

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

February 22, 2006

Vice-Chairman William Cariseo called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

Commissioners Present

Commissioner Anest-Klett
Commissioner Cariseo
Commissioner Fox
Commissioner Ganley
Commissioner Kornichuk
Commissioner Prestage
Commissioner Pruett

Commissioners Absent

Commissioner Andersen
Chairman Camilli
Commissioner Schatz

Staff Present

Ed Meehan, Town Planner

Commissioner Prestage was seated for Commissioner Schatz and Commissioner Pruett was seated for Commissioner Camilli

II. PUBLIC HEARINGS

- A. PETITION 01-06 Reno Properties, LLC, 170 Pane Road, Newington, applicant represented by Attorney Lewis Wise, Rogin, Nassau, Caplan, Lassman & Hurtle, City Place I, 22nd. Floor, Hartford, CT 06106 request zone amendment to CD Zone District regulations for Connecticut Children's Medical Center property (28.6 acres) Assessor's Parcel NE 505 to permit by Special Exception Townhouse developments. CRCOG and Central Connecticut Regional Planning Agency Referral Notice Required. Continued from February 8, 2006.**

Attorney Wise: Thank you Mr. Chairman, my name is Lou Wise from the law firm of Rogin Nassau in Hartford, and I'm here tonight on behalf of the applicant. Just before I start, I would like to ask for a waiver of the twenty minute rule. We have, I think, considerably more testimony and evidence to present, and I don't think we will be able to do it in twenty minutes.

Vice-Chairman Cariseo: Well, it's up to the Commission.

Commissioner Fox: I think it's the third meeting, I would say no.

Commissioner Anest-Klett: I concur with Mike.

Commissioner Ganley: You know, we have been over this thing for a long time. Twenty minutes is a lot of time. I would say no.

Commissioner Prestage: No.

Commissioner Pruetz: No.

Commissioner Kornichuk: Well, I'm not going to say yes.

Attorney Wise: I would just like to voice my objection, and the grounds for my objection are that it's my understanding that Connecticut law does not allow the limitation of time necessary to present an application, so I believe that you are depriving us of our rights to make the record that we think is necessary to make, and plus I assume that you kept this hearing open after the last session in order to allow the presentation of additional evidence and testimony and we have come prepared to do just that.

I guess I better talk quickly if we are going to be limited. Let me just quickly summarize and review where we've been over the last two sessions. I want to emphasize again, the purpose of this application is not to seek approval of the plan that is up here on the board, it's a concept plan only. The purpose of our application is to add another use to the CD District, and that would be a townhouse style development use by Special Exception subject to all of the conditions in your Special Exception regulations as well as the specific conditions that we have proposed as part of our amendment.

You may recall that we submitted an original proposal after we heard your comments and suggestions after the first session, we submitted some modifications to our original proposal that reduced the maximum density on this parcel from approximately 276 units to 166 units depicted up here on the board in a concept plan, and we also amended the language of the proposal so as to significantly increase the amount of open space that would be required for a development of this sort from approximately four acres of open space to almost ten acres of open space, which again is depicted up here on the board in the concept plan.

Last session, well, let me just back up one second. We also established, and I think this is very important, that our proposal is perfectly consistent with your Plan of Conservation and Development and it is consistent with it in several respects. One is that the Plan of Conservation and Development emphasizes the need for multi, relatively high density multi-family or multi-unit housing in the Berlin Turnpike corridor, or adjacent to the Berlin Turnpike. Well, we're not adjacent to it, we are virtually adjacent to it. It emphasizes the importance of preserving the Cedar Mountain Ridge line areas and it emphasizes the continuing need in Newington for diversity of the housing stock, and we believe that the proposal before you satisfies all of those goals set forth in the plan.

The overwhelming, at the last session when the public got a chance to speak, the overwhelming sentiment among people who spoke was that this property should be preserved as open space. That was the theme, I think that was voiced. I want to emphasize again, the issue before you tonight, is not whether this parcel should be preserved as open space. The Planning and Zoning Commission doesn't have the power to keep this property as open space. This is private property and it is currently zoned CD. That means that the property can, and undoubtedly will be developed for the, for one of the uses permitted in the CD Zone, the most obvious of which is office development. I'm not saying that as a threat, I'm merely saying that to remind the Commission that the choice here is, do you want to see this property developed for a commercial type of use, office type of use, or would you prefer to see it at least possibly developed for a townhouse style residential development. Remember the way we styled, the way we drafted this proposal is to create the residential use, not as a permitted use, but as a Special Exception use, which means that we have to come back, we would have to come back and you would have virtually full discretion with respect to that type of a proposal. If you reject the application before you tonight, the amendment to the zoning regulations, and we decide to develop this for office use, it's a permitted use. You have no discretion when it comes to that type of a development. So, it seems to me if that if people are really concerned about the open space issue, and I think that is a very legitimate issue, and I'm not going to stand up here before you and say that it's not,

it is an important issue, and in particular the part of this parcel that is the most sensitive and the most worthy of preservation, is the very steep Cedar Mountain ledge here, and areas that are around it, in order to preserve views from down below, looking up, and to give people access to the top of the ledge there, so they can have, people can have views of Newington center and Farmington Valley and so forth. That certainly is the most important part of this parcel that needs to be preserved, and we agree with that, so you have to ask yourself tonight, if that is the goal and I think that everybody probably thinks that is the goal, which of the two possible uses is most likely help us all get to that goal. An office development, or this type of a townhouse development, and I'm going to hopefully help you make that decision.

If, first of all, under the regulation that we have proposed to you, approximately nine and a half acres of this twenty-eight, twenty-nine acre parcel would be preserved as open space, including the most sensitive area. If this is developed for an office style development, I believe your regulations provide that only ten percent of the property has to be left undeveloped. Well, ten percent of twenty-nine acres is 2.9 acres. So, office, you are going to get about 2.9 acres of open space, this type of development, you are going to get close to ten acres of open space, almost three times, more than three times as much. So if you are truly interested in preserving as much open space as possible on this parcel, which is certainly a very laudable goal, clearly a townhouse style development is going to get you there a lot better than an office style development.

What use is going to result in the most overall disturbance to this site, an office use or a residential use, a townhouse use? You are going to hear, in a few minutes from Alan Bongiovanni what it is going to take to develop this site for office use, and you are going to hear him tell you that the amount of excavation is going to be drastically more than for a residential townhouse style development. You are going to end up with, you know, half of the top of the mountain is going to be excavated, and that is going to be of right, so if you are looking for the way to develop this land with least disturbance possible, particularly to the areas closest to the area that we all want to preserve and leave open, clearly a townhouse style development is superior to a office type of development.

Which of the two types of development is going to be the most intensive use, in terms of people coming and going and visual impact. Well, if we develop this as a two hundred and fifty thousand square foot office complex, or office park, which is certainly possible, your own parking regulations which is one way to measure the number of cars that are likely to be coming in and out of the site, your own regulations would require parking for more than a thousand cars. You can have at least that many cars coming and going every day, whereas of course, a residential development you are going to get one to two cars per unit, and the amount of traffic is going to be far far greater, I think we all know that intuitively, it's going to be far greater if this site was fully developed as an office complex. And height, under the current, under our proposal, the maximum height of these townhouses is going to be two and a half stories, of, you know, the normal height of a story, a residential story, and for an office development, if I'm not mistaken, I think the regulations provide for three stories and up to five stories with Commission approval, without any height limitation, which means that each story can be far, far taller, higher than the normal residential floor. So, in terms of the intensity of use, there is no question that a townhouse development is superior.

You heard people say last week, or two weeks ago, I'm sorry, and you may, are undoubtedly going to hear it again, that somehow this does not represent a good use of this property in terms of land use planning and in terms of its use as a transitional use between the Humane Society property to the east and a little parcel of industrial land, and the other surrounding uses, and I find that to be humorous because the fifty or sixty acre Tilcon parcel, immediately to the north is zoned R-20. We have other R-20 property down to the south, so it seems to me that under the, well recognized land use principles, if you have a single family zone, like a R-20 zone, and you've got commercial uses, that you want to provide some transition for this is the perfect kind of use. You will have commercial uses, you'll have multi-family, and then you will have the R-20 zone. It seems to me that that's far superior from a land use perspective than having that developed as

an intensive office park which would be, as I said before, would be permitted as of right. So in terms of its appropriateness as a land use, I think it's obviously significant. There was some suggestion made two weeks ago that this type of development is going to result in a financial negative to the town. That is, that you are going to end up spending more money than the tax revenue that it is going to generate. We have an economist here tonight, Don Klepper-Smith who is going to talk about that issue, and show you that in fact, that's not accurate, that a project like this because there are so few children will typically result in an overall plus financially to the town, and finally, I just want to emphasize that while I know that you have heard from a lot of opponents, there is actually quite a bit of support out there for this project, for this proposal I should say, and I just, I know that people who have, who are supporters have been sending letters to probably Ed Meehan, and I don't know which letters you already have, and which you don't, we have copies of some of them and I just want to emphasize the fact that we have letters of support from businesses such as Health-Trax, Mortensen Insurance Agency, Newington Pizza, Premier Cleaners, Studio Three Dance Center, Public Market of Newington, Benefit Resource Group, Gilmartin Electric Motors, CEDA, Inc, Dan's Custom Counters, MB Plumbing and Heating, Keyway, Inc., Frank Ross Construction, Reed Corporation, and there may be others that we do not have copies of, and in addition there are at least seventeen, eighteen, nineteen letters that I'm aware of, of support, that were sent in by residents. So there is quite a bit of support out there for a townhouse style development over an office development, and let me turn this over to Alan who can explain a little bit more about what would be entailed if this site were developed for offices.

Alan Bongiovanni: Good evening, for the record, my name is Alan Bongiovanni, President of the Bongiovanni Group here in Newington. I'll be brief, as our time is limited. At the opening of the public hearing, part of our presentation was two conceptual site plans, this is what the applicant is proposing to create a zone to allow townhouse type of development. This concept plan that we have here is actually a balanced site, there would be virtually no need to remove material from the site to effectuate a plan such as this. Permitted as of right under the current regulations we prepared what my clients believe would be a viable plan from a marketing perspective. For the number of years that this has been a CD zone there never has been one end user of the property that has come forth to say I would like to build a corporate headquarters or an R & D facility on this large parcel of land. Their marketing tells them that there is some interest in smaller parcels for smaller buildings, maybe in the fifteen to thirty or forty thousand square foot range, so we prepared a subdivision to accommodate that. We took the horizontal, vertical roadway alignment specifications of the Town of Newington and designed the steepest road that we could within those standards to create a roadway to access the property. We did a very conservative estimate, layout of footprints with appropriate size parking areas. This development, which I believe is conservative, and in real life will probably be much more drastic of an impact to the hill, is about four hundred thousand cubic yards cut to the top of that hill. The actual peak based on the contouring is about twenty-four feet, but if you look at creating pads, buildable areas, some areas are thirty-four, thirty-six, thirty-eight foot of cut on top of that mountain. This by far, is much more severe of a change to the natural characteristics of that hill.

This type of a development can be worked within the contour of the land with minimal amount of disturbance. As of right, this is going to be a severe and drastic change from what exists there today. With that, I think I would like to turn it over to Don and have him talk about the financial aspects, and at the end we would be happy to answer any questions.

Donald Klepper-Smith: Mr. Chairman, allow me to pass this out please? I realize that our time is limited here. I will be brief and keep my remarks to the point here. My name is Don Klepper-Smith and our firm was commissioned to conduct a fiscal impact study of the proposed development. I've been a professional economist now for over twenty-five years, and we're working on six such studies at this point. Bottom line here is that we had a presentation that was going to last twenty minutes, so what I am going to do is to condense that down into the real meat

of the matter. Our report basically has six sections; a demographic profile of Newington, looking at multipliers that are commonly used to estimate fiscal impacts, talking about local impacts on the school system, the process of estimating fiscal impacts and then summarize with revenues and conclusions.

Let me just move through these ever so briefly. What I will say is that we are using commonly accepted multipliers here from the Urban Land Institute and the New Fiscal Practitioners Handbook, and please note that the multipliers that we used are commonly accepted and are a function of the region, the construction style, and the number of bedrooms involved. It is extremely important to note, that we have a long standing policy of using the highest possible multipliers because when you talk about student costs and demographics, they produce the lowest estimate of fiscal benefits, so the numbers that we are going to be providing you tonight, if anything, are on the conservative side.

What I will tell you is that using the highest possible multipliers, the residential development will generate a maximum of twenty-seven new students, those are both public and private, on your current base of 4600 students. The resulting student per household ratio of .16 students per household, and this is all contained in your report, and again, I'll just run through this, is considerably less than the .36 measurement that you have because, and this is the key point, the development is constrained by two bedrooms per unit. In some of the work that I have done here in Newington in the past, the student per household ratio has been as low as .04.

What I will tell you is that if these twenty-seven students were to attend public schools, entirely from outside of Newington, the district would see just a fractional rise, a .6 percent rise in the student base here. Basically, we are talking about less than one percent which constitutes a minimal impact and again, these are used to produce what we consider to be very conservative estimates of net fiscal benefits.

What I will tell you is that we looked at data from the State Department of Education, namely the Strategic School Profile and again, one of the key points here is that when we start looking at the piece here that is represented by local expenses, we are talking about roughly seventy-eight hundred dollars per student, so when we take those twenty-seven students at an annual cost of \$7800 per individual, we are talking about an annual expense of about \$212,000.00.

One of the things that is important to keep in mind is when we talk about fiscal impact analysis is that we are talking about the direct revenues and the direct expenses, and simply stated, indirect impacts are not treated due to the number one double counting and the near impossibility of predicting secondary consequences.

What I will tell you is that all developments are unique in that they utilize town services at various rates, and that the commonly used process for this, and let me make this clear, is the per capita multiplier method which is basically the classic average costing approach for projecting population change and local municipal and school district costs and revenues. The method has been applied to almost every type of fiscal impact situation. So that is the process that we used, average costing. What I will tell you is that we looked at the entire non-education budget. We looked at specifically, police, fire, roads, public works, recreation, health, other city services, administration, benefits, the entire non-education budget to come up with a fully loaded expense. When we start talking about this, the bottom line is that when we talk about 166 two bedroom townhouses, at \$325,000.00 each, we're looking at a market value, as you can see of about fifty-four million dollars, which represents an assessed value of about thirty-eight million dollars. Now we are fully aware of the fact that the town is now going through a re-val, and until we get that number, we will work with the current official number of 36.43. Looking at that, we get a gross real property tax per unit of about \$8300 dollars. That is before expenses are accounted for. When you use the highest possible demographic multiplier, when you look at the maximum number of new residents, when you look at the bottom line municipal expense we are talking about four hundred and forty eight thousand dollars on top of the educational expense of two hundred and twelve to come up with a total fully loaded expense of six hundred and sixty thousand dollars. What this means is that when we start looking at revenues and expenses, the

net fiscal impact is over seven hundred thousand, constituting a net fiscal benefit before mill rate change of forty-three hundred dollars.

