

**TOWN OF WASHINGTON  
Bryan Memorial Town Hall  
Post Office Box 383  
Washington Depot, CT 06794**

**ZONING COMMISSION MINUTES**

**Public Hearing**

**July 13, 2015**

**Present:** Mr. Reich, Mr. Solley, Mr. Averill, Mr. Werkhoven

**Absent:** Mr. Sivick, Alt., Mr. Wyant, Alt.

**Staff Present:** Mrs. Hill, Mrs. Nelson

**Others Present:** Ms. Purnell, Mr. Bedini, Mr. & Mrs. Solomon, Mrs. Minor, Mrs. Bern, Ms. Giampietro, Mr. Drucker, Mrs. Hardee, Mr. Collum, Mrs. Collum, Mrs. Canning, Mr. Charles, Mrs. Markert, Mr. & Mrs. Boyer, Atty. Fisher, Mr. Stickles, Mrs. Anderson, Mrs. Braverman, Atty. Fuller, Mr. Fisher, Mr. Adjmi, Mr. Jaret, Mr. Szymanski, Atty. McTaggart and Residents

101 Wykeham Road, LLC./101 Wykeham Road/Inn/Request to modify the Site plan and settlement agreement for a previously approved specially permitted use: Section 14.1 and 13.1.b standards.

The Chairman called the Public Hearing to order at 7:00 p.m.

**Seated:** Mr. Reich, Mr. Solley, Mr. Averill, Mr. Sorce

The legal notice was read into the record by Mrs. Hill. Documents received into the file as of July 13, 2015 was read by Mr. Solley.

Atty. Fisher represented the applicant and gave a brief history of the property. 101 Wykeham Road, LLC. purchased this property from Wykeham Rise, LLC. earlier this year. He said the design, construction and management of the Inn has been assumed by the Paligroup which is a hospitality group based in California. Paligroup specializes in small inns in residential areas. Atty. Fisher said per the Settlement Agreement originally there were three detached cottages or dormitories approved for the property. It has been proposed to eliminate those three cottages. All the

guest rooms will be in the main building. The floor plan has been modified and made more efficient. As a result, the applicant proposes to reduce the footprint of the main building by over 2000 sq. ft. In the past there was a great deal of debate over the size and scale of the main building. Atty. Fisher said the proposed rendering is much more aesthetically pleasing than what was previously approved. He said the room count would be reduced by one, from 54 to 53 rooms and that the restaurant would remain the same with the maximum of 68 seats. The applicant is proposing to increase the size of the pool and the hard scape surrounding it. The number of parking spaces remains at 100. During the public hearing three years ago a major point of contention was lot coverage. What was approved was a lot coverage of 9.39%. With this new proposal the overall lot coverage is 8.14% (elimination of the detached buildings and some asphalt surfaces). Finally, the revised site plan shows a greatly enhanced level of vegetation. He said this will provide much better screening from Wykeham Road and a greater level of sound reduction from anywhere on the property.

Paul Szymanski, Engineer also represented the applicant. Looking at map OSD.1, dated 6/19/15, by Arthur H. Howland & Associates, he said they propose some revisions and reductions in the proposed site development. The removal of the dormitories would allow for about another acre to remain woodland. The access driveway is now proposed to be an emergency service access driveway. Reduction of paved walk ways and the elimination of dorms would reduce the impervious surface. The drainage system and detention ponds would remain the same size. Mr. Szymanski said the front circulation area of the main building would handle drop off, pickups and deliveries. Previously, as part of the approved plan, there was a service drive located off the northeast corner of the building and it is proposed to remove that. Also proposed was a little change in the radius of the main driveway to preserve some existing mature trees. The fire marshal has approved the proposed modifications. The generator has been moved from the main building to the rear of the fitness building.

Mr. Adjmi, Architect spoke to the size of the main building. The building would be shortened and in the proposed rendering is reduced to two floors. They looked at tobacco barns and other vernacular architecture as inspiration for the new rendering. They are looking at wood siding, metal roof and a stone foundation which they said will fit in with the Connecticut landscape.

