to 1,500 square feet or less and not 1,500 to 10,000 square feet. Most businesses would be allowed with a Special Permit. If someone had a 1,500 square foot area or less, which most of the offices on Whitney Avenue have but are locally owned businesses by people living in Hamden. In a T-3 zone there would not be much difference between an R-4 zone and a T-3 zone. They allow a one family dwelling and can have an accessory use such as a shed. Under a T-4 the allowable uses would need a Special Permit. Mr. Botte explained that his property is 960 square feet. He feels that the Commission has not discussed parking areas for homes that house students. There is not enough parking available for them. He

feels if there is 1,500 square feet or less on most of the lots that are a third of an acre, a building of 10,000 feet should not be allowed. Mr. McDonagh advised that the concern of the neighborhood is that someone could purchase multiple lots and combine them. Mr. Botte said that the lots are not deep enough except for the Church. The biggest lots for James Street to the Route 10 Connector are Our Lady of Mt. Carmel and Whitney Manor Nursing Home. He understands that someone could buy multi lots, but it would not be feasible that a large business would buy in the area. He is concerned about the value of his property and because of the students in the area has trouble keeping tenant. He would rather see small businesses and offices be allowed. He feels that Quinnipiac University is re-making the town and Hamden was put on the map because of Quinnipiac. Mr. McDonagh stated that the Commission is trying to protect the neighborhoods and their characteristics.

Ms. Altman feels that people envision the worse case scenarios. The neighborhoods are afraid of someone purchasing multi-lots to develop and the Commission must be sensitive to the residents needs. Mr. Marottoli asked what protection could be placed in the regulations with regards to student housing. Ms. Creane advised what Quinnipiac can buy is different from how the building can be used. They can buy a building that someone will sell to them. Mr. Kops stated that the purchase of property by Quinnipiac is separate from student housing. The problems that occur is not the housing Quinnipiac owns but homes owned by private individuals. The hope is that as more dorm rooms open up on campus the problems will recede. The Student Housing regulations allow up to four students in a house that are not family related. Mr. Kops explained that student housing is the most regulated. The problems that occur are because you cannot regulate student behavior. The Town and the University are working together to try and reinforce appropriate student behavior.

Mr. Moses said that as T zones are discussed the safeguard seems to be a Special Permit for multi-family homes and most of the residents understand what the special conditions would be. He asked if Mr. Kops could explain if someone wanted new construction that required a Special Permit, under what conditions could the application be denied. Mr. Kops explained that a Special Permit is the highest form of applications which requires a public hearing and is more difficult to obtain approval for than a Site Plan application. The State Statutes state that a site plan does not require a public hearing to receive approval. With a site plan unless it can be determined by the Commission that a development would have an adverse impact on the community, it should be approved and the conditions of approval must be limited. The State Statute for a Special Permit requires that the abutting property owners be notified. The proposed regulations would require the applicant to post a sign on the property indicating that a public hearing is pending and any interested parties should contact the Planning and Zoning Office. This is in addition to the standard practice of a legal notice in the newspaper. The citizens are protected most by the Special Permit because there is a Public Hearing for which they can express their views on the outcome. This allows citizens to voice their concerns on an application that may have a major impact on them. They would be allowed to express whether they would like the application denied or approved. The Commission may impose conditions of approval that would mitigate any adverse effects on the property owners.

Ms. Mary Kearney, 41 Marion Avenue addressed the Commission and stated that she would be satisfied with her neighborhood being an R-4 or a T-3 zone. She is concerned about the area becoming a T-4. There are three properties owned by the dentist, a chiropractor and an OBG-GYN office at 2675 Whitney Avenue. They are nice buildings with daytime business hours and parking is located in the rear. She would not mind more business if they were like what already exist. She reviewed the area and what businesses exist. She is concerned about traffic in the area if more businesses were brought into the area. She stated that there is only one house that is vacant and the grass is overgrown, but she is not concerned with blight. She is concerned that there is one property between Glenham Road and Briarcliff that takes up about $\frac{3}{4}$ of the block and could be purchased by a developer who would construct something out of character of the neighborhood. She likes the idea of a T-3 zone because it provides protection to the area.

Mr. James Leddy, 35 Todd Street addressed the Commission and stated that the residents are not against what already exist, but want to protect the neighborhood. They want any future businesses to conform to what already exist and they want to protect their quality of life. He feels that this is the feeling of residents throughout the town.