What I will tell you is again, to summarize my points, twenty-seven public/private school students, some of which may actually be coming from internally from the municipality, so again, that is a maximum number. The .16 students per household is considerably less because of its constraint by bedrooms. The .6 percent rise in the student base is very, very minimal. What we will tell you is that the impact on municipal services, given the other studies that I have worked on, is considered to be modest, the benefit of \$4300 is subject to change based on the new mill rate which we will plug in when we get that, and as a professional economist of twenty-five years, I can look everybody in the eye here and basically say this is fiscally stimulative to the town of Newington and it makes good economic sense. Thank you very much.

Vice-Chairman Cariseo: Thank you. We'll hear from the Town Planner.

Ed Meehan: Just for the record, I want to put into the meeting tonight the letters that were mentioned by Attorney Wise. I don't think it is necessary to read every one, but I will make them all available to the Commission as part of the file, as well as any member of the public. There are numerous, Attorney Wise mentioned some of them, there are probably ten or fifteen letters here, all in support of the proposed zone amendment. Also, just to remind the Commission that the Capital Region Council of Governments as well as the Central Connecticut Regional Planning Agency have issued their reports. They were read into the record at the first meeting and both reports were advisory and had findings of no inter-town conflict. My staff report was made part of the record also the first evening, and the Commission has the benefit of that, as does the applicant and the public.

Attorney Wise: If I could have just one second, I meant to hand these in when I was speaking. I'm not sure if Ed has all of the letters, we may have gotten some of the originals, so these are copies of everything that we are aware of, so you may have some duplicates. Thank you.

Vice-Chairman Cariseo: Thank you. Are there any persons here wishing to speak in favor of this application? Please come forward.

Michael Gallon, 49 Cheney Lane: Good evening members of the town Planning and Zoning Commission. I have been a Newington resident for twenty years. I am here to speak in favor of Petition 01-06. I support an amendment to the zoning regulations to allow, by Special Exception, townhouse developments in the CD Zone, more specifically, 28.6 acres of Cedar Mountain currently owned by the Connecticut Children's Medical Center. I respectfully ask that the Commission consider the following; first and foremost, this is not a question of whether to develop or not develop this parcel. This is not a question of this parcel remaining as open space in perpetuity. The idea that this parcel can somehow remain as open space is not an option for the town. The Mayor and Planner have expressed that the town does not have the intent or resources to purchase this land. Secondly, this parcel is private property. Public access to this land is not allowed by law or statute. The fact that anyone from the public currently accesses this land for any reason is against the law. Only by the grace of the current owner not enforcing trespassing laws does the public access this land. As private land in a commercial development zone, the owner by right can develop this parcel. This parcel can be developed in its entirety as a corporate headquarters, a conference center, a research and development laboratory, in general, any business or professional service can by right be developed in this parcel. This is not a question of if, but a question of when. We are talking about hundreds of thousands of square feet of commercial space, employing as many as a thousand people. The question before you tonight is simply one of consideration. Will you, as the stewards of development in this town consider an alternative use for this parcel? A use that I believe merits strong consideration for the following reasons; a third of the land, almost ten acres, and encompassing the ridge line, will be preserved

and devoted as open space. The public will then have, by right, the ability to access this open space as a passive recreation area. They will be able to enjoy the views and vistas provided by the undisturbed ridge line. The concept plan of 166 units would have a low impact on the parcel. A commercial development would have the highest impact on the parcel, generate the most traffic, and most importantly, it would irreparably change the character and use of the ridge line. This ultimately becomes a question of balance. How does the Plan and Zoning Commission balance the rights of the landowner with the ideals of the community. This alternative goes a long way to that end. The landowner should be given consideration to develop this land with an alternative use, especially when that use is demonstrated to impact positively all stake holders, the town, the public, and the land owner. Thank you.

Vice-Chairman Cariseo: Anyone else wishing to speak in favor. Please come forward.

Steve Ripple, 19 Hemlock Street: I'm a lifelong resident and I'm for this proposal because it gives another option for the use of that land up there. I think it is an option that will preserve the look of the hill and maybe stimulate some activity in the center of town. Thank you.

Vice-Chairman Cariseo: You're welcome. Anyone else? Anyone wishing to speak in opposition? Please, only come forward if you have something new to add. Last meeting I believe that we got almost everyone's feeling on how they feel about it, but if there is something new that you can add to it, please come forward.

Robert Briggaman, 75 Groveland Terrace: I want to thank the Commission for giving me this opportunity to voice my concerns. I'd like to address the issue of Petition 01-06 submitted by Reno Properties requesting an amendment to CD zone district usage to allow for the construction of town houses. The present uses for the CD commercial zone are purely office and laboratory orientated. It allows for no mixed uses. If this change is granted, it will permanently alter the landscape on the top of Cedar Mountain forever. No long will we, the citizens of Newington, our children, our grandchildren, countless generations to come, realize the possibility of retaining and using this beautiful piece of property for passive recreation purposes. One only has to drive around town to notice the glut of empty office space. Some of it has been on the market for years, and ironically two relatively new buildings, on the Berlin Turnpike less than a half mile away from the property in question is for lease by none other than Reno Properties. Why are they then requesting a change to the CD Zone to allow for the construction of town houses? In my humble opinion, it's because in today's climate it would not be economically feasible to develop this piece of property under the existing usage. The change requested by the applicant must be of a purely financial nature. The addition of more townhouses will only have a negative effect on town services from schools to police to fire to road and numerous other town services. It will continue to exasperate and add to the mounting tax burden of all Newington citizens, especially those on fixed incomes. This is one of the last unspoiled pieces of space in Newington. This beautiful piece of land is bordered on the west and north by the Old Cedar Mountain hiking trail, which has been designed as part of the Newington greenway system. This parcel of land consists of 28.6 acres of mixed red maple, white ash, red oak, black oak, and numerous other varieties. It is also home to an abundance of wild life such as deer, raccoons, possums, rabbits, squirrels, and an occasional coyote. This area offers beautiful scenic views for many miles to the west, to the Farmington Valley and beyond. In the 2002, 2003 time frame former Mayor McBride held discussions with the Connecticut Children's Medical Center present owner of this property, and the Balf Company, owner of 31 acres to the north. While no purchase agreement was reached, the Town of Newington applied to the open space and watershed land acquisition grant program through the Connecticut Department of Environmental Protection. An award of \$491,000.00 was made to the town. I recently spoke with Mr. David Steiger of DEP and this grant is still outstanding. Let me quote a few facts. Connecticut is the fourth most densely populated state in the country. Connecticut is along twelve states with the highest rate of land

base changed to development. Newington presently has less than twenty-five percent open space, while the State of Connecticut is sixty-eight percent. As Will Rogers once said, they aren't making any more land. It is true that you as a Commission have to consider the application before you, but there is a much bigger picture before us. As public officials you are also entrusted with a careful stewardship of what little open space we have left. I urge you all to think outside the box, to be creative and to consider what is in the best interest of all taxpayers, especially for the future generations of our children, who may have the possibility of enjoying this land. Let me quote the mission of the Town Planner's office, which is presented on the Town of Newington web site, and I quote, "The mission of the Town Planner's office is to assist the town Planning and Zoning Commission in reviewing development projects that enhance the quality of living and working in Newington, promote proper economic growth, and the conservation of a communities natural resources." Let me emphasize the later, conservation of a communities resources. I urge you, the Commission, to make the right choice for this community before these (inaudible) are taken from us forever. I urge you to vote against the application. Thank you very much.

Vice-Chairman Cariseo: Does anyone else have anything new to add? And I stress new!

Bill Chase, 126 Mountain View Drive: I'm not an economist, but I want to talk about financial impact and two weeks ago the presenter of this petition gave some enrollment figures of four areas of Newington which was used to sustain that there wouldn't be an impact on the school system and he used Crown Ridge, Hunter Green, Foxboro and Cobblestone and based on the 2003 census. I'm not sure if that was the beginning enrollment there, or the ending enrollment, but I was surprised when it was 2003, when today is 2006. I went to the school, and in those same areas, there is now forty-seven students, or two hundred and thirty-six percent increase. Now, from the way that the information was in the file, you can't say if it was just, if it was for the whole development, those four developments, or just specific streets in it. So even if you just took the individual streets, Crown Ridge, Steeple Chase, Hunters Lane and Pebble Drive, the student base went from fourteen to twenty-six, which is almost an eighty-eight percent increase. So either way, it either went up eighty-eight percent from 2003, to two hundred and thirty-six percent, and that is just in three years, so who knows what it could be in another three years. I'd like to put that in the record at the end. I also went to the budget office and next year's proposed budget for 2006-2007 for our school system is almost fifty-two million. Mr. Avery said that there is 4600 kids in the school system, that's \$11,220.00 per kid, and the information that you are presenting he's only talking \$7500.00. If you take 168 homes, that comes out to \$550,000 worth of property tax revenue that you might get. No, excuse me, if each home is assessed at say, \$5,000, you are going to get \$840,000.00 in taxes and at \$11,000 per kid, with forty seven, that's \$517,000.00 in school costs, leaving a net of \$323,000 for regular public service. It would only take twenty-nine more students before that is all eaten up, and there won't be anything for student services, or regular government services. I came here with different thoughts, but as I got these numbers I changed my presentation tonight, so that is why I've had a few mis, mis-spoke a few times. But I do have, the facts are there, and our Town Manager, Paul Featherston, from the prior council, they spent a little over four million dollars to preserve open space, they bought the Churchill Farm and the Eddy Farm, and you know, we have \$492,000.00 which the state has set aside for us to pursue purchasing the land at the top of the mountain. I think if we keep it zoned the way that it currently is, it will give us more of an opportunity, more time to get some non-profit organizations together for land preservation, and re-negotiate the purchase of the land, so we can keep it open space. From what I understand, we also do have the right to walk the greenway trails so you can get access to property without trespassing. The other thing is, if you change this, there are three other areas that can get zoned for townhouses, and from what I see, those are a lot easier to develop than this one, so maybe the next thing, they will forget about developing up here and go to another of the three parcels because you won't have mass rock excavation either way to put roads in, sewers in, utilities. There is going to be a lot of cost. Keeping it zoned the way it is, will give us more of an opportunity to set up some non-profits to

buy it, and the costs are going to escalate, as you can see here, just from 2003, to 2006, a two hundred thirty six percent increase in students. Thank you.

Vice-Chairman Cariseo: Is there anyone else?

Attorney Matt Rinelli: Good evening Mr. Chairman, I'm Matt Rinelli from the Hartford law firm of Shipman and Goodwin here on behalf of the Connecticut Humane Society. My colleague, Ryan McCain was here at the last meeting. I was biding my time there, because we have with us this evening, Brian Miller, a Planner who has prepared a report. Mr. Miller is en route, but he is not here yet, so I will just go ahead in his absence, and if he arrives while I am speaking, I'll ask him to come up and corroborate what I am telling you, but I have here a couple copies of his report, he is bring fifteen additional copies which are identical.

Let me just say Mr. Chairman, on behalf of the Humane Society, we are strongly opposed to the re-zoning application, or the change of zone text, I should say, and I will try not to repeat the points made last week, at our last meeting by my colleague, but as you know, the Humane Society is a long time resident of the town, and operates a non-profit entity with a shelter for animals, as well as employment and volunteer opportunities in the community and an animal clinic on site. We are very happy with the location and to be where we are, and part of that is because of the fabric of the zoning in the area which provides us with compatible uses to our own use. There are, as already indicated for CD areas in town, the Humane Society obviously is here, to be honest very concerned with one of them, that's the Cedar Mountain, but also think that the Commission should not lose sight of the fact that there are other areas of the town which would in fact be impacted, and part of your job as a planning junction is to look ahead, just not the immediate future, not just the immediate site that is getting the most attention, but really, for the overall needs of the town, and best interests of the town. We believe that the Commission got it right when they adopted the zoning regulations and laid out these districts, these CD Districts and the uses that were allowed, that create an exclusively commercial zone and that is a valuable zone for any town to have, and they located it strategically in transition areas, and we think that original thinking, well, nothing that we have heard here from this applicant alters that original thinking. In 1997 and 2002 the Commission was provided the opportunity to reconsider its original logic and again, it rejected changing the zone both of those times, and we think again, that those decisions were correct and reflected the right judgment. The purpose of zoning, and the purpose of this zone is in part to reduce and prevent friction between incompatible uses and to create a fabric of zoning where uses that are compatible are together and transitions are made in an orderly manner between them. You will see in the report from our planning consult that the CD zone, as currently formulated satisfies that criteria, and the proposal would be the opposite. It would bring residential homes in contact with commercial and other uses and not only would it do that, but it would do that at a very high density, higher than the other residential zones that you allow. To be perfectly candid, the problem when the friction, or the problems that are created often times when you put those uses, incompatible uses together often times either end up right back here, before this Commission as problems that they have to solve down the road between now residents, who are disgruntled with the uses that they moved in next to, or in the courts with the then new residents bringing private litigation against the town's existing commercial uses, or non-profit uses, such as the Humane Society. That is a large part of our concern. You also heard an analysis of the open space benefits of the plan, well, again, I'm sure Attorney Wise will correct me if I'm wrong, but looking at the regulations that I have to look at, the draft proposed amendment, it requires, in Section H, it only requires only a thousand square feet per unit of open space, and of that, twenty percent must be dedicated to active recreation, so you are down to eight hundred square feet of open space under their regs per unit, so even if you have a relatively large dense development on this frankly challenging site, you would not necessarily end up with all the open space that that analysis claims, and as Attorney Wise pointed out, that proposal is not in front of you, so the analogy to it, while it may be constructive, should not be cast in stone,

because you may see something quite different. Conversely, there is no reason to suspect really that the portion of the site that is set out as open space would be developed under the current usage because the topography of that area of the site is quite frankly just too challenging for most developers to undertake, and they would look to develop the less expensive portions of the site first, and similarly, there is really no point in suggesting how many square foot of industrial space would be up there, because you really don't have that application in front of you, but you may in the future, and again, as Attorney Wise pointed out, there is no question in his mind that the site would ultimately be developed, and I think that that also speaks for not changing the zone. Newington will need the CD Zone, and need the CD property, and you have it now, so if in the future, maybe not in the next year, or two years, or five years, but at some point in the future, the long term planning, this zone will serve its purpose, and the applicant has as much conceded that. So I don't think that there is any justification from that point of view. I will summarize, I will refer you to the report of Mr. Miller, I won't read the whole thing, but I'll summarize as saying that the Commission has no obligation as your Planner has pointed out, no obligation to make a zone change. It's a policy decision and certainly not one that should be guided by the sole benefit to the property developer. The policy consideration should really be the town's and include long term considerations. The applicant is aware of the zone of the property, they're not getting surprised or stuck with it, this is the zone that they knowingly got themselves involved with. The change in text proposed is simply bad for the Connecticut Humane Society, I'm not going to say our interest is any different, that really is our prime interest as a long time resident and we think contributor to the community, we would like that to be considered, and consider the fact that changing it would bring into proximity to our views and maybe elsewhere in the other zones, uses that would just create, in our mind, problem and friction down the road, and that this site is best left for the use that it is currently zoned for. Again, Brian Miller will be here shortly, and I will just, when he gets here Mr. Chairman, provide you with additional copies of that report. Thank you.