Mr. Jarret(?), Landscape Architect wants to achieve a landscape that is natural to Connecticut. They proposed to preserve the

existing woodlands, meadows and hedgerows. Much of the ground cover would be meadow as it is more ecofriendly than just a lawn. They also want to introduce small orchards. The entrance would be subdued. There are plans for additional screening with evergreens. Janet Hill said the Zoning commission never got any full sized landscaping plans. Mr. Szymansky said they could have the plans presented at the hearing.

The signage issue was addressed by Matt Fisher who said it would be small and in keeping with zoning regulations.

Atty. McTaggart represented Mr. & Mrs. Solomon, Ms. Marguerite Purnell, Messrs. Robert Parker and Peter Rogness and Mr. Howard Barnet all owners of property in Washington near the property in question. Atty. McTaggart passed out a letter dated July 13, 2015 along with a packet of supporting memorandum to the commissioners. She said the Settlement Agreement that was approved was a special permit and that was subject to some restrictions and covenants. These restrictions apply to guest room units and restrictions as to how many seats to the restaurant. She said there were a lot of limitations in the Settlement Agreement because this inn is located in a residential zone. She said a floor plan that shows exactly what is going on inside of the building was not submitted. She said there is much more going on here than what was just spoken about. She asked about the appropriate review that the commission gives when there is special permit and said it requires a review per the special permit standards of Section 13. The Settlement Agreement limited the number of guest rooms to 54. Atty. McTaggart claimed the proposed break up suites actually increase the number of proposed rooms. She said the original approval limited these activities and that it also limited activities in the pool area. She stated that many of the proposed modifications are not only different from the agreed site plan but are also directly contrary to the restrictions in the Settlement Agreement.

Atty. McTaggart said that modifying the special permit site plan and other covenants and restrictions must be reviewed as a modification to the special permit. She referred to the CT Supreme Court case of Barberino where the court ruled that a real estate developer's revision to its site plan had to conform to zoning regulations governing approval of special permits. She said the Barberino case is similar to the Wykeham/Palihouse case in that the special permit was approved on the basis of a particular site plan. She argued it is necessary for the commission to take into account all special permit zoning standards of our regulations and said the applicant must prove that the proposed revisions comply with the special permit standards. Atty. McTaggart discussed in length the special permit standards under Washington Zoning Regulation section 13.1.B.

She said the original approval had a restricted area by pool area where no activities could occur but the last set of proposed plans has an expanded pool area that is twice the size and a new lawn area, and a hot tub area. She said we know from the plans submitted to DEEP that this area can serve 45 people. She pointed out that now alcohol can be served by the pool which also has a fireplace for year around use. Also told to DEEP that food service can come from the main building to the pool area. She complained that the zoning commission isn't getting the same detail that was submitted to DEEP. She said the Inn use is now a nonconforming use because the town of Washington regulations don't allow inns on town roads but per the Settlement Agreement the inn on a town road was approved. Atty. McTaggart claimed that this proposed plan would actually allow much broader uses and more event oriented uses and less lodge related uses than permitted by the Settlement Agreement. Atty. McTaggart spoke briefly regarding the process that is required for site plan revision. She noted the only requirement that was required to be accomplished immediately upon approval of the Settlement Agreement was the abandonment of the Bell Hill driveway, which was not done. The driveway's continued maintenance is in violation of the Settlement Agreement and the related special permit approval and should be addressed by the commission. Atty. McTaggart said Atty. Fisher described the proposed changes as minor and in no way effect the intensity of the inn but she disagreed and said she said she would show the proposed revisions would increase the intensity of use.

She continued saying they are taking an area that is a restaurant and they are adding on 2400 SF of bar area. The regulations say in an R-1 zone, there are no food or beverage establishments allowed. The Settlement Agreement allowed a 68 seat restaurant with no discussion of a 2400 SF bar area with 14 bar stools. She said the new owner proposes to increase both the number of rooms and the uses in the pool area. The pool area is proposed to be rotated which would open it more to the neighbors. They also propose to add 10,800SF of lawn and a hot tub with food and alcohol service. She said this constitutes a change of use because it shifts what was a very lodge-guest oriented use to a more public use that can accommodate a lot more people and activity indoors and outside. Atty. McTaggart pointed out the proposed floor plan include a private dining room, 60 seat conference room, 720 SF multipurpose room, 600 foot terrace and these are separate from the lodging area. She said the proposed kitchen would be three times the size it needs to be if it is supposed to be lodge oriented and again noted that food would be transported to other areas. She said there would be a shift from guest houses to the rooms in the main building with expanded public use which she claimed is really a change of use. She said it would change the scale by adding a bar scene and that actually there would be programmatic changes that would occur on inside and they would be important to the people who