Ms. Joan Migliozi addressed the Commission and stated that she has reviewed Table 6.1. The allowed uses in the R-4 zone do not allow businesses, personal services and retail of any kind. This would change if it were a T-3 zone. Mr. McDonagh advised that the R-4 zones does allow retail, but would not in the proposed zoning regulations. He advised that Table 6.1 is for the proposed zoning regulations. Ms. Migliozi is in favor of the proposed R-4 zone.

Ms. Altman said she would like to see the language for the square footage be limited to 5,000 square feet. She feels that the Commission and the neighborhood are in agreement that the T-3 zone with restricted commercial uses to professional services. Mr. Roscow stated that there should be a limit on the square footage. Any building over 1,500-2000 square feet should have a second story. Mr. Riccio said that 5,000 square feet is about the size of a large colonial house, which would fit in the neighborhood. Ms. Altman would like it to say a foot print for commercial activity of no more than 2,500 square feet or up to two stories allowed. Mr. McDonagh asked how many commissioners would like the area to remain an R-4 zone. Mr. Roscow stated that under the proposed regulations Section 727 would not be included. A T-3 zone would give more control over the square footage. Mr. Moses stated that a T-3 zone would maintain the character of the existing properties. Mr. McDonagh asked the Commission for a consensus and it was for the area to be zoned a T-3.

Mr. Richard Fiske addressed the Commission and referred to his letter of August 7, 2009. He owns a property at 3594 Whitney Avenue which is on the corner of Todd Street and Whitney Avenue. Based on the proposed regulations the property would be located in a T-3 zone. When looking at the zoning map it is hard to follow and coming north of West Woods Road is a T-4 zone with an area that will be a T-3 zone. A T-3 zone would be a transition zone from the T-4 zone which makes sense. He is concerned with the approval he received to build. If he does not complete the project within the approved time he would be unable to build for a doctor's office, but a veterinarian's office would be allowed. Mr. McDonagh asked if the new regulations would prohibit him from building his proposed project if not completed in the allowed time. Ms. Creane stated that across the street from the north side of Todd Street and Whitney Avenue there are small businesses and the potential for a higher level of development. Ms. Creane said that Mr. Fiske does make a reasonable point, but it is up to the Commission to decide what the character of area should be and what Mr. Fiske is requesting would be a T-4 zone, which is out of character. Mr. Fiske said a T-3.5 zone would also work in that area. Mr. McDonagh feels he would be comfortable with extending the T-3.5 zone to just south of the area. The Commission discussed the location of the property and what exist, and the location of the wetlands. Ms. Altman asked when the Special Permit expires. Mr. Fiske advised that the permit would expire December 12, 2013, but with the state of the economy he may need more time. Ms. Altman asked if the proposed regulations are approved they cannot take away something that was already granted. Mr. McDonagh explained that the intent is not to create a non-conforming lot. Mr. Roscow reviewed the area and asked if the area would be a T-3.5 zone. Ms. Creane advised that the suggestion is to move the T-3.5 zone up and incorporate three lots so that there is consistency.

Mr. McDonagh summarized the issues raised for what a truck garden/farm vs. commercial farms which are presently allowed in an R-2 zone. The recommendation was to allow a truck garden/farm in a T-3 zone, but not a commercial farm. He stated that Mr. Hack who is presently the owner of 4060 Whitney Avenue which is a truck garden/farm had his representative address the Commission. In the existing regulations a truck garden/farm are defined as two acres plus, and a commercial farm is defined as five acres plus. There is a distinction regarding the activities that can take place. There is the assumption that truck gardens/farms would be two to five acres and commercial farms would be five acres plus, but there are no restrictions in the current regulations. He explained that at the last meeting residents had expressed their concerns with allowing the expansion of truck gardens/farms and commercial farms in a T-3 zone and asked that it be prohibited. He advised the public that the Commission would like to revisit the issue and that the property owners attorney was present for this meeting.