Vice-Chairman Cariseo: You're up.

Attorney Wise: Thank you Mr. Chairman. I will try to hit the more important issues that were just addressed. First and foremost Attorney Rinelli talked a little bit about the proposed open space proposal. The problem is he was looking at the original proposal, not the amended proposal that we submitted two weeks ago. Under the original proposal I believe only a thousand square feet of open space would have been required per unit. We increased that to 2500 square feet per unit and we also dropped the requirement that any percentage had to be devoted to recreational use for the community itself because we wanted to give the Commission not only more open space, but complete discretion as to where that open space would be located and how it would be utilized, so I just wanted to clear that up immediately. I agree with Attorney Rinelli's statement that its up to this body to consider the long term, take into consideration the long term effects of anything that happens with this property, and basically set the policies in Newington to protect, really protect the future. I believe that if you step back and really consider what I started out by saying, that is that a townhouse style development would better serve in the long term the interests of this community than will an office development for this site, because we all share the goal of keeping as much of this protected, as much of this property protected as possible with the least intensive use. I'm not going to go through again why I believe that this is the better use for this parcel, but I do think that when you consider the long term goals you hopefully will agree with me. Mr. Chase talked a little bit about the data that we had given you a couple of weeks ago, about the number of school children from other developments in the area, that had been collected I guess by your education department here. In a sense that is all moot, because we now have a report from an economist who is using data that can be relied upon and you can take a look at his report and you can see that what the impact on the school system is likely to be, based on an expert's analysis, so in a sense, what we gave you two weeks ago was the quick and dirty, this is more of an expert analysis, but the conclusion is the same and that is the impact on the schools is likely to be minimal and there will definitely be overall economic benefits to the Town of

Newington from a project of this sort. We keep hearing data about the percentage of open space in Newington versus the percentage of open space in Connecticut as a whole and for that matter in various other communities. Keep in mind though what those percentages are actually measuring. They are not measuring the amount of open space that will be preserved forever as open space, either because it is parkland or because it is land trust or anything like that, it's simply comparing the amount of open space today in Newington with open space throughout the state, so you have communities in Northwest Connecticut or Southeast Connecticut that are very rural and very, not particularly developed, but that doesn't mean that those percentages are going to stay the same. What would be a more important figure I suppose would be to compare open space in Newington with open space in other fully developed communities and the same data that was just, or the same source of data that was just cited to you reveals that Newington today has 28.2 percent open space whereas Wethersfield has 17.1 percent, Rocky Hill has 37.8 percent, New Britain has 16.2 percent, West Hartford has 27.2 percent. At least when you compare a developed community to another developed community, you are comparing apples to apples, when you're comparing a community like Newington to a community in a rural area, it's apples to oranges of course. So Newington compares very favorably with other communities, other similar communities in the area that are basically fully developed or close to it.

It is true that the greenway trail is open, or at least a section of it is open because Old Highway is considered a town road but that doesn't mean that people walking on that trail have the right to access the, my clients property and that is as important, I would think as the right to the trail. Secondly, as we explained before, we will cooperate in every possible way to develop that trailway system with the town and to provide access into the areas that are the most concerned, where you have the views that everybody wants to preserve.

Attorney Rinelli talks about the need and the desire to keep this property zoned CD because that is the type of development he said the town needs. As I recall, I may be wrong, but I believe I heard his client say two weeks ago, that he wanted to keep this property zoned CD in order to better insure its non-development. He wanted this property to be open space forever. I don't think that the people who are really concerned about this property and the value of at least a significant portion of it as open space, I don't think they really want this to be developed for a high relatively high intensity office development, for the various reasons that I previously outlined. I think that people who are taking that position think that it's going to, that it is somehow going to keep this property undeveloped for a longer period of time, in fact, I think Mr. Chase said that. Keep it CD because we don't think it's going to be developed for an office use, and we will have more time to try to keep this as open space. Well, the Town has been at this for quite a while, and hasn't made any progress and this proposal, if the Planning and Zoning Commission doesn't decide to provide another option, another type of development, a less intensive type of development for this parcel, don't be surprised if somebody quickly, or in the near future attempts to develop it for one of the of right uses, and I don't think that's what people really, really want, so again I urge the Commission to give us this additional option. Remember, you are not approving any particular plan, just add another option to the list of possibilities, and you will have every opportunity to review the specifics and exercise your discretion.

One final thought, I've heard now over and over from the Humane Society that what they are really concerned about is that if people living in these townhouses, they are going to be bothered by the barking dogs and meowing cats, and that is really what their concern is, and so please protect them from those sorts of complaints. Well, with all due respect, that is highly unlikely to happen in particular, because if you look at our concept plan, we have provided for a really large buffer, an undeveloped buffer between this type of a development and the Humane Society property. So I think that is, that is, as they say, a red herring.

Our economist just wants to respond to one point that was made by I think Mr. Chase, and then we are done. Thank you very much for your attention.

Vice-Chairman Cariseo: You're welcome.

Don Klepper-Smith: Mr. Chairman, with all due respect, I would like to see the calculations done on revenue/expenses to determine whether there are net fiscal benefits according to his calculations, and I'd like to look at the methodologies that were employed. Do you have those available.

Bill Chase: It's pretty simple, I took fifty-two million and divided it by forty-six hundred students and it comes out to \$11,220.00 per student.

Don Klepper-Smith: If you take a look at the data, let me be very clear, I said this before, if you look at the standard procedures from the New Fiscal Practitioners Handbook, I said this before, this is about direct revenues and direct expenses. If we go to my report, page 5, we can see that according to our report, total loaded cost of instructional staff, services, supplies, transportation, the total loaded cost is 9759 plus the expense for land, buildings and debt service of 655. If you take the local portion of that, which is 74.8 percent, with school construction, you will get 7800 dollars. Again, you exclude the ECS portion, because it is an indirect source of revenue. Those are the standard procedures that are employed. I would also like to ask you how many years you have of doing fiscal impact analysis.

Bill Chase: Well, I said I wasn't an expert when I started.

Don Klepper-Smith: Okay.

Bill Chase: But I, can I talk?

Vice-Chairman Cariseo: No.

Don Klepper-Smith: Thank you sir.

Commissioner Anest-Klett: I have a question.

Vice-Chairman Cariseo: We have rebuttal by the opposition first. Limited to five minutes total.

Attorney Rinelli: Mr. Charman, Matt Rinelli on behalf of the Humane Society again, well, I said Mr. Wise would correct me if I was wrong and in fact he did. I did not have the latest copy that was submitted but even at those numbers, 2500 square feet, you still don't necessarily get to the nine or ten acres of open space except by virtue of the fact that a large part of the land is undevelopable and you will probably get there regardless of who is developing it, but just by multiplying out the 2500 by a hundred or so units, you don't necessarily get there, and again, I haven't seen it, but a portion of that is still reserved for active open space, and your real preserved open space, which is the open space values that we are all talking about, are diminished by whatever percentage that is. Finally, I would just say, in terms of the town's Plan of Comprehensive Development, this proposal is not compatible. This site is earmarked for CD development, it's identified on the economic component map, as the Cedar Mountain Business Park. It's is not adjacent to the Berlin Turnpike, and virtually adjacent doesn't quite get there, but the call for multi-family housing is adjacent, so it doesn't qualify in that aspect, and further, it doesn't qualify to meet the rest of the town's needs for multi-family open space, because it really does not provide diversity, economic diversity in housing because it doesn't have that portable component so it really does not bring a lot to the table in terms of planning for the Town's benefit, it is not consistent with the plan, and again I urge you to deny the application as you have in previous sessions. Thank you.

Vice-Chairman Cariseo: Well, I think we have heard everything at this point....no, okay, come on.

Bill Chase, 126 Mountain View Drive: We can all hire a specialist, I'm sure I could hire a specialist that can rebut his numbers, and I'm practical, I deal in common sense and you know, with state budgets getting tight, federal budgets getting tight, you could use exactly what Newington spends and it probably is the numbers that he says, but if the state starts giving us less money, our taxes will have to go up and so you can skew numbers whatever way that you want, and I look forward to any decision that the board makes. Thank you.

Vice-Chairman Cariseo: I think we have heard everything that we are going to hear.

Commissioner Anest-Klett: I have a question for the applicant. He stated that the townhouse development would better serve our community, with 166 units. How is that going to better serve our town?

Attorney Wise: How is it going to better serve the town?

Commissioner Anest-Klett: Yes. I want to know. Or, is it going to better serve the developer because he can make more money by having 166 units rather than 60 housing units there.

Attorney Wise: Well, again, the issue is, will that type of development better serve Newington than 250,000 square feet of office development. That is really the question. You're asking, I think, is this development, why is this development better than no development, better than open space, and well, that is really what this Commission has to ask itself. Secondly, remember that what we have proposed is the maximum. It's a maximum development under the regulation that we have proposed by Special Exception, so if we come back, if you approve this, we have to come back with a much more detailed plan, plan of development for your approval, and if you think that 166 is not the right number, then it won't get approved.

Commissioner Anest-Klett: Right, but why, I mean, he could come forward and say he doesn't want attached townhouses, he wants to build houses on one acre lots. That's what I'm saying. He has come to us asking for a zone change to do townhouses, high density.

Attorney Wise: Correct.

Commissioner Anest-Klett: What I'm saying is.....

Attorney Wise: Well, there are several reasons why this is superior to a single family.....

Commissioner Anest-Klett: Well, I know that dollars is one of them.

Alan Bongiovanni: Again, for the record, Alan Bongiovanni, in the first portion of this public hearing part of my presentation, I think it was in response to a questions by Commissioners, other viable options. We looked at R-20 subdivisions, with the amount of infrastructure that has to go in, the amount of earth work to accommodate all the public roads, and the design criteria set forth by the town, that it's economically unfeasible. If the land was given to the developer, at no cost from the Children's Hospital, you wouldn't see a single family subdivision on that piece of property. It's economically unfeasible, unless you could get million dollar houses, and I don't think people are going to buy million dollar houses.

Commissioner Anest-Klett: Well, what is the difference between doing townhouses up there, than either two family attached houses?

Alan Bongiovanni: Because you have a cluster type development. There has to be a minimum number of units to make this work.

Commissioner Anest-Klett: Okay, thank you.

Alan Bongiovanni: Well, that's construction though, I mean.....

Commissioner Anest-Klett: I understand that.

Alan Bongiovanni: People are not going to develop land if there is no economic benefit to the people, people are not in the business of doing land development as charity, so you have zoning that permits different types of land development. This applicant is asking for a varied use in this CD Zone, that he can develop this property, and make money at it. That is the purpose of developing it.

Commissioner Anest-Klett: He doesn't own it yet though, right?

Alan Bongiovanni: No, but the Hospital does own it.

Commissioner Anest-Klett: I understand, he hasn't entered into a contract with option to purchase based on the motion.

Attorney Wise: There is a contract....

Commissioner Anest-Klett: There is an option to purchase based on the zone change?

Attorney Wise: Sure. Not based on the zone change.....

Commissioner Anest-Klett: Okay, I didn't know if that was a condition of the contract, that does happen. Okay.

Attorney Wise: No, no, no.

Commissioner Ganley: I want to make two observations and I think we can lay a lot of this stuff to bed. Observation one is, open space is not now, nor can it be an option before this Commission. We have a parcel of land which is owned in certain fashion, and you must consider whether it's going to stay that way, or going to change the zone. There is no third option. So, a lot of, I'm not going to say hot air, but I'll say, hot air, a lot of time was spent on the issue of open space. It's not before us. The only thing before us is, option A or option B. Second observation, a lot of time was spent discussing the economic fall out, impact on schools and so on, we're not allowed to consider that. We simply cannot consider that. We had the same argument, it wasn't an argument, same discussion on Fenn Road, people went out and got a whole lot of statistics and spent an awful lot of effort, which was needless, because we can't consider the impact on schools. We are a regulatory agency, we're not a policy making agency. We can't say, well, there's going to be so many students, you can't build a house. If you meet the requirements, the Town is required to provide the service. So if you build the townhouses, and the school superintendent says, gee whiz, now I have to put another classroom on the school, he's got to put another classroom on the school. You've got to service the inhabitants that you just got through allowing (inaudible) So you can't consider that. If it stays business-commercial, I'll give you an example, if it stays business-commercial, and the fire chief comes in and says, you know, if you allow that office building up there, I'm going to have to buy a new fire truck. I'm going to have to get some more volunteers and quick train, and etceteras, etceteras, etceteras, if you allow that commercial development on the piece of property, which is zoned for commercial development, you know what, he's going to have to buy a fire truck. So all of this folderol about impact, it's of no relevance to us, we're only considering one of two options, and it's got to be by our regulations

which are clearly written in the book, and it gives us the options which we clearly will exercise, at some point in time. Those are my observations. Thank you very much.

Attorney Wise: I agree with your observations.

Commissioner Fox: I also agree with Commissioner Ganley. And I think in this case, as a regulatory, correct me if I'm wrong Mr. Planner, we're a policy making.....

Ed Meehan: You are wearing the legislative hat.

Commissioner Fox: We are wearing the legislative hat now, okay. As a member of this policy making organization, I personally have to think of, number one, if there is a need for what they want to do, and if this change should take place, and I am not only, I personally am not only considering this particular piece of property here, but as has been mentioned, there are three other properties that are zoned CD in town. One is over by the Marriott, which I believe is fully developed as it is, commercially. One is on New Britain Avenue, and I'm not too sure, I know that we have the church, and I'm not sure what is behind there, if there is any more development that can go there. The fourth is on Willard Avenue. That is the one that concerns me most. If this change is granted, if the change should be granted, anything, any developer can propose the same type of development right on Willard Avenue, and we would have, what we are calling high density on Willard Avenue, across from the apartments. So that has come to mind. That's the way that I am considering it. Not only Cedar Mountain, but the other three parcels in town, what it would do to the town, and trying to keep out, as Mr. Ganley said, the financial impact on it.