live in the neighborhood. She said there was concern about people leaving the bar scene and driving on the roads in this R-1 zone. She noted this new proposed plan parallels the Palihouse brand and when completed the facility would easily be the largest commercial structure in the Town with a bar scene that is not limited to guests only and far exceeds the scope of the limited restaurant. She summarized the changes proposed by Palihouse would allow more event or party oriented use and the expansion of the pool area with food service, hot tub, and connected lawn area equates to more intense activity than the approved special permit and Settlement Agreement.

Atty. McTaggart also claimed that the zoning commission did not get the same information that was submitted to the Inland Wetland commission. Atty. McTaggart continued to address the issue of intensity of use. She said the kitchen at the time of the Settlement Agreement was 392 SF. It is now proposed to be 1125 SF. She questioned why a 68 seat restaurant now needed a kitchen three times larger than was previously approved and noted that with this increase would be capable of serving a dramatic increase of activity. The proposed kitchen is oversized and more consistent with a banquet facility or a facility that is going to serve a lot of meals. She noted the Paligroup also proposed to increase the inside event areas as the Plans now include a 2400 SF lobby-bar, 1700 SF 60 seat conference room, a 1800 SF main dining room, a 720 SF multipurpose room, a 650 SF terrace a 288 SF private dining room and an employee dining room. She said all these areas would be geared to event use rather than focusing on the lodging business. The tented areas were dispersed throughout the property so that all activities would not be going on in the same place. At two of the tented locations underground propane tanks are now proposed. Another proposed change is now all vehicles including service vehicles, repair vehicles, food deliveries, emergency vehicles and patron vehicles must travel through the main building. She said this new configuration raises emergency issues. She also said there is increased parking visibility because there have been six parking spaces added in close proximity to Kirby Road and Wykeham Road. She noted that neither revised lot coverage calculations nor how the lot coverage was determined have been submitted. There are conflicts between the utilities, required setbacks and planted areas. She said the newly positioned pool and equipment locations are now in violation of Washington's zoning regulations section 12.14 that provides these be located further than 50 ft. from the nearest property line to limit the impact of noise generating equipment. In addition she asked where the air conditioning units are to be located. The main building and pool area have been reconfigured with new underground features such as drainage pipes, gas lines, and propane tanks have been added in areas where dense plantings had previously been required and approved. She also claimed the original planting plan had been revised and it now

lacked identification of species and size of trees. Woody shrubs and trees are shown in leach fields and rain gardens. She stated the disturbance area has grown from 11 acres as shown on the approved site plan to 13.8 acres and said this was not a reduction. In summary, Atty. McTaggart thinks the above issues are serious ones and they constitute a change in the plan that increase the intensity of use on the property and requests the commission to consider the impact.

Atty. Fuller is working with Atty. Fisher. Atty. Fuller thought it was unfair that Atty. Fisher didn't receive the documents from Atty. McTaggart ahead of time. The Special Permit runs with the land and no special permit is required in this case. He explained the application for the Special Permit was for an inn and was approved for an inn and that what is proposed here is exactly the same use; no additional or change of use for the property. Atty. Fuller addressed the Barbarino case and said the site plan is nearly identical to what was approved before. He said in order to disapprove a second site plan there must be either a material change in the use of the property or a substantial intensification of the use from the prior proposal. He said it is not a material change and this is a reduction not an intensification. Atty. Fuller said the applicant would respond in more detail at a later date.

Chairman Solley read into record a letter regarding Fire Marshall approval from M. Showalter and T. Osborne to Ms. Hill dated 07-09-15, a letter from Karen Silk dated 07-13-15 and a letter from Wendell and Florence Minor dated 07-13-15. Mr. Solley said the commission was not here to re-litigate the Settlement Agreement but wanted comments about the proposed revisions that has been brought up tonight. Comments from the public follow.