Mr. Roscow said that there may be a lot of misinformation regarding the existing truck garden/farm. There are concerns about the lighting, the removing of trees, and the house on the property being an historic building. He had spoken with Mr. Perry Hack who is the owner of the property. Mr. Hack had stated that he can change the timers on the lights for the greenhouse so that they would go on at a different time. Mr. Hack uses shading on the greenhouses. In the Commissioners packet there is a letter from the Department of Agriculture citing the advanced farming that Mr. Hack is doing with the greenhouses that are organic. There is concern that the aquifer area could be polluted, and it was explained that nothing comes from the greenhouses except oxygen. The fertilizers used on the lawns in the area are a polluter and the packagings are mislabeled regarding the contents. The removal of trees was also commented on, and the residents must realize that the sub-divisions where they live had trees removed when they were developed. He had looked at the aerials of the property on the computer and reviewed the area. He had seen land that was forested. If the neighborhood were to be deforested, there would be one acre housing lots, they would need Special Permits and additional Town services. Mr. Roscow believes that the greenhouse could be screened and trees placed so the area would not be visible. His conversation with Mr. Hack indicated the historic home would not be rented or be lived in. Mr. Hack also indicated that all his assets have been put into farming and maintaining the land possibly with endowments. It takes money to upkeep historic homes. Mr. Roscow does not want to see Mr. Hack hurt financially by

the proposed zoning regulations. Mr. Roscow asked where someone would be allowed to farm in Hamden if they were not allowed in an R zone. Mr. McDonagh stated that farming would not be allowed in T zones, it would not affect R zones. He would like the Commission to make the decision regarding farms be heard at a separate meeting in the future. The proposed regulations would allow the Commission to apply form base zoning regulations in areas of Hamden. He suggested that the Commission prohibit truck gardens/farms north of West Woods Road in a T-3 zone, and agree to discuss the allowed uses at a meeting.

Ms. Marjorie Shansky, Attorney for Mr. Perry Hack and Two Guys from Woodbridge addressed the Commission and stated that she is outraged at the notion that a truck garden/farm would be removed from the proposed T-3 zone. At previous meetings it was stated that it would be allowed. The purpose of discussing this matter was determining that Mr. Hack's parcel would not be made non-conforming. She stated to Mr. McDonagh that he had stated to Mr. Fisk that intent of the Commission was not to make a non-conforming uses. It would be debilitating for Mr. Hack and his business to render him non-conforming. Two years ago the Governor had declared in her executive orders the creation of an Office of Responsible Growth within the Office of Policy and Management which would be involved in the reduction of greenhouse gases, carbon foot printing, and vehicle traveling. The Commission should be planning for the future and not for what is wanted now. The notion of planning is to provide for what should happen in the future. Only six percent of Hamden as she understands it is commercial property and the idea that the Commission would knowingly create a non-conforming business in a zone does not support business uses that there are few of. The notion of sustainability, low carbon footprint and everything that the attorney for the neighborhood raised in terms of the evils of agriculture do not occur in Mr. Hacks enterprise. There are no wetlands on the property which have been stated in a soil scientists report. The State Statutes exempt agricultural use from Inland Wetland review. She feels that misinformation was given to the Commission at the last meeting regarding the evils of agriculture and what is permissible under the law. There are no chemicals used and nothing goes into the ground. Mr. Hack uses a growing medium and grows his vegetables hydroponically. She stated that this is a greenhouse operation and invited the Commission to visit the property. The concern was raised that it could be seen from the trail. Ms. Shansky stated that the property is set-back, landscaped and surrounded by greenery so that it is invisible. She asked the Commission not to make any judgments for the future of truck gardens/farms until the law of agriculture is understood and the operation is seen. She said that making a property non-conforming is an aggressive, hostile and stultifying act that can be done to an operation. The Commission's comments about the intent not to make a non-conforming use was not about a use-in-being, but about a future building for which a zoning permit was issued. There should be as much care about a use-in-being as with future uses. Ms. Shansky submitted to the Commission a packet of articles from various magazines and newspaper which were about Mr. Hack's operation. One article was about a viability award Mr. Hack had received from the Department of Agriculture. Ms. Shansky stated that Mr. Hack's operation brings credit to the Town of Hamden.