Ed Meehan: There is a ten acre threshold written to this proposal, which I don't know if Willard Avenue would make that standard, someone could buy some land and add it to that.

Commissioner Fox: You never know what is going to happen, and I know, Mr. Camelli is very fond of saying this, you know, a zone is changed, a regulation to the zone is changed, and really, you don't know what is going to happen, so in order to protect the Commission, and members of the public we have to be very careful of that. In closing, I want to thank you for your presentation, and I especially want to thank the public, on both sides, who have been very patient and have really expressed their views, and I really do think that the public is aware that open space is not a consideration, this one particular thing, that there could be commercial development there, and that is something that would have to be taken up later on. Thank you.

Vice-Chairman Cariseo: Anyone else? I think we have received all the information that we can possibly get, so we will close Petition 01-06.

B. PETITION 08-06 125 Stamm Road, Joseph Spada, owner and applicant, represented by Frank Dawidowicz, A-N Consulting Engineers, 124 White Oak Drive, Berlin, CT 06037, request for Special Permit Section 6.3, Flood Hazard Zone use, I Zone District.

Joe Perraginni: Good evening, for the record, my name is Joe Perraginni, I represent A-N Consulting Engineers. Tonight I am representing the applicant, Joseph Spada, who is the owner and operator of A-1 Chrome Polishing, located at 125 Stamm Road. At this time I am here to present a request for a Special Permit to construct a 1600 square foot storage building within the one hundred year flood plain of Piper Brook. Later this evening, I will discuss other details associated with the proposed site plan modification, but at this time I will focus on the Special Permit request. For this site, the published FEMA flood elevation, for the one hundred year storm is 66.75 feet. On the presentation plan it is shown dashed in blue. For this calculation we would be required to set the building first floor elevation one foot above the FEMA elevation. Through

our discussions with the staff, it was brought to our attention that there was an independent study developed for this flood zone, that indicated that the flood elevation was closer to 68 feet. A bit higher than the FEMA flood elevation of 66.75 feet. As a result the recommendation of the staff was that we set the first floor elevation at 68.5 feet, which we have done.

Another requirement of the town's regulations is that there be no decrease in flood storage volume within a flood zone. According to the proposed plan, construction of the storage building, its foundation and bituminous ramp alone would impact the flood storage volume. In order to offset this volume, that the building would take up, we are proposing to excavate the areas on the north and south side of the proposed storage building. As the recommendation of the engineering staff, we were required to show that no negative impact to the flood storage was to occur, up to elevation 98. For the proposed grading that we are showing, on our plan, our grading quantity calculations have shown that we were able to provide a surplus quantity of flood storage volume. With this in mind, having worked with the staff, and complying with all of their recommendations, and also showing that this proposal would positively impact the nearby flood storage, we respectfully ask that the Commission act favorably on this request for a Special Permit. If there are any questions, I'd be happy to answer them at this time.

Vice-Chairman Cariseo: We'll go to the Planner.

Ed Meehan: Relative to this Special Exception, or Special Permit for the flood permit in the FEMA one hundred year zone, the engineering staff has authorized me to report to the Commission that the calculations provided by A-N Engineers are acceptable and the methodology that they used is consistent with the FEMA study as well as the special study for the Stamm Road area. The significant thing Joe mentioned the storage, the other side of that is displacement. If you put a building, you fill, it's a displacement of flood waters, where are those flood waters going to go? Historically we have had problems on Stamm Road as the Commission knows because of the issues with the railroad crossing and the culverts there, there have been breaches, there is a problem, it does cause businesses down there to lose business days, to lose inventory, so as these projects come forward, particularly in this section of town, we want to be very careful that the displacement of flood waters doesn't impact adjacent properties and I think that's the evidence that A-N is putting into the record tonight, which is acceptable to the engineering department.

Vice-Chairman Cariseo: Any questions from the Commissioners?

Commissioner Ganley: Just, what would be stored there? What kind of....

Joe Perraginni: I will discuss that with the site plan modification, but the owner is looking to store his vehicles, there would be an overhead door, his business vehicles and surplus equipment and materials related to his business.

Commissioner Ganley: Thank you.

Vice-Chairman Cariseo: Anyone from the public wishing to speak in favor of this application? Anyone against? Now we can close this.

- C. PETITION 10-06 3391 Berlin Turnpike, known as The Vitamin Shoppe, Newington Corner, LLC owner, Access Sign, Inc., 2351 Boulevard Fernand Lafontaine, Longueuil, Qc, J4N 1N7, Attention Tammi Derkson, request for Special Exception Section 6.2.4 pylon sign, PD Zone District.**

Richard Rizzo: Good evening, my name for the record is Richard Rizzo and I'm representing the applicant who couldn't make it down here tonight because she is in Canada. I called this morning, and she answered in French, so I'm not really sure what my plan is here tonight. From what I understand, the only issue here is the question of the Special Permit for the pylon sign. You folks have copies of what we are asking to do, as you can see, the access is in from the Berlin Turnpike, and I understand that the staff has not objected to the proposal, and it is a question for the Commission to rule on. The sign is a fifteen foot high, internally illuminated. It's thirty-six, actually thirty-five plus, rounded up, thirty-six square feet. There is a description of the sign with the colors and so forth is shown on that last page, it's internally illuminated, as I had mentioned, and the illumination is restricted to the lettering and the logo color. The rest of the sign is muted, it's aluminum paneled, therefore the light will be limited to the area which you see the yellow band, and the lettering. Any questions I can answer?

Vice-Chairman Cariseo: We'll go to the Town Planner.

Ed Meehan: The site is the site of the new Vitamin Shoppe, obviously from the sign you can see that. The size of the building because it has frontage both on the Berlin Turnpike as well as the side street, Pane Road, the site can carry a total of 218 square feet of signage. The applicant has presented the pylon sign which is going to require about seventy-one square feet, wall signage, we count both sides on pylons, so it's up to about seventy-one square feet, wall signage calculations and designs have been also submitted, and those total approximately 143 square feet. The total site will permit up to 218 square feet so they are slightly under the total permitted and in compliance with the zoning regulations.

Vice-Chairman Cariseo: Is this sign something that we are happy with? Does this meet our standard of trying to make a presentable sign? This has got to be the worst sign that I have seen in a long time.

Ed Meehan: As I have said before, outside of the town center, there is really no design control on signage, whereas in the town center you do have some say on design control, it's very subjective as to how you feel about this sign.

Vice-Chairman Cariseo: Well, after we just went through this on the turnpike, where Fridays is, with new signs going in, those to me look really nice. This looks like something from the '30's, to be honest with you, I'm not happy with the look of it.

Ed Meehan: Because of it's rather simple, straightforward I suppose?

Commissioner Fox: Drab

Commissioner Anest-Klett: As you go down the pike now, you have where JoAnn's is, they have agreed to do their sign, and even the new Sovereign Bank, when they came in and showed what their sign looked like, and then you are coming down, and then you are going to see this, that is probably going to look like it has been there from day one. It just looks very old looking.

Ed Meehan: Well, the other signs that you are talking about, and the applicant probably doesn't know this, are, we probably call those more monument signs where they, and also Walgreens I would also call a monument sign, because they sit lower to the ground and have more of a pediment on top, where this is a post and a sign.

Vice-Chairman Cariseo: This doesn't match with what is going on out there.

Richard Rizzo: Just let me make a comment on what we do. I do signs and I would have to say that this sign, I drive the Berlin Turnpike quite often, this sign is not much different than any other sign on the Berlin Turnpike. They could put two poles on it, I suppose if that is what you wanted, but most people in other towns would prefer to have the one pole rather than the two. The only objection that I can see, you are objecting to the sign as it looks, and that is a subjective, I don't know, a subjective look at a sign. But, you are not objecting to the sign location. In other words, you agree that a sign can go there.

Vice-Chairman Cariseo: Yes.

Richard Rizzo: You are just not happy with the sign design.

Vice-Chairman Cariseo: Yes. With all the new stuff that has been going on, it's doesn't flow with the new things that we are trying to do. This looks like, as I said, in my estimation, something from the '50's. I would like to see a better design, a whole lot better.

Commissioner Fox: Even if there was an encasement, rather than just a flat.....

Ed Meehan: So you are looking for more embellishments to the sign, to dress it up.

Richard Rizzo: Could we say that as a condition that as far as the sign is concerned, we don't object to the size or the height, fifteen feet, thirty-six square feet is not a problem.

Vice-Chairman Cariseo: Nope.

Richard Rizzo: I'll get back to you folks, and in French I will tell them they don't really understand, I'm not really sure I can say it in French, but.....I will tell them that you are not happy with the design, but as far as the location and so forth is concerned, now if you turn this down, do we have to come back to this Commission again or can we.....

Ed Meehan: I don't think the Commission is saying that they are going to turn it down, but they are looking for something that has a little more style, and I think more embellishments around the sign, as far as how it is presented.

Richard Rizzo: All right.

Vice-Chairman Cariseo: I have to hear from the public. Anyone from the public wishing to speak in favor of this application? Against? We will leave this petition open.

III. **PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes)

None.

IV. **MINUTES**

February 8, 2006

Commissioner Fox moved to accept the minutes of the February 8, 2006 regular meeting. The motion was seconded by Commissioner Anest-Klett. The vote was unanimously in favor of the motion, with seven voting YES.

V. COMMUNICATIONS AND REPORTS

None.

VI. NEW BUSINESS

- A. PETITION 09-06 125 Stamm Road, Joseph Spada, owner and applicant, represented by A-N Consulting Engineers, 124 White Oak Drive, Berlin, CT 06037, attention Frank Dawidowicz, request for site plan approval Section 5.3 to construct 1,600 sq. ft. building I Zone District.**

Joe Perraginni: Good evening, again for the record, my name is Joe Perraginni, I represent A-N Consulting Engineers. For this site plan modification I am representing the applicant and owner, Joseph Spada, owner and operator of A-1 Chrome Polishing of 125 Stamm Road. Originally this location was approved for a site plan in 1985 and I'm here tonight to present a site plan modification. The property lies within an industrial zone, and meets all the current zoning requirements for this zone. The proposed site plan modification is to construct a forty foot by forty foot, or 1600 square foot wood frame storage building with gable roof. Split face block will extend up to four feet above the finished floor elevation. The remaining building will be vinyl siding to match the color and texture of the existing building located elsewhere on the site. The roof will have asphalt shingles, a paved ramp will allow vehicles to access the building, and enter through a twelve foot by twelve foot overhead door. Adjacent to that door is a standard pass door that can also be accessed from the paved ramp. The proposed building will be used for the storage of vehicles, surplus equipment, and materials. Parking stalls located on either side of the proposed ramp will be re-stripped to maintain the same number as existing. Electric service will be provided for power and lighting, an existing lamp pole will be removed and wall mount fixtures will be used for lighting in the vicinity of the ramp and building. Roof leaders will tie into the proposed yard drains located on either side of the storage building. These yard drains will then tie into existing storm drainage within the paved area. There are no water or sanitary connections that are being proposed at this time. All disturbed areas will receive six inches of top soil and turf establishment on completion of construction, and we are proposing a silt fence and (inaudible) to control sediment during construction. That ends my presentation for site plan modification. If there are any questions, I'd be happy to answer them.

Ed Meehan: This is a very simple building, as Joe is explaining, the purpose of the site plan is to illustrate to the Commission its compliance with the FEMA regulations for the one hundred year flood area. The property is such that the building has been placed outside the wetland, there is a rivet of wetland to the far west side of this. There is no wetland review for this. The other changes that he has talked about as far as utility services, storm water management, and site restoration are all compatible with the site plan regulations.

Vice-Chairman Cariseo: Commissioners? All set.

Joe Perraginni: Thank you.

- B. PETITION 13-06 3475 Berlin Turnpike, former Caldor's Building, American National Insurance Company owner, Stew Leonards, 100 Westport Avenue, Norwalk, CT 06851, applicant represented by Fuss & O'Neil, attention Michelle M. Carlson, P.E. 146 Hartford Road, Manchester, CT 06040, request for site plan modification, 113,000 sq. ft. building rehabilitation, PD Zone District.**

Doug Hempsted, Vice President of Stew Leonards, 100 Westport Avenue, Norwalk, Connecticut: While the team is setting up, for those of you who don't know who or what we are, I just thought I would give the two minute version of what Stew Leonards is and what we are about. I have some press kits, I guess I didn't bring enough, I miscounted here and I apologize for that. Stew Leonards is a family owned business that basically started out as a dairy years ago. The father, Stew Senior who started the retail business saw the end of the milkman in 1969 and basically took his milk truck and decided to open a dairy plant in Norwalk Connecticut that basically sold the items that he had on his milk truck and produced the milk there, which they still do to this day. They run a milk production plant in the Norwalk store. Twenty nine additions later, and two other stores later we are now a company of about 2000 people, one of the Fortune 100 companies to work for in the country. We pride ourselves on being a Connecticut based company, family owned to this day, third generation is now involved with the business. I have been there twenty-five years and I started out as a fork lift driver twenty-five years ago. So it is very much a family oriented business, we look forward hopefully to joining your community. One of the things that we think that we do well, this is not store 2,632, but it is store number four, and we entrench ourselves in the community. We have a lot of programs for employees that are geared toward families, we have a friendly atmosphere, we are basically a very unique type of farmers market focusing on fresh foods, focusing on making happy customers, and focusing on keeping our employees happy. I could go on about Stew Leonards honestly for about a half an hour but for the sake of the evening, if you are ready, let me just introduce our general consul for Stew Leonards, this is Frank Zullo, and we will take it from there in introducing our other staff.

Frank Zullo: Thank you very much, Doug. Attorney Frank Zullo with the firm of Tierney, Zullo, Flaherty and Murphy in Norwalk Connecticut. With me tonight as part of the team is Dan Kirkland, who is the owner-representative of the particular parcel. Of course you just heard from Doug Hempsted, Vice-President of Stew Leonards, also with us is Vince Sobin, chief financial officer of Stew Leonards. As part of our team we have Ray Sullivan, who is the architect, we have Andy Carrier who is the project manager for Fuss and O'Neil, and we have Ted DeSantos who is the traffic consultant from Fuss and O'Neil.