Mrs. Barnet was concerned about the landscaping. She believes that the attention spent on landscaping is an effort to distract from the real issues. She said it's not clear if the landscaping can even be fulfilled because DEEP would not allow the planting of trees or woody shrubs on leaching fields. She thinks that the landscaping plans may be empty promises and can't see how the landscaping can diminish the impact of development. She hopes the commission isn't swayed by the wonderful presentation and pretty pictures.

Ms. Benn agrees with the letters submitted by Ms. Silk and Mr. & Mrs. Minor. She believes the traffic is treacherous and should be looked at carefully.

Ms. Giampietro wants a small 25 room inn with a great restaurant. She thinks what the Paligroup has proposed is much too large and

that the town of Washington already has a destination inn, the Mayflower Grace. She also noted that several inns in the area are struggling or have closed.

Mr. Barnet attended the May 18<sup>th</sup> meeting. He wants to know if Paligroup has done any market studies on the viability of the proposed inn. Mr. Fisher of Paligroup stated that market research is not so important to him what was important was the Paligroup Brand. Paligroup wants to build a party venue. He believes the proposed revisions are inappropriate and wants the commission to deny.

Mr. Drucker said he was surprised when two years ago he learned that the "larger project" had gone forward when in fact a smaller project had been denied. He said it's the Zoning Commissions position to preserve the R-1 Zone, Residential Zone. This is a residential community. This is a residential zone. The Zoning Commission should not be looking for the abutting property owners to defend the zone. It's the zoning commission's job to defend the zone.

Ms. Purnell said there were project inconsistencies with regulation section 13.1.A, which she read. She also read section 13.1.B.2. Ms. Purnell stated that she moved out of town because of the proposed development. She is aware that others in the neighborhood have moved. She noted that Paligroup in California is not in residential area and out of 5 proposed Pali branded ventures in Los Angeles only 3 exist today.

Mrs. Solomon read regulation 13.1.4 then said the inevitable consequence is that traffic traveling through our residential neighborhood to and from the property will be increased. She mentioned the bad road conditions combined with drunk patrons would be a bad situation. She urged the commission to deny the Palihouse proposal. She said this will send a clear message that the commission is not willing to sacrifice the safety and welfare of Washington residents to satisfy a property owner's agenda to maximize the profit potential of a commercial enterprise, especially in a residential zone.

Mr. Solomon said that in 2008 the Zoning Commission denied an inn on this property because of the "very large size of the proposed main building" and "the large number of inn guest rooms." Litigation ensued. He noted the existing Settlement Agreement brings a development the size of Bryan Plaza into the middle of this residential neighborhood. He is also concerned about the much larger pool area and new outdoor venues. He said if the applicants are so interested in minimizing the adverse impact on neighbors, they would have situated the outdoor pool away from neighboring properties, would not have doubled the area or added other

disturbing elements.

Chairman Solley said he had a list of questions that the applicant should be prepared to answer or clarify.

1. lot coverage details
2. they need a better explanation of what a "room" is or a floor plan of what suites look like
3. what is the difference between a patron and a guest
4. why is there a need for two concessions stands
5. where are the AC units located
6. tree and shrub plantings on leach fields- Is this allowed?
7. clarification of the uses of the non-restaurant public spaces

MOTION: To continue the public hearing at 7:00 p.m. on Tuesday, August 11, 2015 in the Upper Level Meeting Room, Bryan Memorial Town Hall to consider 101 Wykeham Road, LLC. 101 Wykeham Road/Inn/Request to modify the Site Plan and settlement agreement for a previously approved specially permitted use: Section 14.1 and 13.1.b Standards. By Mr. Solley, seconded by Mr. Reich, passed 4 - 0 vote.

### **Adjournment**

MOTION: To adjourn the meeting. By Mr. Averill.

Mr. Solley adjourned the meeting at 9:00 P.M.

### **SUBMITTED SUBJECT TO APPROVAL:**

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Linda Nelson, Land Use Clerk, 07/20/15

**A recording of the meeting is available in the Land Use Office.**