Ms. Altman stated that Ms. Shansky has made a very strong case. Ms. Altman had pushed hard to make a non-conforming use, because of the residents who live in the neighborhood and spoke forcefully against the truck garden/farm. Ms. Altman feels she must weigh what Ms. Shansky has said with what the residents have said. She asked Ms. Shansky to address what she feels are the resident's prejudices, legitimate concerns or what the residents feel would be the hardships would be. Ms. Shansky stated that she could do so philosophically, because she is unable to read their minds or speak for them. She advised the Commission that she is a land use attorney and has practiced for over twenty years. She has represented municipality, and has worked for and against developers. Zoning is not a referendum, it is extremely helpful to listen to the public and she feels that the stake holders need to be at the table. The Planning Commission should make judgments based on sound planning principles and based on all the information available. The Commission knows the law and should speak with the Planning Office and the Town Attorney. She submitted a copy of Planning for Agriculture which is published by the Connecticut Conference of Municipalities and the American Farmland Trust. It is available on line and she had given the website to Mr. Kops. It would help to understand the laws, regulations and reasons as to why Mr. Hack's business is needed. Ms. Shansky feels that people are resistant to change, they do not want it in their neighborhood. There have been commentaries about the light and Mr. Hack has agreed to install thermal curtains to the greenhouses. The light condition adds light in the winter and can be done at night when people are not awake. It does not glow into people's back yard. This operation does not use heavy equipment. There is one piece of equipment that unloads the deliveries of large organic fertilizer. The attorney for the neighborhood talked about noxious uses. The farmer who grows hay has more chances of introducing chemicals into his crop than Mr. Hacks does on his parcel. The manicured lawns in the neighborhood are introducing more chemicals into the ground. Mr. Hack's operation is a certified organic hydroponic operation. She thinks it is fear of the unknown and invites everyone to visit. Mr. McDonagh feels that the proposed zone should

be left as is and defer deliberations regarding were a truck farm/garden should be allowed. Ms. Shansky expressed her concern that making the property a non-conforming use would be a damaging label.

Mr. Keith Ainsworth, Attorney, addressed the Commission and stated that he is representing Sarah Clark and Gus Spohn who are residents of the neighborhood. He explained that he has been a land use lawyer for approximately twenty years. His clients are concerned about their neighborhood and the decisions made regarding the proposed zoning regulations that could impact their homes and way of life. When a business chooses to locate in a particular zone it has a choice of where and how it will work. This business is industrial agriculture. Farming has evolved over time to something different from what it used to be and was knitted into an area. A 70 x 200 square foot greenhouse is not a structure like any other structure in the neighborhood and it is offensive to the residents. It looks like a factory building. There is very little difference between a farm and agriculture being allowed in a zone and includes non-organic farms. The definition does not say organic farms that are quiet and clean, it says agriculture. Agriculture involves trucks and Mr. Hacks operation involves large 18 wheel diesel trucks that come onto the property and are not residential in character. Agriculture can evolve into something like an ongoing earth moving operation and is industrial in nature. With a truck farm/garden you would imagine a garden. Modern agricultural business clashes with a residential zone. Mr. McDonagh explained that Mr. Hack's business is an existing use and can continue on the property. He asked if it is the case that the Planning and Zoning Commission should, willing and knowingly discourage the creation of a non-conforming use. Mr. Ainsworth stated that it would be true when you are dealing with an individual application. When you are doing a zoning change and doing comprehensive planning on a large scale, it is not an inherited unit. You are recognizing that the area is evolving and putting an overlay on a large area. When zoning is done in broad slots you may create non-conforming uses. Mr. McDonagh noted that Mr. Ainsworth and the neighbors are not requesting to prohibit a truck farm/garden in an R-2 zones, but the request is to prohibit only in a T-3 zone. All the issues and concerns that have been raised are about trucking and truck farm/gardens. The changing nature, and industrial natures would also apply to the residential zones. Mr. Ainsworth stated that it is because of the nature of the T-3 zone and that the lots on Whitney Avenue are narrow and do not have depth. Whitney Avenue is already a high traffic corridor and if there were an intensive farming use it would create more traffic. If you go to a residential zone with larger parcels it would allow an intensive agriculture business. Mr. Moses asked Mr. Ainsworth if his comments are expressing the concerns that the impact would have on the residents. Mr. Ainsworth advised he was expressing the concerns of the residents. Mr. Moses stated asked Mr. Ainsworth to elaborate on the impact that the proposed zone he is in favor of would have on the business owner. Mr. Ainsworth said it should not have an impact on the current operation and would still be allowed. Mr. Moses stated that it is limiting what the property owner would be allowed to do and Mr. Ainsworth is commenting on the impact of the residents. The business owner and possibly a resident would be limited to what he would be allowed to do with his business. Mr. Ainsworth explained that many people live in the zone and pay taxes and the residential usage would be the highest and most protective use that we have. There may be an impact if Mr. Hack wanted to expand. If he wanted to expand his business, he could apply for a variance and prove what his hardship would be. The business can continue but can not expand because it would clash with the existing uses. The proposed zoning regulations are about transition, buffer or eliminate uses that clash by natural evolution. Having identified that there is a clash; the residents are asking that there not be an increase in the clash. There needs to be a greater buffer, because in this zone agriculture can come right up to the borders with no real buffer. You can destroy the expectations of a resident who is living in the area in favor of someone who wants to make money. The proposal by the neighborhood is not to eliminate the business, but not to encourage more. If the Commission is going to allow the business in the zone, there need to be more restrictions so that there is a buffer. The way the definitions are set, the type of agriculture that would be allowed is not only organic in nature, it could be a traditional modern agriculture with greenhouses where fertilizers are used. There is a potential impact with Mr. Hack expanding. The residents are not threatening to expand into his business, but this zone threatens to expand into their use. Mr. Ainsworth stated that the Commission is like the legislative branch at the local level, and there is an overwhelming outcry for something and the members should be listening to what the public is saying.