Most of you are familiar with this particular site, it's the site of the former Caldor's, which I understand has been vacant for many years, and that Caldor footprint is about 112, 113,000 square feet. We are going to renovate that site and restore that building and we are going to probably have a building of 139,800 feet, together with an outdoor garden center of approximately 10,000 feet which would bring the total square footage to 149,800 square feet. We meet the parking requirements by a large margin. With the outdoor center, we would need 599 spaces, and we are going to provide 722. 139 of those 722 are allocated to Toys R Us, which is another facility which is on the particular site. So we meet the particular parking requirements and in terms of your landscaping, you have a ten percent requirement, we are going to be providing approximately better than a twenty-one percent, what is it, a twenty percent requirement, I believe, so we are more than meeting that requirement, and in terms of the other elements of your zoning regulations, we meet them extremely well. As Doug indicated, it's a store that is very community minded, it gets very much involved with the community, it's a very good citizen where ever it locates. The store will probably cost in the area of sixteen million dollars, we've had an economic impact study done that will show that between the construction phase and the operational phase the economic benefits to the community will probably exceed thirty million dollars. We are going to be having 315 jobs when we are open and ready to go, all of which will be a magnificent resource to the community, and we will not be producing any school children. What we will be doing is producing the resources to handle the school children that are produced by the other project. Now, to help you understand this project a little more, I'd like to introduce Andy Carrier, who is going to be the project manager, but is also the engineer, and who will explain the site plans, the traffic, the landscaping and other aspects of this particular plan. Andy, would you please come forward now.

Andy Carrier: Thank you very much. Again, for the record, Andy Carrier, project manager, Fuss and O'Neil. Fuss and O'Neil, in my regard, will be dealing with the site aspects of the plan itself, and because we are utilizing the existing Caldor's building with very little site issues to discuss but there are some modifications that I would like to bring to your attention.

When we met with staff previously before submitting an application, one of the things that was very evident was that it was important to try to stay within the existing footprint of the Caldor's building. What we tried to do was to almost completely emulate the existing footprint. The building, once you see the architectural, will look very different, but we really tried not to change the footprint as you see it from the plan here. Some minor modifications to the building, there is currently a three truck dock, over here on the east side of the building, we are adding two truck bays over on this side, for a total of five truck bays. So this extension right here, for receiving, for the trucks as well as loading for trash compactors on this end, is an addition to the building. What that means for the site, obviously there is a trench drain at the bottom of the loading dock here, this is an inward sloping, recessed truck dock, there is a trench drain that runs along the bottom there that will have to be extended and caught into the existing piping that runs out to a catch basin that is over here. So it is just some minor trench drains running out to a basin here. When we look at the building itself, one of the things that was important was the amount of parking, and to utilize as much of the space as possible, so this extra gray shaded area here is an increase in the amount of parking. We are looking to push the parking out in this direction, and we will be accomplishing that just by re-grading the slope, on the east side of the building there, along the Berlin Turnpike side. There are currently areas of the site, down by where the large pylon sign is, as you turn off the Berlin Turnpike as well as some of the sloping behind the Modern Tire building back here that is pretty close to a two to one slope already, so we are really not changing this, if you remember, here's a view looking down at it, it's quite a big steep slope there, we will be just modifying that slope, increasing the steepness of it a little bit, just to accommodate those parking spaces. In order to do that, we have put in a catch basin here, to catch the run-off as it comes down, right now this is a large flat area, so there is plenty of area for this run-off to come down the hill and get captured. We provide a landing zone, and a catch basin here to catch it before it actually hits the impervious pavement area. So there will be an additional one catch basin and some piping. Because we don't want the run-off to come too quickly down the hill, we will be doing a reverse bench, over here and a swale to catch the runoff as it comes down the hill, such that it doesn't come down here too quickly.

Some of the other minor site issues, the old Caldor's building, again if you are looking over here, had quite a big bump-out on the front of the building. That doesn't quite meet with Stew Leonards, so we are going to be moving that bump-out in. The curbing, as it comes off here, you can't really see it here, but it is kind of tapered, to allow for the trucks and traffic to go around the front of the building, and we will be changing some of the island configuration out here to make a straight shot, but the curbing will be changed here a little bit. We are going to re-stripe the handicapped spaces because they don't meet current code right now for striping of handicapped spaces, so we will be doing some changes there.

One of the other important issues that we wanted to accomplish and the owners of the store felt that the aesthetics of the store was very important to them, as you can see by the aerial view, I'm sure that at one time, this was a very well landscaped parking lot, and there were probably a lot more shrubs and trees that were out there, but it has gotten sparse since it hasn't been maintained for probably nine years now, so we are going to be adding some landscaping plans into here. We have about 22 trees that we are going to be adding, about ten junipers, especially to shade some of the areas and to protect from the views for like the loading dock and the trash compactors, and about 270 different types of shrubs and grass and potted plants to try to really increase the landscaping around the building itself.

As the far as the site issues, the only one is lighting, always a concern. Right now the plan is not to change the light poles that are out there, not to do too much modification to the parking area, other than the landscaping, so right now they are going to be continuing with the lighting plan that is out there, the scheme, the light poles and the light boxes.

There is a garden center that is proposed for this area, an outdoor seasonal garden center area. Obviously Ray will get into more about how that looks and its effect, but it will be a seasonal, it's called a seasonal outdoor sales area, probably mostly April through Christmas time, and it might get put away after Christmas, before the springtime starts again. So some of our calculations of parking, as we'll get into, we'll show both the scenario for the parking count with the garden center and without the garden center. We'll show both those parking counts. Any questions on site issues before we go too far? I want to make it more interactive than just me talking at you this evening.

Ed Meehan: I provided the applicant, and the Commission members with a staff report. Could you go over the square footage a little bit, the building is about 114,000 square feet now. Your architect provided a letter, I think it was 121,000 square feet, the attorney, Attorney Zullo gave us some different numbers, I know that there is going to be a mezzanine area introduced. What numbers are you using to determine parking count.

Andy Carrier: Sure, I'd be happy to go over that with you. As Ed mentioned, I did get a copy of them, so what I have is a copy of his comments that you received, we've added some responses to all of these comments, and I'd be happy to go over that with you. So, I will give you the original.

Attorney Zullo: The appendix to what he is handing out is the alternative parking counts and how the parking numbers were arrived at, if you look at the appendix to what he is handing out. One is with the garden center and one is without. The 139 is without the garden, the 149 is with the garden center.

Andy Carrier: What we also did was, if there was an opportunity to make some revisions to the plans, based on some of the comments that were made, or other items that we found that were applicable to be changed, what I did is, I brought with me, if there was an opportunity for me to make some corrections or to improve the plans, I've done so, and I have ample copies of any sheets that have changed, based upon these comments. Ed is absolutely right, we used 121,000 square feet on our cover sheet of the plan, to determine the parking counts, and Ed brought it up to our attention and said, things don't look right, could you please explain how you got the 121. Well, he's right, the 121 was a number that we used when the architect provided us a very early rough draft of how they were thinking that they wanted to use the building. So, in my mind, if I use 121, it will probably come out something less, I can probably be more conservative, but when they go up, with the mezzanine area, the square footage actually came out to 139,800 for the building itself. So in there we have a breakdown, service areas within the building and as you see when you get to the architect that a Stew Leonards store is not like your typical Caldor's or your typical grocery store where you walk in and the entire space is all retail area, and the customers are allowed to walk throughout the entire space. In earlier conversations with that, we had talked about how the Stew Leonards store might be broken up and they have some, what could easily be considered prep areas, which fall under a different area of parking count requirements, some warehouse areas, some office areas and some employee support areas. So what we have done, we have broken down the interior of the building for the different square footages, applied the appropriate parking ratio for that, and so they can see there, and since it doesn't include the Toys R Us, we've included that square footage. I have a cover sheet that redoes those parking tables in the exact way that is on those sheets and I also, for those attachments, showed you what the existing parking was, what the proposed parking was, and where we gained and lost spaces, just in case you wanted to figure out where we were, what we were doing to the site, in order to revise the parking counts and where they were coming from.

Ed Meehan: Okay. That answers number one. The other comment that I had, with the reconfiguration of the loading dock, the additional two bays, is there going to be a different

truck route to access that northeast corner, or, because I think that there was some pavement that was established for truck routing through here.

Andy Carrier: Yeah, we believe that the truck routing, how the truck routing will come around is from the turnpike, around this area, around the back, around this area into the loading dock. We believe that is how the heavy duty pavement is around the site as well. We believe that actually continues, because without this area of the garden center, you could actually make it out this way, so the heavy duty pavement does almost make a circle around the site. The truck route would be around here, and what we have done, one of the changes that came up as we really looked at how the trucks were going to come around, we have revised this curbing here to be a concrete mountable curb, just to make sure that they can make that without damaging the landscape, so we have a concrete roll over curbing here, actually you can see that there is a man hole cover actually in the center of this slot on some of the other plans. It doesn't show it on this plan, but that will be the truck routing, with the mountable curb, and that is how it will get around.

Ed Meehan: So they will pull forward and back into the bays?

Andy Carrier: Correct, they are all back-in bays.

Ed Meehan: Okay. There was a note on the plan about grass pavers. I didn't understand that.

Andy Carrier: That's very understandable that you don't understand it because there were no grass pavers on the site, existing or proposed, it shouldn't have been there, so I have revised that plan to completely delete the reference to grass pavers.

Ed Meehan: I think the garden center, you have explained that, seasonal time of the year, I think that we heard that that is Christmas, probably during Thanksgiving, spring, four times a year?

Andy Carrier: It will be like springtime, April till just about the end of the Christmas season is when they expect to leave it up, and there can be a lull there. There might be a lull between the fall and the Christmas season, and I did you know, put an explanation in italic under each one of your questions.

Ed Meehan: Okay.

Andy Carrier: For the record, but I would be happy to answer them, one by one as we go through.

Ed Meehan: The last comment that I have is on the two to one slope. We were discussing this with the engineering staff today. Is that, was that chosen over a retaining wall because of its efficiency or why was that, I know that originally we had talked of possibly a retaining wall in this corner.

Andy Carrier: Yes, we did have a large retaining wall coming out this way, and then angling back to get more parking spaces around this corner. But, because we are so close to the property line, especially in this corner, and because of the setback line, once you get back here, you are talking almost a thirty foot wall and if you have a thirty foot wall, you need a heel, what they call a heel to the wall to go back into the soil to support that wall. So by the time we got, sometimes as much as a twelve foot back into the slope, in order to put in the retaining wall, we realized that we could slope it at two to one and gain absolutely no more space out of it, no more parking space, so there was really no benefit to putting a retaining wall in. We couldn't do it over here at all, so we ended up coming in this direction, starting putting a retaining wall all the way down this way, and realized that there was no benefit to having a retaining wall in this case, at all.

Ed Meehan: Is that going to be treated with any sort of grass matting, or jute to stabilize it during...

Andy Carrier: Yeah, we do have it in the erosion control plan that it will be matting, erosion control matting stapled into it until it gets established, stays there obviously, top soil placed over the top of it, and grows so it will be stabilized until the sod itself gets established. The other half of it was maintenance and we did contact Relm Realty to talk about the maintenance of it and that is why I brought it up before, that we do have some other two to one slope areas on the property, and they see no issue with maintaining it, as they do the rest of the property.

Ed Meehan: Okay. The other comments were more or less housekeeping. I know that we had talked earlier, there is quite a bit of may be some cracks of the parking lot pavement, that I think certainly should be looked at, and some curb repair here and there that I'm sure the developer will want to take care of. Those are the basic comments that we had at staff level, as far as the site plan goes.

Attorney Zullo: Thank you very much. If there are no further questions of Andy, I'll, I know that the hour is late, and it's been a long night for you, I'll go right to our architect Ray Sullivan who will explain the design for the store that we will hopefully provide for you.

Ray Sullivan: For the record, my name is Ray Sullivan of the Sullivan Architectural Group, 154 East Avenue, in Norwalk. I'd like to pass out, we have a number of boards here, but the room is a little crowded to put them all up, these 11 x 17's represent exactly all the graphics. If I could, I'll just touch briefly on the exterior concepts. Once again, back in the '60's when Stew Senior you know, transitioned from a dairy farmer to a dairy store the farm theme was still the concept, and it was an apt concept, and it took hold and it carried through, and all the twenty-nine or so additions to the Norwalk store and the other stores have been constructed since. One thing that the farm image of the exterior conveys is that what we have inside is really all fresh product and the farm theme wants to bring that thought home, what the product on the inside is, and as you look through the graphics you see that the exterior is the farm theme look with the vertical wood siding, we have gable edges, we have prows on the gables just like an old barn used to have, we've got dormers, we've got cupolas, we've got chamfered edges, the forty-five degree cuts, you know, on the walkway through and we even have a silo. The silo is there purely as the image of a farm. It's standing next to the barn gable shape. The concept of the inside of the store is quite unique and I'd like to just explain to you the three main components. If you turn to the floor plan sheet, which I think is the second sheet in the packet, there are three main components. There is the, the yellow is the retail component, the light brown is the food prep component, and the green is the warehouse. Due to the large production areas, there are within the store in the prep departments, much of the food is prepared on site. So due to that, the prep departments are large, and then, in order to feed the prep departments and in order to feed the rapid turnover of the produce, because everything, they are very diligent in keeping that product fresh, we have a large warehouse department. So what happens is, when, and I'll just round out some numbers, but the retail area is 64,250, the food prep, 21,150 and the warehouse, 34,775, so doing some quick math, in round numbers the actual retail area where the customer can be is approximately fifty percent of the footprint, so it's a little unique in that regard. The departments that we have, we have a large bakery product where all the product is made fresh every day, a produce department that is magnificent, we've got meat and chicken, we've got fish, and all those products are brought in daily and prepared in front of you. We have a dairy department, which in this store will house the dairy products, unfortunately we can't replicate everything from every store, the Norwalk store is actually a bottling plant. When you walk by you see the conveyor belts and the bottles and the juices and all the other containers being filled. There is a deli, kitchen and flower department. The kitchen is quite large. There are four giant soup kettles, soup is made every day. There is a bar-b-que section, there is

a Chinese section, there is a (inaudible) food section, there is a hot salad bar section and a cold salad bar section, there is a pizza section, so it's, there's a lot of production and preparation of fresh product that is sold on the premises, and that is one of the reasons for the large prep department and the supportive warehouse.

Just to round out what is the retail area, as you look through the drawings. Some of the stores are approximately this footprint but what we realized is that we have done some long range planning from the last year or so, and really the goal going forward is to build an 80,000 foot store, so that when we came, when this location became available we took a look at it, it was a little big for our needs, so if you look at the plan, we have a garden center that is an interior garden center on the right hand side, we have a retail area next to that with approximately five thousand feet, we've got a Stew's Specialty Shop and then on the far corner another retail area. So the garden center is part of our operation and the interior garden center will be there year round. The Stew's Specialty Shop is an area that we play with constantly. We've had, in some of the different stores we have had a health food section, we've had kind of a gourmet kitchen section, we've had lawn furniture, we've had different aspects to play with, so we are kind of going to save that for ourselves, and then those two remaining retail sections, each approximately 5,000 feet and we have tenants with us in other locations, across the street in an accessory building of ours, we've got the Verizon store and bank. So, we took the building and we used our approximately 80,000 foot footprint of the future, we designed that, and then we have allocated what is approximately 20,000 feet of additional retail, half of which will be ours and the other half will become a tenant.

If you have never been to a Stew's before, it's quite a unique shopping experience. Because we feel that the quality of the product is so high, and it's so fresh, we really want to enhance the shopping experience, or make it a lot of fun and we want to display the high quality of the product, and the fact that the product is made, for the most part, right in front of you. So what happens is that the flow through the store is a one way flow. Now there are, for exiting purposes and whatnot there are cut-throughs and if, when you know the store and you want to go directly to the salad bar, you know how to get there. The reason for doing this is, what we really want is to enhance, have a lot of fun with the shopping experience, so we create a lot of head-ons, so we can show you what is going on.

When we first walk in the store and take a right and that is the farmers market. That is a seasonal area. During Thanksgiving it will be filled with pies, in the fall it's full of mums and pumpkins and so, whatever the season is, this is somewhat of a flexible area for us. When in-season, we have the ability to go directly from the farmers market directly to the garden center and back out again.

The first major department that we hit is the bakery, and by the head-on's I mean, when you turn you go up the bakery aisle, you see the bagels being made right in front of you. There is this big bagel oven, a bagel boiler, and it's wide open for everyone to view the workers producing the product. When you turn again, you head on to the breads and when you do that, there is a bread machine that takes the rough dough, it gets cut up, it gets spewed out onto platforms for breads for various bakery products and it's a lot of fun for the adults as well as the kids to see.

As you go past the bakery, you will go to the produce. We're going to replicate what we did in the Yonkers store, and we actually built, almost Disney-like, a number of trees inside, fake trees, but pretty realistic so when you go through the produce department it almost looks like you are going through an orchard.

You will proceed through the produce, coming on you are going to head into the meat department, the meat and chicken. The first thing that you will see is a butcher shop, so the meats are extremely high quality, they come in as a large product, get broken down, they will hand cut any cut that you would like, any size, any portion. It's kind of an old fashioned butcher shop that you see here, and there is a glass wall behind it, so you can see entirely into the meat and chicken, so you can see exactly all the cuts being made, all the butchers back there at work. As you wrap around the next department is fish, and that is fish on ice, so again, the fresh catches come in, they are cut and prepared, everything is fresh out in front of you. There is a

station out in front for, there could be an Alaskan King Crab leg special, and it's all out on ice, it's really fabulous to see. We have a large lobster tank.

We'll go by the dairy and you can pick out the juices and the milks, and the old milk cartons, crates that hold nine containers a carton, and as you go by the dairy, you will head into the deli. We often times theme out the deli, look almost like a New York street deli with nice colorful flags and again, everything is cut to serve in front of you, and the product is a full display. One thing to point out is, in the produce department, the fish or the deli, those are refrigerated departments so they are cooled to the temperatures for the food, but we have low service cases in front it, so when you walk up to it, you are looking into the department, and the department is cold. We can't make it any more open than that. Nothing is behind closed doors, and in fact, we spend a tremendous amount on refrigeration and HVAC because we want the customer to see the product, as fresh as it is. To do that, the departments stay open and it wrecks havoc with us trying to get the HVAC system to balance, but it's one of the unique features of a Stew Leonards store.

As you pass by the deli, you go into the kitchen, and there are many sections of the kitchen, again, all the product, all the appliances, all the hoods, everything is right in front of you to see, and there is a wide variety of either products to grab to bring home, they make prepared foods there, so you can grab that out of the refrigerator case, or you might want to grab, a lot of times what some of the shoppers do, they will come to the store first, they may go there, go to the salad bar, have something to eat, and then go shopping, or sometime they will do it in reverse.

The last department you will hit is flowers where there is all fresh cut flowers, and again, all that preparation is done right in front of you. You exit out the registers and then back out the same entrance.

On the way in and the way out, you get to pass by the ice-cream shop, which is why I put on twenty pounds every time we are doing a new store.

If I could clarify an item regarding the square footage, the numbers generated, the 121, was before the store was designed, because we didn't know, because we were so unique, you know, if you go into that Caldor's building now, the majority of, I would say, eighty-five to ninety percent of that store is retail, it's all open for sales, but ours is not. Only about fifty percent of ours is, and we need all that floor space. So typically we have support areas like offices and training, employee locker rooms, up stairs on the mezzanine so, prior to designing the building, we had an 8.5 x 11, we blew it up, tried some sketches to see if it would fit, and Andy and his group said, can you just give us some numbers so we can begin some opening discussions with the town, so that is how it came about. We didn't even know if the ceiling heights were large enough to be able to get a mezzanine, like an early sketch had the office, part of the office in the kitchen, like two stories and there just wasn't enough room for the support space, so as we understood the building better, and as we understood the parking calculations better and as we designed the building, it developed into this 139,000 foot structure. It was just kind of a natural progression of things.

The ground floor we just walked through. The area up above our specialty shop is kind of a team, cafeteria, locker room area. In front of that, there is administration, personnel area, and it's relatively small. There's an eating area up here, for the customers. We provide that at the stores because again, quite often somebody will come to the store and want to eat before or after. I work, not that far from the Norwalk store and sometime I will run over there and grab a salad or something like that. There is no food service, there is no waitering, it's a place to sit down, eat what you just bought in the store, and then go on your way. We have that area here. In some of the other locations, where the sites are bigger, we actually produce an outdoor eating area, but there is really no room on this site. So, we have the team support area, administration/personnel, customer eating area, and then we have a conference center that is used for meetings and training, we have some multi-purpose rooms and some meeting rooms that support this administration area. So we have the full footprint that we are using, plus the small addition of the receiving area. Then we are using approximately, just under 24,000 square feet of mezzanine. So that is my quick run through of the building, if I can answer any questions.

Vice-Chairman Cariseo: Thank you. Nice job.

Attorney Zullo: We have, I know that we have some renderings here of what this project is going to look like, did we bring the rendering, Doug, of the Danbury store? You have it there. This is an actual store, Stew Leonards, but this is Danbury and you see that it carries approximately the same motif that we are hopefully going to produce here in Newington. That is the Danbury store. That's it, as you see it. Silos, Stew Leonards, the shake shingles, the siding, the cedar siding, and the same design, and if you compare that with what we're suggesting here you can see that we're carrying through the same motif. One of the things that you have to keep in mind, the normal supermarket probably has in excess of 10,000 different items, Stew Leonards has less than half that amount. The normal supermarket has the overwhelming majority of their products prepackaged. Stew Leonards has the overwhelming majority of their products packaged on site. That is why we need the prep area, and that is why so many of our products are fresh, because we are preparing them right on site, they are not prepackaged, so the overwhelming majority of our products are not prepackaged, they are prepared on site, that is why the large warehouse, and that's why the large prep area.

Now of course, we can put plans like this together and the question is, whether it will work traffic wise, and to answer that question, we have Ted DeSantos, who is our traffic consultant, also from Fuss and O'Neil and he will give us his impression as to whether or not your infrastructure can handle this particular operation.

Ted DeSantos: Good evening, I'm Ted DeSantos a senior traffic engineer from Fuss and O'Neil from Manchester, licensed professional engineer and also a certified professional traffic operations engineer. I apologize, my pictures won't be as pretty as some of Ray's, but I guess they save the traffic engineer for last for a reason. Here too are the findings of the traffic study that we conducted for the project. The need for the traffic study is dictated by your Zoning Regulations and the purpose is to make sure that the roads and intersections in the vicinity of this site have the capacity to accommodate the additional traffic from the proposed development, but also that there will be no safety issues created by the additional traffic on the roadway, make sure that our site driveways are safe and we can get people in and out of the site safely.

These are general comments on this site. This is an aerial photo, looking to the west, Berlin Turnpike is here in the foreground and this is the existing Caldor's building, which is proposed to be Stew Leonards, here's Toys R Us, this is the existing driveway, off of the Berlin Turnpike, and you can see that there are two driveways from the site down to Rowley Street, which comes out to the turnpike at the traffic signal. Some general comments, this is an existing major traffic generator site, certified by the State Traffic Commission, it was designed to accommodate the traffic, not only from Caldor's, a large retail building, but also Toys R Us and Stickley's Furniture. As you would expect from a major traffic generator, has excellent site access. There are four existing driveways, the one here from the turnpike, the two from Rowley Street, and there is a driveway connection through Maselli Drive which connects up to Pane Road, whereby you can get to the west, to New Britain, or you can actually connect up to the Berlin Turnpike at another traffic signal. This is a state road, as you know, Berlin Turnpike, and this is in general where you would want to locate your major traffic generator, right next to the state road. So in general, this is a good site from a traffic standpoint.

Because it is an existing major traffic generator, we met early with the State Traffic Commission to talk about what would be required for this traffic study. They gave us the approach that is going to be required when we carry this project to them, to revise that STC major traffic generator certificate to change the use from Caldor's retail to Stew Leonards, a supermarket type retail. What the STC dictated to us is that they were aware of this proposed project, as well as some planning for some open space in the backside of the site. The STC was very clear in what they dictated to us in that they didn't to see the project piecemeal, they asked that we provide the best information on, not only on traffic generation impacts and mitigation for this Stew Leonards project, called Phase One, but best information on the rest of the site.

If you notice, if you have read the traffic study, cover to cover, then you notice that it is broken out in phase one, which corresponds to the Stew Leonards, and phase two which is defined in the traffic study as a Sams Club. We are focusing here tonight on phase one, Stew Leonards, but it should give you a level of comfort that the traffic study I'm speaking about is a comprehensive study, where we are looking not at the project piecemeal, we're following the directions given to us by the State Traffic Commission and thereby we are identifying impacts and required improvements, not just for this project, but for the larger full bill on this site, but as I said, focusing here this evening on the phase one portion of the traffic study.

It should give you some level of comfort, as well, that this project will have to go through Connecticut DOT State Traffic Commission Review process, an independent review of all the traffic engineering that we have done and certified here in the report, you have the State Traffic Engineers looking over your shoulder. They cannot act on our application to them until after town approval is granted. They do coordinate through the town, with your legal traffic authority to make sure that any recommendations that they have are consistent with the town's expectations. Quick note on a popular theme, this might be architectural square footages of the building, and the additions to add the office, mezzanine and employee support area, this has been a fast track project, getting to the Commission pretty quickly, and some of those changes were not reflected initially in the traffic study, in terms of the total square footage of the building. So if you read the study, it's reflecting 121,000 square foot building. We have gone back and looked at the additional traffic that might be generated, again, its office mezzanine, its employee support area and it's a place for patrons to go and sit and eat their lunch. It's not additional square footage, so we don't expect a large amount of additional site generated traffic, in that 20,000 square feet that is not reflected in the traffic study. However we have done our homework and we are going to coordinate that extra 20,000 square feet through the State Traffic Commission.

I would like to briefly go through the traffic study that we have conducted. We began with an assessment of existing conditions, we conducted turning movement counts, at a number of locations during the peak period of retail traffic, being Friday from 4:00 to 6:00 p.m., and Saturday mid day from 11:00 a.m. to 1:00 p.m. I'll orient you here to the north, is up, here is the Berlin Turnpike, here is Rowley Street, this is Pane Road, here's our site. All of these green dots reflect intersections that we took into consideration as our study area, so the traffic signals at Rowley Street and the Berlin Turnpike, existing driveway into the site, the Webster Street signal, Pane Road signal, Pane Road and Maselli Road, Pane over at Church and Kelsey Street and then down at Church and Rowley at Episcopal Road, as well as the two driveways from the site down to Rowley Street. So all these intersections were counted during the afternoon, Friday afternoon, 4:00 to 6:00 p.m., Saturday, mid-day, 11:00 to 1:00. We also placed automatic traffic recorders on the vicinity of the site here, on Rowley Street and up on Pane Road. That was to measure forty-eight hour traffic volume and vehicle speeds near the site. We conducted a site visit during those same peak periods to observe the operations and take measurements of lane widths and timing of signals, we also visited all of the existing site driveways to measure the available sight distance to make certain that safe egress could be provided.

We have compiled the latest three years of accident data, from the town police department as well as from the Connecticut DOT accident data base, and we summarized that data under tab A in our report. We found no abnormal patterns at any of the study area intersections and no fatalities were reported in the data that was provided to us.

So beginning with those existing conditions traffic counts, we needed to grow that traffic to a time at which this project would open, which I understand is January of 2007, so we took the 2005 traffic counts and grew them by one and a half percent per year for two years. We contacted the STC as well as the Town Planner to identify any other projects that are pending, approved, haven't been built yet, which might have traffic in the area of this site. No other developments like that were identified from either source. Based on growing those existing counts, we arrived at what we call background conditions. That is traffic volumes at a time just before the proposed Stew Leonards will open, what we are trying to do is to compare traffic conditions before, without

the Stew Leonards to traffic conditions after. The measure of before versus after is the traffic impact, that's what we are trying to understand by conducting this study.

If you have seen this information before, I apologize, this is my one board with pretty colors, so I put it up. Quick education in traffic engineering 101, when we were looking at all these intersections I discussed what we were doing was conducting a capacity analysis, using a traffic simulation log. How much traffic is being processed through these intersections today, and that is rated like a report card on a scale from A to F, A being very good, F being a poor operation. What that is, is a rating of how much delay each driver experiences at that traffic signal. The longer delay is less acceptable to most drivers and therefore it is rated lower on the scale. The difference, these are times in seconds, so a level of service A at a traffic signal is less than ten seconds. You get there, and you are waiting less than ten seconds, then you have experienced a level of service A. So these are the time criteria for the different ratings, and they are different for traffic signal versus a stop sign, because in general, people are less willing to wait as long at a stop sign as they are at a traffic signal.

So using those ratings, we conducted a capacity analysis at all the study area intersections, for the background conditions as I mentioned. In general what we found is that all these intersections are operating at level of service B or better, during both the Friday p.m. and Saturday mid-day peak periods. Connecticut DOT accepts level of service B as acceptable peak hour operation, so that is generally the threshold that we look at. If it is B or better for peak periods then it is operating acceptably. There was one exception to that condition, the intersection of Berlin Turnpike at Pane Road, is currently operating at level of service E during the Friday p.m. peak period.