Mr. Roscow asked Mr. Ainsworth if he was familiar with White Flower Farm and if he considered the site ugly. Mr. Ainsworth is familiar with the farm and they are located on a large track of land in Litchfield County. Mr. Roscow stated that Mr. Ainsworth had stated that greenhouses were ugly and there are many people in Fairfield that buy them from catalogs. He has not heard complaints from other places in Connecticut that have large greenhouses. Mr. Roscow asked Mr. Ainsworth about his statement of manure being used in greenhouses. Mr. Ainsworth said that the manure must be stored and the amount needed could create runoffs. Mr. Roscow said that he was not talking about

open fields, but greenhouses that are enclosed areas. He is not aware of any greenhouse pollutes an area when storing manure and they have elaborate monitoring systems.

Mr. McDonagh explained that there is a need to have further discussion regarding the matter of truck farm/gardens at a separate meeting. This would allow for the possibility of prohibiting truck gardens/farms in a T-3 zone north of West Woods Road or leaving the current regulation that allows it, and change the definition to say "allowed on two to five acres". He asked the Commission what they would like to do. Mr. Roscow stated that the regulations do not define "commercial". Mr. McDonagh advised that "commercial farming" is defined with restrictions. Ms. Altman stated that a decision was made two weeks ago. She said she pushed for the decision that it be made a non-conforming use and prohibit truck garden farms. The criteria she applied is "would she want it in her neighborhood". She is not abdicating her responsibility by doing so. She would not want it in her neighborhood, and the residents of this neighborhood do not want it. This is not a referendum and she was appointed not to put things in a neighborhood that she would not except in her neighborhood. She feels that the existing truck garden/farm should be a non-conforming use and revisit it at a later date. If the existing business would like to expand they should apply for a variance and that would be a good time to discuss this issue because it would be site specific. Mr. Moses asked if changes are made to the proposed regulations how it would affect the current owner. Mr. McDonagh stated that there are two options on the table. They are to prohibit truck garden/ farms north of West Woods Road in a T-3 zone, which would not affect the current operation but would prohibit expansion without a variance. The Commission could leave it as originally proposed which is to permit truck gardens/farms in a T-3 zone. The Commission could agree to revisit the matter in three months for further discussion. Ms. Creane stated that if the use is made non-conforming and the owner wants to expand the use it would not come before the Planning and Zoning Commission. It would not be heard as a Special Permit or Site Plan and there could be no conditions attached. It would go before the Zoning Board of Appeals as an expansion of a non-conforming use. Mr. Roscow asked if by making it non-conforming, and it goes before the ZBA, the owner would have to show hardship and then it could be approved. The community would be able to appeal it on the basis that there is no hardship and it could be thrown out of court.

Mr. Gus Spohn, 4032 Whitney Avenue, addressed the Commission and stated that the issue is not only about Mr. Hack's property, but all the properties located in the T-3 zones. There are many T-3 zones that have large properties and a truck garden/ farm would be allowed in all of them. Mr. McDonagh advised Mr. Spohn that the current regulations in the current R-2 zones would allow truck gardens/farms. If they leave the regulations as they are today it would leave the existing businesses as they are today, it would not be imposing on the neighborhood. Mr. Spohn stated that his understanding is that if the Commission approves these activities in a T-3 zone it not only affects Mr. Hacks property, but all properties in a T-3 zone. Mr. McDonagh explained that whatever is approved the issue will be revisited in three months to be addressed.

Ms. Sarah Clark, 4032 Whitney Avenue, addressed the Commission and stated that she appreciates the time spent on the issue. But before the Commissioners are asked to make a decision, it may be helpful to hear from residents who were unable to speak at past meetings. She does not feel that the residents feel they have been heard. Mr. McDonagh explained that he does not want to impose his will on the Commission. This is not a decision that is intrinsic to what they are doing regarding the form base-use and use-base zoning amendments. He wants to address the issue properly at a separate meeting. She asked if what is decided tonight would be presented in the formal application. Ms. Creane explained that the Commission and the Planning Office will need to address some of the issues at a later date and amend the regulations. There are some issues that would be deferred, so that the proposed zoning regulations would not be held up as a whole. But because of the specificity and complexity of some of the proposed regulations it would be a separate hearing as an amendment to the adopted regulations. The Chairman is asking the Commissioners to decide, for the purpose of the regulations, whether a truck gardens/farms should or should not be allowed in a T-3 zone. The attorneys for both sides have been articulate in their arguments regarding the issue. Ms. Clarke stated that there is urgency from the resident's point of view because the current owner is interested in expanding the operation.

Ms. Marjorie Brill, 4035 Whitney Avenue, addressed the Commission and stated that she had been unable to attend the past meetings. She stated that the area in question is a historic district, and the only area in Hamden with such a density of historic homes. She does not see how it can compare to other T-3 zones, because it is unique area with 12 homes that are historic within one mile. The property along with the home is part of history. There is a cemetery that is old and designated as a T-2 zone, but what would stop large retail being built next to it. The Commission should not permit truck gardens/farms and the existing one would be non-conforming. To allow additional truck gardens/farms would have the potential to be destructive to the history of Hamden and this unique neighborhood.

He asked the Commissioners how many would like to leave the proposed regulation as decided two weeks ago to prohibit truck garden/gardens north of West Woods Road. That would make Mr. Hack's business a non-conforming use. Mr. Reynolds asked if a decision to prohibit truck farm/gardens in T-3 zones would be effective after the proposed regulations are passed. Mr. McDonagh explained that the decision being made at this meeting would be what would be part of the application for the proposed regulations.

He asked the Commissioners how many would like to leave the proposed regulation as decided two weeks ago to prohibit truck garden/gardens north of West Woods Road, and that would make Mr. Hack's business a non-conforming use. The Commission voted 4 for the motion and 3 against.

Ms. Shansky addressed the Commission and stated that there are people in attendance that would like to speak and leave their names so that the Commission understands it is not a one sided issue. Mr. McDonagh stated that he understands that the issue is not one sided, but the Commission does need to address other issues.

Ms. Erin Wirpsa-Eisenberg, Executive Director of City Seed in New Haven, addressed the Commission and stated that Mr. Hack is one of their vendors at the Wooster Square farmers market. The history of Hamden includes farming, including Mr. Hack's area. She does not think that farming is destroying the historical nature of the area. She stated that industrial farming would not be a good use in the area. Mr. Hack is not doing industrial farming on his land. By not allowing farming in the neighborhoods, we are forcing industrial farming with large amounts of live stock on small parcels. Mr. McDonagh explained that the Commission is not prohibiting farming except in this small area along Whitney Avenue. Ms. Wirpsa-Eisenberg said that there is an opportunity for Hamden to the lead on what types of agriculture that the area can have to be a more sustainable economy, neighborhood and community, and this is what Mr. Hack is trying to do in Hamden.

Mr. McDonagh stated that the Commission would continue to discuss the issues that had been discussed at the previous meeting:

The issue of chickens: Mr. McDonagh stated that chickens will be discussed at a later date. There was a consensus from the Commission that the issue should be discussed at a later date.

Tattoo Parlors: Mr. McDonagh stated that adult services definition has been changed to include tattoo parlors in the proposed zoning regulations. Presently it includes body painting which is not considered the same as tattoos. Tattoo parlors will be restricted to the Sherman Avenue Area. Mr. McDonagh asked if there were a consensus from the Commission and there was.

Managed Residential Communities: Mr. McDonagh stated that a proposal has been made that would allow an entrance to within 350 feet of a public street. Presently they require an entrance directly onto a major thorough-fare. Ms. Creane stated that the exit must be on a major thorough fare and a roadway that is at least 30 feet in width. A street that is 18 feet wide would comfortably allow two way traffic. The request is that managed residential facilities traffic be allowed to exit on a side street that does not meet the 30 foot width , as long as it is within 350 feet of a major thorough-fare that does meet the 30 foot width. This would potentially create more traffic onto a minor roadway. This would allow for a car to enter into slower traffic and then stop before entering a major thoroughfare. Mr. Riccio asked for an example of a facility with a roadway that would meet the proposal. Ms. Creane stated that Larson's Place could exit on to Servoss Street which is within 350 feet of Whitney Avenue.. an Ms. Altman asked if Larson's Place were 350 feet from Whitney Avenue and came out Servoss Street that would be okay.

Treadwell Street: Mr. McDonagh stated that the consensus of the Commission at the last meeting was to leave Treadwell Street as an R-4 Zone instead changing it to a T-3 zone.

Putnam Avenue: Mr. McDonagh stated that the consensus from the Commission was to change the designation to a T-3 zone. Ms. Altman said that changing Putnam Avenue to a T-3 zone was at the request of the Whitneyville Civic Association.

Mix Avenue: Mr. McDonagh stated that there was a suggestion to change it to a T-4, but the consensus from the Commission was to leave it an R-5 zone.

Dixwell Avenue between Dorrance Street and Colony Street: Mr. McDonagh stated that the consensus from the Commission was to not change it to a T-4 zone and leave it as an R-4 zone.

Whitney Avenue from Evergreen Street to West Woods Road: Mr. McDonagh stated that the consensus from the Commission was to change the designation from a T-4 zone to a T-3.5 zone. There was a suggestion to prohibit auto repair. There is an auto repair that was put in under the current regulations in the northern part of Hamden. It would be preferable in that area to prohibit auto repair. Mr. Roscow asked for clarification on the area that auto repair would be prohibited. Mr. McDonagh said the area is from Evergreen Street to West Woods Road, but the members may want to consider extending it farther north. Mr. Riccio said that there is Roy's Transmission going farther north from West Woods Road. Mr. Kops stated that beyond West Woods Road, the proposed zones may prohibit auto repairs, and the aquifer protection would not allow them.

Washington Avenue: Mr. McDonagh stated that the consensus from the Commission was to allow multi-family homes. Whitney Avenue from Washington Avenue to the Route 10 Connector: Mr. McDonagh stated that the consensus from the Commission was to change the designation to a T-3 zone with restrictions. Mr. Moses asked for a clarification of the restrictions. Mr. McDonagh stated that it would limit certain activities and establish a maximum of the footprint of the building to 2,500 feet. Mr. Moses asked if this would eliminate professional services. Mr. Kops advised that it currently allows for professional and personal services. The new restriction would prohibit retail service, the sale of alcohol, and civic clubs. The suggestion was to make the area a T-3.5 zone just shy of the Route 10 Connector. This would allow the existing retail business to remain in a T-4 district and they would not become a non-conforming use.

The Magic Mile: Mr. McDonagh stated that there have been extensive conversations regarding this area. He explained that the Commission has received a handout for the percentage of building coverage for T-4 and T-5. He reviewed the coverage that is proposed and stated that it is for building coverage and not lot coverage. He compared the existing regulations with the proposed regulations. Mr. Kops said that the Hamden Plaza is currently is a B-2 zone and the other side of the street is a CDD-1 zone. The Magic Mile is being proposed to be a T-5 which would allow concentrations of 60 percent of the lot area to be covered by buildings. The intent is to increase density in a limited area and protect lower density elsewhere. Mr. Roscow said that the site is now 100 percent impervious coverage. Mr. Kops explained that this would be the Hamden Mart and Plaza. The proposed regulations for this area would be 80 percent coverage which would include all impervious surfaces including the buildings, driveways and parking lot. Ms. Altman discussed with Mr. Kops how the Commissioners would determine what would work best in the different zones. Mr. Roscow stated that pervious pavement used as parking and roads still counts as impervious surface and feels that they need to discuss how to deal with it. He feels this may cheat the amount of green space. This could be an advantage for the developers in terms of cost with regards to water management. Ms. Altman stated that she does not feel she has the expertise to make decisions regarding the percentages of coverage.

Ms. Creane explained the current coverage of buildings only at the Hamden Plaza. This would include Chiles and Star bucks. Ms. Creane explained that for the purposes of illustration she and Mr. Kops looked to build the site out significantly. The numbers used are based on certain assumptions. Mr. Kops and Ms. Creane looked at 20 percent for the minimum impervious surface. The maximum building coverage would include the building footprints, roadways, sidewalks and parking areas and would be 80 percent. The build out they worked with started with 20 percent pervious surface and the build out of the footprint is 35 percent which would leave the area with 45 percent maximum impervious service. The parking would change depending on the height of a building. They looked at counting on-street parking, surface parking and parking garages. She has a schematic diagram that was done to show a sense of what it could like on a piece of property. She reviewed the diagram and answered questions for the Commission and the public. Ms. Altman suggest for the T-5 column in the percentage of building coverage under the current draft replace the building coverage of 60 percent by 35 percent, In the T-4 zone reduce to the 40 percent. Ms. Creane stated that the numbers used were the existing numbers. She would like more time to study the numbers before making a final decision. Mr. McDonagh stated that the illustration was of what the building and lot could be. This would suggest that 60 percent for a T-5 zone is high. Regardless of the number, there is a physical limit that a developer would come up against and may not be able to do what they want. Ms. Creane stated that what she used as a constraint was what already exists. She had not done a graphic study of what could be done on the parcel if all the buildings were removed. The numbers are based on leaving the existing buildings, build up to add new buildings. Mr. McDonagh feels a motion cannot be made at this time until the numbers are addressed.

Mr. McDonagh stated there are three items that need to be addressed:

Pawn Shops: Mr McDonagh stated that pawn shops are considered retail or should they be placed in a special category. Mr. Moses asked what the specific impact would be based on where they are located. Ms. Creane explained that if a pawn shop is considered retail they could be located in zones that allow retail. Mr. McDonagh advised that there is currently a pawn shop located on Whitney ave. and they should be considered retail.

Gas station pumps: Ms. Creane made the suggestion that the option be left for the Commission to have the pumps located in the back unless it is not feasible. This would leave pump location to the discretion of the Commission. Mr. Riccio stated that the Smart Code has some nostalgia attached to it and gas pumps would be left in the front. The consensus was to leave pump location to the discretion of the Commission.

Setbacks: Ms Creane stated that setbacks would be based on where the property line is in the street.

Mr. McDonagh reviewed a letter from Attorney Carl Porto regarding 2408-2416 Whitney Avenue which is just north of the proposed T-5 zone proposed. He would like this parcel, which is located at the the corner of Dixwell Avenue and Whitney Avenue to be changed to a T-5 zone. The Commission discussed with Ms. Creane the request to change the area that is proposed to be a T-5 zone. The consensus of the Commissioners was to make it a T-5 zone.

Ms. Diane Hoffman, 190 Wilmot Road addressed the Commission and stated that the southern portion of Dixwell Avenue is a good area for there to be mixed-use. Reducing the light pollution, noise and absentee landlords and crime is a concern. She would like wording inserted in the proposed regulations that would encourage the creation of a monitoring system in each building by creating building associations or civic associations. It would allow building owners and renters to meet and address issue that have risen. Ms. Creane stated that it could not be included in the zoning regulations. After the zoning regulations are passed there will a meeting that will include the Economic director, Planning staff and representatives from the Commission to discuss forming a real estate task force. This would look at what the new zoning regulations would allow and how to improve the neighborhoods. Mr. McDonagh explained that when the Economic and Development Commission meets they will try to help establish retail associations on parts of Dixwell Avenue and to help enhance and develop the area. The people in the area must think of themselves as part of a community. Mr. McDonagh discussed ideas that people would like to see in the area. He has spoken with Mr. Kroop, Director of Economic and Development about how to develop what people would like.

Mr. McDonagh stated that further discussion for the proposed zoning regulations could be continued at the regular Planning and Zoning meeting on September 8, 2009.

B. Adjournment

Ms. Altman made a motion to adjourn. Mr. Riccio seconded the motion. The motion passed unanimously.

The meeting closed at 11:00

Stacy Shellard, Clerk of Commissions