So now we have an assessment of the background conditions, the next step was to calculate how much traffic would be expected from the proposed Stew Leonards. There was actually a fair amount of very recent, very good empirical data from the Stew Leonards Danbury store, that was submitted, reviewed and approved by the Connecticut DOT Bureau of Planning. They are the authority in the state on trip generation, so we were able to make use of that data to analyze, or to calculate how much traffic can be expected from this project. So based on that empirical data, we project that during the Friday p.m. peak period you can expect 920 vehicle trips to Stew Leonards, and that's comprised of 441 entering, and 478 exiting trips. During the Saturday mid day peak period, we project 1,271 vehicles, comprised of 686 entering and 584 exiting. Using our background traffic conditions, and adding in our site generated traffic that I just went over, we arrived at our combined conditions of traffic volume, that is, traffic with the Stew Leonards. We re-ran our capacity analysis at the study area intersections, and in general, we found that we were able to maintain no change in level of service at many of these locations. That kind of makes sense, because we have four points of access. We are able to distribute our traffic to the roadway network. We have got the driveway out to Maselli, we have the driveway to the Berlin Turnpike, we've got two driveways to Rowley Street. There were a couple of exceptions, where level of service was found to decrease in the combined condition. Where we have those exceptions, we're proposing recommendations to mitigate that impact, that change in level of service to make sure that we can restore the existing operation at those intersections.

What I would like to do is just walk you through those recommendations. I should just mention before I do that in our traffic study, our phase one condition, which is the Stew Leonards combined condition, has taken into consideration the fact that this Maselli Drive connection may be closed temporarily during construction of the phase two portion of the project, and so to be conservative, we wanted to look at the condition, what happens if this driveway closes? So if you read the study you probably noticed that that has been taken into consideration, just in phase one, until that Maselli Drive connection can be restored, and it shouldn't be the entire time that that phase two is under construction, it's a temporary issue, but it does have an affect because without the fourth driveway, some additional traffic is being brought down to Rowley Street which creates some temporary situations.

So the improvements that we are recommending to mitigate and return level of service to the existing operation. At the traffic signal at Rowley Street and the Berlin Turnpike, under this phase

one condition what we are proposing is signal timing modification here. I'm sure you are aware that the Berlin Turnpike is all on a coordinated signal system by the Connecticut DOT, so all the lights are inter-connected, so that improves traffic flow along the turnpike, so that theoretically once you get in the right sequence of vehicles, you can get green at sequential signals. What we will need to do at the Rowley Street intersection and at the Pane Road intersection, is increase the cycle length. Currently it is running at eighty seconds, during the Saturday mid-day peak, we want to increase it to 110 seconds, which is consistent with the cycle length that it runs during the Friday p.m. It's also consistent with the cycles that run further to the north on the turnpike. By increasing the cycle length, we get a higher percentage of green time versus the red time, when people are stopped, so by doing that we are able to generate additional capacity at these locations, without doing anything real significant and restore the levels of service to the existing condition. So, signal timing modifications at the two intersections here. We are proposing to re-stripe the pavement markings on Rowley Street, between the turnpike and our two driveways, I don't think you can quite see it here, the existing pavement markings on Rowley Street are striped for two lanes westbound, you can just about see it here, and a single lane eastbound, widening actually to three lanes to the east of our driveway. The two westbound lanes merge to a single lane just west of our westerly driveway and so what we are proposing instead of merging those lanes is making the right lane into a right turn lane, for vehicles to turn right, into the site and thereby removing that merge from Rowley Street. There are additional phase two off site improvements that are part of our study, if you read it, and we tried to be very clear spelling out which improvements were required by phase one, and which by phase two. Some of the improvements that we are recommending under phase two will actually be starting construction as soon as we get our initial STC approval because we think it's going to, the starting design and permitting, because we think it's going to take some time to get through the Connecticut DOT permitting process. For example, one of the more significant phase two recommendations is because of the traffic that we are generating from the south, we are proposing to take the single left turn lane in the northbound direction and create a double left turn lane in that direction and we want to time that so that it is under design and permitting as soon as we have the Stew Leonards store open and can construct that in the 2007 construction. So if you read the full study you will see that there are off site improvement recommendations but, like I said, I really wanted to focus on phase one here this evening.

I did measure the intersection sight distance, at the four site driveways, we had some minor recommendations for clearing and trimming of vegetation on Rowley Street. It was overgrown and the sight distance was really limited, so by trimming that vegetation we're confident that we can improve intersection sight distance to meet ConnDot criteria.

In conclusion, based on our review, of capacity and safety we are able to say with confidence that the traffic generation on the proposed Stew Leonards will not have a significant impact on the roads and the intersections in the vicinity of the site, with the recommendations that we are making. As I said in the beginning, this is a good site, this is where you would like your major traffic generator to be, right next to the Berlin Turnpike. It was previously certified for use as a Caldor's retail store, this is a retail store, so we know that this site can support retail levels of traffic. We should have that level of comfort that the DOT is going to be looking at the study in detail, looking at our recommendations, all these things have to be passed through you too. With that, I'd be happy to answer any questions you might have.

Vice-Chairman Cariseo: We'll start with the Town Planner.

Ed Meehan: I don't really have any questions. I did read your report, it's very thorough. The phase two improvements will have to involve our neighbors in Berlin because of that section....

Ted DeSantos: The town line goes right through the middle there.

Ed Meehan: Right through the middle, and their wetlands are down there, so when the phase two application is submitted to Planning and Zoning for site plan approval and because of the size of the building, a special exception, would have to make inter-town referrals, to Berlin anyway, so they will be notified of this process. But the traffic, I think the three or four recommendations are straightforward, the re-timing, the clearing of the vegetation, the pavement markings are all real simple to do.

Commissioner Ganley: My question is really an observation. You touched on something at the tail end as it relates to Caldors, and the same thought was going through my mind that some time back, and the traffic study may very well be available either here, or at DOT as to what those figures were, so in submitting an application, it might be helpful to you to show, number one, they approved it at that time, and then there may be some numbers in there that are helpful to you, because when Caldors was a very viable store, there were in fact a lot of trips which were projected and I wasn't here at the time but I suspect that someone got up when that was proposed and spoke just as you did about trips, etceteras, etceteras and maybe those figures are available.

Attorney Zullo: Well, it's interesting because before the hearing we just were asking the difference between the Caldor's traffic and our traffic and I think you know the answer to that.

Ted DeSantos: You aren't going to steal my thunder here, are you. Our astute attorney was asking me those same questions prior to this meeting, so we did go back and do some research. Order of magnitude, roughly two thirds of the traffic volumes, proposed volumes that we talked about here tonight.

Commissioner Ganley: See, now I didn't go to law school, and I'm not even getting paid, and I made the same observation he did.

Ted DeSantos: It's a pretty key observation, in that the traffic study is very conservative, in that, if there is a Caldors on this site, we assume no traffic, no credit for that and we are adding all new traffic for the Stew Leonards into the network and then we are analyzing impact of that, so yes, that was a good point.

Attorney Zullo: Also, again, as explained by Ray Sullivan, the 121 square footage was a figure before we had developed final plans, hence this study deals with 121, now that it is a 139 without the outdoor center of 10,000 square feet, and 149 with it, we've asked them to update this. He hasn't done it in written form but he has calculated that the impact will not change his conclusions in any way. Is that correct?

Ted DeSantos: That is correct.

Attorney Zullo: So when you look at again, the 121 comes out, but we are also offering evidence to the effect that going to 149 as described will not create any additional traffic problems.

Vice-Chairman Cariseo: Any other questions?

Attorney Zullo: Before I call on our last speaker who is Doug Hempsted who has a couple of comments, I would like to introduce one of the more important members of our team, who keeps us in constant coordination and constant communication with one another, Sharon O'Toole. Okay, Doug, you want to wrap it up?

Doug Hempsted: I just want to thank the Commission and staff. Since we, this was internally very, extremely fast track internally. We were up here actually, this came to our notice about the

second week in November when we heard this was available. It was a decision, we got a phone call within a week and a half, this is available, we met up here, we had two weeks to make our decision, if we wanted this because they had two other possible tenants moving into this building, so we had to huddle really quick, and make a decision really quick if we wanted it. We actually got a contract done and settled within six weeks, which is unheard of in the real estate business. But that is how enthusiastic we were for the site because we were actually here looking, nine years ago, where Lowe's is. The movie theaters were there, Konover Construction was here, we were actually dealing with them, because they were in control of the site, and the site was a little too small for us, and we didn't like the restaurants out in front, so we didn't go there, and that is how we ended up in Yonkers. Originally, Orange, got turned down and went on to Yonkers. What we loved about this site, was that is was, some of the hurdles that you normally have to go through, was already retail, so we just had to ask for a change of use of retail, we had a willing developer to work with us on this site plan but one of the things that did attract us is that there is a possible development of the other property because every retailer likes somebody else on the site and even though some of the things are cross, we really don't sell a lot of things that they do, and visa-versa and we don't mind seeing another retailer on the site, so we are happy to see that. I can't thank enough, you people taking this up in an extremely timely manner. Having sat on my own Commission in my own home town for three years, I know what you go through, and I really do, from my heart appreciate what you have done. Thank you very much and if you have any questions, give us a call. Be more than happy to any of you for a tour of the buildings, some of the staff here went and I think that once you see us, you really know us. Thank you.

Vice-Chairman Cariseo: Thank you.

VII. OLD BUSINESS

A. PETITION 63-05 Sunrise Estates Subdivision, Griswoldville Avenue, Griswoldville Associates, LLC owners and applicant, represented by Mr. Patrick Snow, 100 Court Street, Cromwell, CT 06416 request waiver of condition A.3, Petition 01-04, approved March 24, 2004, installation of traffic signal at the intersection of Griswoldville Avenue, Waverly Drive and Deming Street prior to the issuance of Certificate of Occupancies. R-20 Zone District. Extension granted to March 5, 2006.

Commissioner Pruett moved that Petition 63-05 Sunrise Estates Subdivision, Griswoldville Avenue, Griswoldville Associates, LLC owners and applicant, represented by Mr. Patrick Snow, 100 Court Street, Cromwell, CT 06416 request waiver of condition A.3, Petition 01-04, approved March 24, 2004, installation of traffic signal at the intersection of Griswoldville Avenue, Waverly Drive and Deming Street prior to the issuance of Certificate of Occupancies, R-20 Zone District be approved with the following conditions:

1. The installation of the traffic signal prior to issuance of the Certificate of Occupancy is modified and amended to require the installation and operation of the traffic signal and completion of associated roadway plans **prior to June 1, 2006**. The traffic signal and roadway construction shall be done in accordance with the Connecticut Department of Transportation, Report of the State Traffic Commission, issued December 15, 2005.
2. The development shall maintain performance bond for the Sunrise Estates subdivision and Griswoldville/Waverly traffic signal installation as determined by the Town Engineer.

3. The hold harmless agreement recommended by the Town Attorney shall be executed by the developer and Town Manager.
4. All street lighting shall be installed and operational.
5. Prior to the issuance of Certificate of Occupancy for each lot, the developer, Griswoldville Associates, LLC, shall post a bond, amount to be determined by the Town Engineer, to insure completion of lot grading in accordance with the approved subdivision/or approved plot plan.

The motion was seconded by Commissioner Anest-Klett. The vote was unanimously in favor of the motion, with seven voting YES.

Vice-Chairman Cariseo: Motion passes.

B. PETITION 02-06 2-14 East Cedar Street, Eddy Morales, 817 Main Street, Newington, CT 06111 applicant, Newington Development, LLC, owner, request for Special Exception Section 3.12.1 Restaurant Use, B-TC Zone District. Public Hearing closed February 8, 2006. Sixty five day decision period ends April 14, 2006.

Commissioner Kornichuk moved that Petition 02-06 2-14 East Cedar Street, Eddy Morales, 817 Main Street, Newington, CT 06111 applicant Newington Development, LLC, owner, request for Special Exception Section 3.12.1 Restaurant Use, B-TC Zone District be approved based on the following conditions:

1. The existing parking area shall be restriped to increase the parking count from 66 spaces to 73 spaces.
2. Handicapped parking spaces shall be striped, posted and accessible in accordance with the State of Connecticut Basic Building Code.
3. The parking lot pavement shall be repaired to correct areas of pot hole damage.
4. The existing tree located in the island along Center Court shall be relocated or replaced in conjunction with adding a parking space.
5. The proposed planter located along Cedar Street frontage, Route 175 is not approved at this time. Prior to construction of this planter the property owner shall secure permission, if necessary, from the Connecticut Department of Transportation and submit plans to the Town Planner for approval.
6. This Special Exception for restaurant use is limited to the applicant, Eddy Morales, 817 Main Street, Newington, and is granted based on the hours and operation presented to the Commission at public hearing February 8, 2006. Any changes shall require a new Special Exception from the Commission.
7. All parking lot restriping, pavement repair and landscape improvements shall be completed prior to the issuance of the Certificate of Occupancy for the restaurant use.

8. The site plan Sheet A 1.1 entitled #2-14 East Cedar Street, prepared by Jennifer Morgenthau, LLC Architect, is made part of this approval and shall be filed for signing by the Commission Chairman.
9. Waiver of 5 parking spaces is granted pursuant to Section 6.1.1.J the Commission finding that shared parking by non-competing uses is workable at this Town Center location.

The motion was seconded by Commissioner Pruett.

Commissioner Anest-Klett: Could I have a clarification? On number 6, Special Exception for restaurant use is limited to the applicant, Eddy Morales. What constitutes that? Having a liquor permit, running the business....

Ed Meehan: The liquor permit is covered by another petition, but

Commissioner Anest-Klett: Right, but what is going to constitute him.....

Ed Meehan: He can't sell this business. If the owner of the business is going to change, or the lease is going to change, that constitutes a new business which comes back to the Commission for Special Exception. You're approving this based on what you heard from his attorney as far as hours of operation, he's going to operate it as a restaurant, a family restaurant, not a bar, and if he changes, then who ever comes in next has to come back to the Commission and start over again.

Commissioner Anest-Klett: So, if he decides that he doesn't want to run the business, doesn't transfer lease or anything, now somebody else is running the business, does that constitute transfer of ownership?

Ed Meehan: You would have to get a new permittee. We'd find out that way.

Commissioner Anest-Klett: But not necessarily you would have to get a new permittee. If you have an employee who is your permittee, how would we know he's transferring the business?

Ed Meehan: I'm not sure how we would know in that case. If you can suggest something, I'd be happy to.....

Commissioner Fox: On the same line, Carol brings up a good point. Mr. Morales is the leasee, correct? He's the tenant.

Ed Meehan: He's the tenant.

Commissioner Fox: He's the tenant, who is going to be the permittee?

Ed Meehan: Well that, this is not covered under the Special Exception, it's covered under the liquor permit which is the next petition.

Commissioner Fox: Okay, but we've got a paragraph here that says that if he sells the business whoever buys it has to come back, right? Even if he sells it to him as a restaurant and bar. He still has to come back.

Ed Meehan: That is the intent of that number six.

Commissioner Fox: All right, but I don't know how to put what I want to say, in words, true, the permit is in the other one.

Ed Meehan: The liquor permit.

Commissioner Fox: Yeah, the liquor permit is in 03-06.

Ed Meehan: What I am trying to get at in this draft motion is that you have done this in other situations where you have a use, and there are quite a few comments made in the public hearing record as to how the business is going to be operated, hours of operation, conditions of operation, that the applicant is presenting, which is well and good, but if a year from now, that applicant bails out, there is no assurance with a new leasee or operator that they are even aware of all these promises that were made to the Commission, so what I'm just trying to do in this draft and this is just a draft, is to give you some checks and balance here that if that happens, any new operator would have to come back, familiarize themselves with the record, and introduce themselves to the Commission and go through the same requirements that the original applicant did. If this doesn't do it, you may want to hammer out some language that you think will do it.

Commissioner Fox: I don't know, because, as you say, the applicant is on record as saying this will be a family restaurant and not a quote, unquote, bar. It will cater to families coming in, eating and, and if they want to have a beer, a cocktail or a glass of wine with their dinner, fine. The concern I have, and maybe it shouldn't be my concern, or our concern, the way he runs the business, but according to the plans we saw, the bar takes up half the, or at least a good portion of the floor space, and so, I don't know what is to stop them from saying, well, let's see, we are making more business at the bar than we are at the tables, let's get rid of the tables, a bunch of tables, and run it as a bar.

Commissioner Anest-Klett: Can I just add to that, because during the discussions two weeks ago he did say if there was a problem with the seating and if the fire marshal said that he had to deduct seating, that he would take away tables, and not reduce the bar. So, going along with Mike, my theory is I don't think he really wants to make it a family restaurant, I think it's going to more of a watering Irish pub because I know, if I had a child, I wouldn't want to bring that child where there is a bar the whole length of the building, going north and south, and there is only five tables to sit at, or seven tables to sit at. Then you are going to have people congregating at the bar because it is going to be more of a bar atmosphere, that's my concern. What do we want, do you want a family restaurant, or do we want a watering hole, or whatever you want to call it. What he said two weeks ago, as I was thinking about it over these past couple of weeks, that kind of sparked something.

Ed Meehan: Well, you are in the middle of a motion, so I don't want to intrude, but I mean, you don't have to approve the liquor permit.

Commissioner Anest-Klett: No, I understand that.

Ed Meehan: You have a restaurant without a liquor permit, you aren't going to have anybody hanging about the bar.

Commissioner Anest-Klett: I do understand that.

Ed Meehan: They are looking for a two thirds waiver on distance. It is up to you.

Commissioner Prestage: What have we done historically with the other bars and restaurants in the town center?

Vice-Chairman Cariseo: We have done the same thing.

Commissioner Prestage: And it's worked fine?

Vice-Chairman Cariseo: Yes.

Commissioner Prestage: Have we had problems?

Vice-Chairman Cariseo: No.

Commissioner Prestage: Then why change?

Vice-Chairman Cariseo: There is no reason to.

Commissioner Prestage: Yeah, I agree.

Commissioner Pruet: Also, I think this came up before with provisions about putting the onus on the owner for any changes, we have the Zoning Enforcement Officers, we have liquor investigators who go in there, I think a stipulation here that if he had any change, sold it, it's incumbent to notify the town planning officer, or subsequent office of any intent for him to sell the premises. This way you can be alerted.

Vice-Chairman Cariseo: It's worked so far.

Commissioner Fox: As Carol said, and she seems to know where I'm coming from, being a permittee at a bar, at the VFW, I know what can happen if you aren't careful, if you don't have the proper personnel behind the bar, and if, no offense, the committee is not up on all the liquor commission rules and regulations, and what to look out for. It's a big responsibility. I'm not trying to put the onus on anybody, I think it's a great idea to have a restaurant on the corner, with some liquor, and as I mentioned, during the public hearing, I would rather see a beer and wine permit rather than a full liquor permit to start out with, but, there are a number of caveats here which I think could prevent the problems that I am worried about.

The vote was unanimously in favor of the motion, with seven voting YES.

Vice-Chairman Cariseo: Motion carries.

C. PETITION 03-06 2-14 East Cedar Street, Eddy Morales, 817 Main Street, Newington, CT 06111 applicant, Newington Development, LLC, owner, request for Special Permit Section 6.6 Liquor Use and waiver of separation distance, B-TC Zone District. Public Hearing closed February 8, 2006. Sixty five day decision period ends April 14, 2006.

Commissioner Fox moved that Petition 03-06 2-14 East Cedar Street, Eddy Morales, 817 Main Street, Newington, CT 06111 applicant, Newington Development, LLC, owner, request for Special Permit Section 6.6 Liquor Use and waiver of separation distance, B-TC Zone District be approved the Commission finding that the requirements of Section 6.6.4 (A) have been satisfied.

This approval is conditioned upon the requirement that the liquor permit is limited to the applicant. Any changes shall require a new Special Permit from the Commission.

The motion was seconded by Commissioner Ganley.

Commissioner Fox: Open for discussion?

Vice-Chairman Cariseo: Sure.

Commissioner Fox: So in other words, Mr. Morales is going to be the permittee, and if there are any changes in the permittee it's got to come back to us.

Vice-Chairman Cariseo: That's correct.

Commissioner Anest-Klett: And this is for a general restaurant liquor permit?

Ed Meehan: Right, full restaurant.

Commissioner Fox: Full restaurant liquor permit.

Commissioner Anest-Klett: Is there some stipulation that we can put on there that we can review this after a year. I'm just, no offense, I'm just really concerned about the location, the size of the bar, it's not segregated from the eating area, I have serious concerns about it. And that is why I'm asking all these questions, because I want to make sure that I'm covered if anything comes back, I'm on the record that I do have concerns, and that is why I was wondering if there could be some sort of review after a year. The situation....

Ed Meehan: Well you can put, we have a section in the Special Exception language where you can put time limits on some Special Exceptions, some prior town attorneys have advised us not to do that because of lease requirements that an applicant has to enter into, five year renewables and so forth, and if you had a, like a one year review, where you could void, after a public hearing, you could void the permit if the applicant wasn't living up to the requirements, it was some opinion that that was, you know, could be a problem, because of the time limit restriction. I don't know how you could do this. I mean, if you really don't want to do it, don't waive, he's asking for big waivers here. Waiver of distance, waiver of parking, you already voted on that one, but distance. I can't say that there is a way that we can enforce this other than the good faith of the person who is operating it, and having a handle on the liquor permittee. That changes, a new player, goes back to the Commission.

Commissioner Fox: Once again, going back to my personal experience. To obtain a liquor permit from the liquor commission, from the Consumer Protection Liquor Commission division, there are a number of questions that you have to answer and of course the, I don't know if you know this, you're going to get a little lesson now, but the premises has to be inspected by the fire marshal for one thing, and the fire marshal sees any problems that the building department might be interested in, I know this for a fact, he usually will call the building official and have him take a look, and they will go over it together. If there is entertainment, and the only question regarding the applicant himself, if I'm not mistaken, is, has the permittee been convicted of.....

Vice-Chairman Cariseo: Aren't we a little off base here? I mean, that isn't our purview, that's the liquor commission's job, not ours.

Commissioner Fox: The point I'm getting to is, all right, never mind.

Vice-Chairman Cariseo: If you don't like it, you can vote it down. That's the liquor control commissions job. We don't look into people's backgrounds, when we do this.

Commissioner Fox: I'm not trying to look into people's backgrounds, anybody's background, especially Mr. Morales, but I'm just, it goes back to the change of permit and stuff.

Commissioner Anest-Klett: I think what he is trying to say is if Mr. Morales is not able to get the liquor permit, then the next person would have to come before us.

Vice-Chairman Cariseo: Correct.

Commissioner Fox: Well, that's what I was getting at.

Commissioner Prestage: That is what is says right here.

Commissioner Fox: Well, all right. I don't want to insult the applicant at all, but I'm just a little concerned. It's on a major corner of town, and it could be a very viable restaurant, very viable facility, but it can also backfire on us.

Vice-Chairman Cariseo: Well, we haven't had a problem yet.

Commissioner Fox: Nope, but it hasn't been open yet.

Vice-Chairman Cariseo: But we have them up and down the street.

Commissioner Anest-Klett: Not really, just Cuginos really.

Commissioner Fox: You have Cuginos, that's pretty large, Vito's has only a beer and wine permit.

Vice-Chairman Cariseo: What, you can't get drunk in there?

Commissioner Anest-Klett: There's no bar.

Commissioner Fox: It's the bar.

Commissioner Pruett: Mr. Chairman, move the question.

The vote was unanimously in favor of the motion, with seven voting YES.

Vice-Chairman Cariseo: Motion carries.

**Petition 63-05
Sunrise Estates Subdivision Bond
Partial Reduction**

Commissioner Anest-Klett moved that the bond amount for Sunrise Estates Subdivision including the traffic signal at the intersection of Waverly Drive and Griswoldville Avenue, be reduced from \$887,500 to \$550,836 as recommended by the Town Engineer. Traffic signal installation and operation shall be completed prior to June 1, 2006. All remaining subdivision improvement work shall be completed by October 30, 2006, unless extended by the Commission.

The motion was seconded by Commissioner Pruett. The vote was unanimously in favor of the motion, with seven voting YES.

Vice-Chairman Cariseo: Motion carries.

**CBS Bloom
50 Rockwell Road
Bond Release**

Commissioner Ganley moved that the bond surety of \$17,500 held for completion of site work at 50 Rockwell Road be released all work having been done.

The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

Vice-Chairman Cariseo: Motion carries.

VIII. PETITIONS FOR SCHEDULING (TPZ Meeting 3-8-06 and 3-22-06)

- A. PETITION 11-06 295 Stamm Road, Alex Lomaglio Trucking, LLC, owner and applicant, represented by Attorney Vincent F. Sabatini, One Market Square, Newington CT 06111 request for Special Permit Section 6.3 Flood Hazard Zone Use, I Zone District. Schedule for Public Hearing March 8, 2006.
- B. PETITION 12-06 295 Stamm Road, Alex Lomaglio Trucking, LLC, owner and applicant, represented by Attorney Vincent F. Sabatini, One Market Square, Newington CT 06111 request for Site Plan approval, 6,000 sq. ft. building I Zone District. Schedule for presentation March 8, 2006.
- C. PETITION 13-06 Market Square and Constance Leigh Drive, Municipal Parking Lot, Kiwanis Club of Newington, P.O. Box 510377 Newington, CT 06111 applicant, attention Claude Paquette, c/o All State Insurance, 39 East Cedar Street, Newington, CT 06111, Town of Newington, property owner, request for Special Exception Section 3.2.8 Flea Market, 22 dates, April through October 2005, B-TC Zone District. Schedule for Public Hearing March 8, 2006.
- D. PETITION 14-06 436 Hartford Avenue, Smith Commercial, LLC, 820 North Mountain Road, Newington, CT 06111 owner, Theresa Riccio, 4 Eastview Terrace, Rocky Hill, CT 06067 applicant, request for Special Exception Section 6.4.2 pylon sign, PD Zone District. Schedule for Public Hearing March 8, 2006.
- E. PETITION 15-06 240 Stamm Road, 240 Stamm Road, LLC owner or 75 Stamm Road, Lallier Family, LLC owner, Sprint Spectrum L.P. d/b/a Spring PCS, SBA Network Services, represented by Attorney Wendall David, Blackwell, Davis Spadaccini, LLC, 158 East Center Street, Manchester, CT 06040 request for 130' monopole cell tower and associated ground support equipment, I Zone District. Schedule for Public Hearing March 8, 2006.

Ed Meehan: There is just one correction there, Petition C should be Petition 16-06, not 13-06. That's the Kiwanis Flea Market. A couple of other petitions have come in since the agenda went out. 121 Styles received Conservation Commission approval last night and will be coming to the Commission for site plan modification for some storage facilities. The second item is the public hearing, Webster Bank has submitted a new sign application.

Commissioner Kornichuk: That's good, because they don't have a sign.

Ed Meehan: We've been pushing and pulling the last month since the sign blew down.

Commissioner Anest-Klett: When is McDonalds going to come before us?

Ed Meehan: They have to go to ZBA first. They are scheduled for ZBA for the March meeting. Depending on what comes out of that, they will go forward with their application to TPZ, or if they don't get the variances that they need, they have to re-design.

Commissioner Anest-Klett: Do you think this is a lot for March 8th, considering we have a discussion on Cedar Mountain?

Ed Meehan: Yeah, the Webster Bank sign, the applicant asked to do that on March 22nd. You might want to do 121 Styles on March 22nd, and then leave everything. Kiwanis will go fast, Petition, 295 Stamm Road, it's going to be similar to what you saw tonight, that is in a flood plain area, those two go together. The, 14-06 is a sign, and then 15-06 is for a cell tower. Statutorily, they don't have to come to the town any more because of the siting council regulations, but the applicant, as a matter of practice, I guess, tries to touch base with the local commissions before they go to the siting council, so, you couldn't turn this down, but they have asked for a public hearing so we can notify the neighbors to come and hear about it, know about it, we notified police and fire if they are interested in a deck, a cell tower deck here, because we have poor service down that end of town, they would have the opportunity to come and comment. I would push those others off to the end of the month.

IX. PUBLIC PARTICIPATION
(For items not listed on agenda)

None.

X. REMARKS BY COMMISSIONERS

None.

XI. ZONING ADMINISTRATOR COMMENTS

None.

XII. STAFF REPORT

A. Request for Bond Reduction – Sunrise Estates

Discussed under Old Business

Ed Meehan: Quickly, the Granmoor, which is known as RAJU at Newington has appealed the Laz-E-Boy site plan. We were served last week. The appeal has various reasons for it, I'm not surprised. One of the issues is the failure of the town to take into account the private reciprocal easements between the parties, and we had legal opinion before you voted, from Attorney Mason that, that was not the purview of the Commission. The appeal was sent over to Steve Nassau's office, he needs to recuse himself because he does have a conflict of interest. He has represented the Grantmoor in the past, and when Mayor Mortensen is back from vacation he'll appoint a special attorney to represent the Commission.

That's about it.

XIII. ADJOURNMENT

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Pruett. The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary