

NEWINGTON TOWN PLAN AND ZONING COMMISSION

May 10, 2006

Regular Meeting

Chairman Vincent Camelli 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

Chairman Camilli
Commissioner Fox
Commissioner Ganley
Commissioner Kornichuk
Commissioner Pruet
Commissioner Schatz

Commissioners Absent

Commissioner Cariseo
Commissioner Andersen
Commissioner Prestage

Staff Present

Ed Meehan, Town Planner

II. PUBLIC HEARINGS

- A. PETITION 24-06 330 Alumni Road, Chris Chiulli, 45 Evans Road, P.O. Box 485 Rocky Hill CT 06067 applicant, Newington Business Park owner, represented by A-N Consulting Engineers, 124 White Oak Drive, Berlin, CT 06037 attention Alan Nafis, request for Special Permit earth processing equipment for rock crushing and storage, I Zone District. Continued from April 26, 2006.**

Chris Chiulli: Good evening, Chris Chiulli, 5 Mountainside Road, West Hartford, Connecticut, applicant. I was not able to attend your last meeting, I know that it was extended, I know that you have questions for me regarding this lot, to elaborate a little bit, give you a little history of what is going on here. I know you folks have had dealings with Newington Business Park in the past, and there was a complication on the approval process with the DEP, regarding, if they were going to be able to transfer the lots to me, I've had a deposit for three years, I've actually had the money in escrow for three years. The large parcel, which was part of the Ingersoll-Rand Fafnir parcel, has contaminants on the northwest side of the property. The DEP, at a certain point in this, was not going to approve separation of the approved Newington subdivision, a separation of these lots, one, two and three from the whole parcel. It has taken, between Newington Business Park and the traffic light straightened out on Willard Avenue, and the original bond situation straightened out, I thought it was all clear. I've gone through the approval process, paid for the plans, and had gotten approval from this Commission and since that time we ran into the roadblock of the DEP. We have gotten full approval of the DEP, Newington Business Park, on the date of closing will be filing a Form One, taking care of it, fulfilling the DEP requirements on this lot. I was before you last year and that's, we're waiting for that letter from the Newington Business Park, although that has been approved already, I believe, never got to that vote. Basically what I am attempting to do is, my cousin is developing Lot #3, between the two of us, we are developing Lots #1,2, and 3, and there is a surplus on Lot #3 of approximately 7,000

yards of material. Most of that material was pushed up from the Self-Storage previously, and it's a rocky, shale material. Lots 3A and 3B were already approved by this Commission, it does require material to go off the site, but what I am attempting to do is to process it first, before it goes off the site, and make it more salable, and set up the screening and crushing operation on Lot #2 and stockpile onto Lot #1. I'm assuming a six to eight month period from start to finish. I'm hoping a lot faster, a lot sooner than that, but to be realistic about it, and give myself a little bit of a cushion, I'm very comfortable with that time schedule. Basically, we'd be traveling on the three lots, we wouldn't be going on the town road, down and back on Lot #1, we would keep it all there. Hours of operation would be from, I believe say, seven to five o'clock in the afternoon, seven a.m. Dust control would be handled, if there were issues with calcium or water. We have a travel pack proposed. I know that we showed the equipment to be used, and then once prepared, we'd go right out Alumni Road to Willard Avenue, after it was processed, just like, if it weren't processed, we would have to haul it out of Lot 3A and 3B directly off the site. That's pretty much it.

Chairman Camilli: Okay, I think the Planner has some questions.

Ed Meehan: Do you have an approximate closing date anticipated?

Chris Chiulli: Yes, between tomorrow and a week.

Ed Meehan: One week?

Chris Chiulli: Yes.

Ed Meehan: The representative from A-N Engineers last meeting, testified that there is going to be about 4,000 cubic yards of excess material which after it is processed will be taken off the site and brought out to other job sites. It won't be used on Lot #3A or #3B or Lot #1. Is that correct?

Chris Chiulli: His calculations would be (inaudible) to figure everything out. I don't have those calculations with me, he wasn't able to meet me.

Ed Meehan: So, we have, as you know, and the Commission and the Chairman knows, you have millings brought onto the site now...

Chris Chiulli: That's correct.

Ed Meehan: Maybe 360, 370 cubic yards of millings. It looks like about 370.

Chris Chiulli: No, there is more than that.

Ed Meehan: So, between the millings and the other material, called red shale, what is all that going to be used for?

Chris Chiulli: The millings, you have to pick your brain and remember back, my, Lot #1 was approved, I was in front of the Commission. It's a 1.3 acre lot, and it's calling for millings from the end of the black top all the way back, and if you figure a footed base, it's an acre and a third, if you figure out that, if you do the calculations, it's pretty simple, it calls for approximately 2,000 yards of base, and that's what those millings are going to be used for, either base, or millings in the rear of the building. That's why I hauled that in there.

Ed Meehan: Now, the last meeting the Commission had, I guess the question was asked from either myself or Commission members, to A-N, why not just go in and develop Lot #3A and #3B,

and not get into the issue of processing and hauling material back and forth. Is it because of the value of the material, or, I mean, Robert could do that.

Chris Chiulli: Understood. But right now, it's very difficult to find dump sites. This red shale would be much easier to move, to relocate to different sites. I know they are going to be developing the front of, at Willard Avenue, and the corner of Willard Avenue and Alumni Road, it could have a value there, a resource for them. Rich Rotundo is developing that, I believe, and we've worked in the past together.

Ed Meehan: The other thing that I have found out since the last meeting is that the, the Commission should know this, I don't know that you know this, the site plan for Lot 3A and 3B has never been filed or signed. So it is not really an effective site plan yet. I don't know the reasons for that. That is the lot that you want to take the material from.

Chris Chiulli: I'm sure that is just an oversight. We were waiting for the DEP to get it all approved, to accept this. A-N was supposed to file those, so if it hasn't been done, they will have to do that immediately.

Ed Meehan: Okay. Do you have your certificate from the State Traffic Commission, for Lot #1.

Chris Chiulli: I don't personally have anything.

Ed Meehan: Newington Business Park.

Chris Chiulli: Newington Business Park has it, all approved and that went through three different departments and was all approved.

Ed Meehan: I think the issue here is the Commission's position on a processing operation for basically excess material that is not going to be used in the immediate two or three lots for development purposes. It's going to be exported off the site, and is that something that you want to see in your industrial area in this particular location? The, as we said, at the last meeting, there is no reason, if the site plan for Lots 3A and 3B is filed, that that property owner couldn't come in and just do that development, as you right now could do it. You have an approved site plan, if you own the property, you could pull a building permit and start your process.

Chris Chiulli: That is true. That could also be said for numerous other properties that have processed materials in these towns in the same circumstances that you are describing. Berlin Turnpike would be one, near Wendy's, I mean there are numerous sites that have done this process, most recently Fenn Road. What we are talking about is a much smaller operation here. I know that there is material going off of Fenn Road, and this is only a, and I told you, the most it would take to process all this material is two to four weeks. So it is just a matter of stockpiling, which would help us out tremendously, because we would like to develop Lot 3A and 3B first.

Ed Meehan: So what happens if six months pass, and for some reason the lot hasn't been acquired by you, or you don't want to proceed with your building, and we have a storage pile there for eight months to a year. Is that a probability?

Chris Chiulli: It's extremely doubtful. I've been waiting this long, my money is in escrow, and I have every intention of developing this lot.

Ed Meehan: That's all the questions I have.

Commissioner Ganley: We're going to need that DOT letter plus the site plan, has to come in at the same time.

Ed Meehan: We have a site plan for Lot #1 which Mr. Chiulli got approved.....

Commissioner Ganley: That's correct, but we are talking about multiple lot usage, so we are going to have to have the totality of what it is that the three lots are going to look like in relation to one another, and we are going to have to get this DOT letter, in case there are any qualifications attached to it, that it's a clean bill of health from DOT. It's important that we see it. The fact that it is in the hands of the business park owner is of no value to us, because he is the petitioner, and he has to submit that letter in conjunction with whatever paper he has to put in. We shouldn't have to solicit Newington Business Park gentleman to get the certificate, the onus is on the petitioner.

Ed Meehan: I don't know why, Lots 3A and 3B, the site plan, which was approved, some time ago, it was approved back in March of 2005, over a year ago, was not filed. It could be because of this issue of transfer.

Chris Chiulli: I'm sure it is.

Ed Meehan: But that is the basis of the grading plan that they want to put into effect here, that site plan, grading plan.

Chris Chiulli: Is that a question for you directly, or can I interject here?

Chairman Camilli: Go ahead.

Chris Chiulli: What we have is, we have Lot #1, and Lot #3, are the proposed grades on it right now, so the grading plan is pretty much, and Lot #2 would be conducive to go along with Lots #1 and 3 on either side of it. As far as the DOT letter, I believe that they have approval, if that is an issue, then I would appreciate if that could be a condition of approval.

Commissioner Ganley: The Business Park owner has DOT approval, is that correct?

Chairman Camilli: Well, according to the applicant, Ed...

Commissioner Ganley: Okay, that's of no value to us, or the petitioner. We've got to see, in fact, that in fact, has taken place.

Ed Meehan: The State Traffic Commission put some unusual conditions on their original certificate when it was issued to the Newington Business Park. The most unusual condition was something that we all live with right now, is the gate that divides Alumni Road. That was one of the first conditions. The other condition was capping of the amount of new square footage permitted on that site, the concern being that large increases in square footage would increase the traffic and be a problem at the intersection of Willard and Alumni. That issue may now be removed because of the traffic signal being installed. What I would recommend is that through A-N Engineers and maybe you can discuss this with them, is to have Newington Business Park find out where they stand with the STC. I think that, with the traffic signal in, the issue of the cap on the square footage has been removed. So that would affect your lot, as well as Lot 3A and 3B.

Chris Chiulli: What I'm a little confused about is that Lot 3A and 3B have already been approved, not filed to my understanding. Lot #1 and Lots 3A and 3B have been approved, so even if I didn't

process this material, it would be allowed to be hauled off site. So that's why I'm getting a little confused about the letter.

Commissioner Ganley: It's just the letter from DOT, that exists someplace.

Ed Meehan: That was one of the requirements of the site plan approval. That the STC give the Newington Business Park the green light to have this additional traffic come out of this site.

Chris Chiulli: Right, and according to Alan Nafis, he filed that, he gave you a copy of that letter.

Ed Meehan: For your lot. But not for lot 3A and 3B. The chairman wouldn't have signed your plan without that letter.

Chris Chiulli: Understood, but wouldn't the same conditions apply to all the lots in the whole subdivision, everything?

Ed Meehan: No, because it goes by square footage. I know that the buildings are small, but at the time that, that letter was presented and your lot was approved, the traffic signal wasn't in and operational, it was still on flash, or caution, so I guess what I'm saying is that if that certificate could be looked at, I believe the cap on the square footage is a moot point, because the traffic signal is in operation. But that needs to be checked out.

Chairman Camilli: The fact that he has to present those things, should we leave this open, or could we still close it?

Ed Meehan: I would leave it open because of this other, we have to find out about the letter,...

Chairman Camilli: We also have to find out about the transfer, you said within a week you were going to close, that also has to transpire.

Ed Meehan: And then, if we could find out the status of the filing of lots, the site plan for Lots 3A and 3B. That could be tied up with this issue with DEP, or it could be tied up with other issues that I'm not aware of.

Chairman Camilli: Okay. Are you....

Chris Chiulli: I guess I'm okay with that, the only thing, a little frustrating, not a lot, is that Ed has known about this application for a month, six weeks, two months, somewhere in that vicinity. I'm sure I could have brought this in, either my engineer could have, or I could have. I guess I don't have a choice. I will come back, it will be left open, I mean, I don't want to create too many waves, but it's just frustrating to know that I could have brought all this material with me, except for the point that I didn't close yet.

Chairman Camilli: Okay. We will leave Petition 24-06 open. Anyone from the public wishing to speak in favor of this application: Against?

Chris Chiulli: Thank you.

B. PETITION 27-06 230 Sunrise Avenue, Guy Cantone, 80 Willow Brook Road, Cromwell, CT 06416, applicant, John J. Weber, owner, request for Special Exception Interior Lot Section 6.7 R-12 Zone District. Continued from April 26, 2006.

Richard Cusmack: Mr. Chairman, Members of the Planning and Zoning Commission, again for the record, my name is Richard Cusmack, I'm here tonight on behalf on the applicants and as you may remember, two weeks ago, at the conclusion of the meeting, it was kept open and continued tonight for two reasons. One was because we did not have, at that time, the Fire Marshal's report. The second reason was because there were some issues raised by one of the abutting land owners, Mr. Brescia, represented by Mr. Sabatini, and there were some issues that were raised at that time. I believe, and it is my understanding, that the Fire Marshal's report has now been issued, and there are not any issues relative to our access to Sunrise Terrace. I'm also happy to report that as of earlier this afternoon, we have reached an agreement with Mr. Brescia through his lawyer, Mr. Sabatini. However, that agreement involves, not access to Sunrise Terrace, but access to Judd Avenue which is to the north. As a consequence of that, I believe it's going to be necessary and appropriate for us to file a revised plan, showing that access, together with an agreement, again that we have reached in principle which needs to be detailed, and set forth in writing. I have no doubt, quite frankly, that that is going to take place based on my conversations today. Now I haven't had a chance, because of our schedules, to discuss this with Mr. Meehan, I don't believe that he has any problem with that, but in any event, as I have indicated, we do have mutual agreement for access for Judd Avenue, and I would respectfully request, in order to enable us to file a revised plan, showing that access and presenting that agreement, that we have at least a two week period to do that. Now to the extent that we would have to waive any statutory requirements that you folks have, we are certainly willing to do that.

Chairman Camilli: Would they need an extension. I don't know when this started.

Ed Meehan: It started at your last public hearing, so you have thirty-five days to close the hearing, unless they grant you an extension. You probably, just for the record, should grant an extension.

Chairman Camilli: Yeah, grant us an extension.

Attorney Cusmack: We're willing to do that.

Chairman Camilli: Okay, and we will keep it open. You can write that, and just give it to the Town Planner. Anybody from the public wishing to speak in favor, or against, to this application?

Bob O'Connor, 320 Tremont Street, Newington: My problem with this application is that it is, Mr. Meehan, do you have a copy of the application as submitted by the applicant?

Ed Meehan: Yes I do.

Bob O'Connor: Can you just verify, is the applicant applying for a two family house?

Ed Meehan: He is applying for a duplex.

Bob O'Connor: A duplex, which is a two family? Okay, so now the applicant has a variance for that use.

Ed Meehan: That's correct.

Bob O'Connor: And it's a variance to Section 6.7.2 of the regulations. Now, my question to you is, is the property presently subject to Section 6.7.2?

Chairman Camilli: What do you mean, subject?

Bob O'Connor: Well, I live in a R-12 Zone, so my property is subject to the R-12 Zone regulations.

Ed Meehan: That's correct.

Bob O'Connor: Now, this is in the R-7 Zone,

Ed Meehan: That's correct.

Bob O'Connor: Now my question to you is, is it subject to Section 6.7.2 at the present time?

Ed Meehan: This particular lot is not, because of the variance.

Bob O'Connor: Excuse me?

Ed Meehan: It has a variance, it was granted a variance.

Bob O'Connor: No, don't add to my question, my question is, is it presently subject to 6.7.2, now, today?

Ed Meehan: Yes.

Bob O'Connor: It is?

Ed Meehan: Yes.

Bob O'Connor: So, how is that?

Ed Meehan: That is the reason that the applicant is before the Commission.

Bob O'Connor: Yeah, but they haven't been approved yet.

Ed Meehan: They have not been approved. We're in the public hearing.

Bob O'Connor: So they're not, they're not, that regulation doesn't apply to that property today.

Ed Meehan: I don't want to split hairs, but that's the reason they are here, is because they are trying to get a rear lot.

Bob O'Connor: Right, to get that to apply, but it doesn't apply today. The R-12 Zone applies to me in my R-12 house, I don't have to ask for anything, it applies.

Ed Meehan: By right.

Bob O'Connor: By right. This I have to ask you for it.

Ed Meehan: It's a conditional approval.

Bob O'Connor: Right, and I have to....

Ed Meehan: For an interior lot.

Bob O'Connor: And I have to request it.

Ed Meehan: That's correct.

Bob O'Connor: It's a special exception.

Ed Meehan: Extraordinary use.

Bob O'Connor: Right, so the zone R-7 is what applies to that lot, the Special Exception doesn't at this point, until you approve it.

Ed Meehan: That's correct.

Bob O'Connor: Okay. So, in that case, the variance at this point, is moot. It's like an inoculation, because the problem that they are claiming that they need a variance from doesn't exist. In their application for the variance, when they went to get the variance, they said that they needed relief, under what portion of the zoning ordinance is this appeal based, and it says, 6.7.2, and that was a portion of the zoning ordinance, but the fact of the matter, when they went to get the variance, that property was not under that section. It was a regular R-7 zone.

Ed Meehan: You may be in the wrong church, arguing this.

Bob O'Connor: Yeah, I guess.

Ed Meehan: Because I think the argument would have been proper before the ZBA.

Bob O'Connor: Well, it would have been sure, but they are of the same ears as you folks sometimes, so they didn't listen to that, and their action was against your regulations in that it was a use variance which your regulations say that they can't do. But that is water under the dam. My point is, that I am trying to make is, that the property presently is not under 6.7.2, it's just a plain R-7, and you have the authority to grant, by your regulations, these are your rules that you folks made over the years, a one family on a rear lot and that is what your regulations state. So if somebody comes in and asks for a two family, according to your regulations, that doesn't work. For example, if I put a petition in tomorrow for a two family on a rear lot, you'd say, Bob, read the regulations, it doesn't go, we don't do this.

Ed Meehan: That's correct.

Bob O'Connor: Okay, but if I get an inoculation variance, then you will listen to me.

Ed Meehan: The Commission has to receive the application, and give it due process and have a hearing.

Bob O'Connor: Right, and you could do that with me, and then you would say, can you read the regulations, 6.7.2, it says one family, do you understand that, Bob?

Ed Meehan: They might say that...

Bob O'Connor: Yeah, but if I had an inoculation variance, that was previous, then that's no problem.

Ed Meehan: Well, the Commission has been provided with legal advice, not particularly on this application that you are speaking to, but other applications, and in discussions with town attorneys, and the terminology that I believe the Commission has been told is that the variance trumps the standard that has been varied. In other words, let's say you have a height variance of

thirty-five feet, and an applicant gets a variance to forty feet, that trumps what TPZ can regulate. They have to accept the variance as given, and that is the situation here.

Bob O'Connor: Right, well, it's not the situation here because that would be on a situation where I was already under a thirty five foot height requirement. The zone I was in said, thirty-five feet. I go to the ZBA, I get a variance for forty, you guys are out to lunch. You have nothing to say about it. Do I understand you? Is that right?

Ed Meehan: Yes.

Bob O'Connor: That is not the case here. These people don't have their Special Exception yet. They're not under the regulation that they have a variance to. So if you grant them the Special Exception, you are violating your own regulations, because you know they have a variance. And the variance is moot, it's a scrap piece of paper, unless you authorize it by granting the Special Exception. If they came in for one family, fine and good, but they're not. And then I just have a little bit of a problem with your legal notice, because again, Section 6.7, it talks about one family. This is a request for a two family, so I would say that your legal notice is less than accurate.

Ed Meehan: But that is what they are asking for, two family.

Bob O'Connor: But that is not what your legal notice says, your notice of hearing says, you give one address, 230 Sunrise, there is no indication that it is for a two family in your legal notice.

Ed Meehan: It says a Special Exception for an Interior Lot, right?

Bob O'Connor: Yeah.

Ed Meehan: Well, that is what they applied for.

Bob O'Connor: Well the previous legal notice, when they were here, said two family. I would just say that it is less than straight forward. But anyway, these are your regulations that you guys made, that you asked the citizens of Newington to live with, the citizens of Newington have faith and confidence in this board, that they granted you the public trust and you will do due diligence, and so if your regulations say single family, and then you have somebody with an inoculation variance and then you get all these mumbo-jumbo legal opinions, and you don't use your common sense, then you regulations don't get obeyed. Thank you.

Chairman Camilli: Thank you. We can have rebuttal to that.

Attorney Cusmack: Just briefly, Mr. Chairman. I believe that I have already addressed the objection Mr. O'Connor raised at the last meeting, but I do want to add that I fully agree with Mr. Meehan's interpretation. The function of the ZBA is to vary the regulations, substantively they have approved the two family at this particular location, and from that point governs what takes place before this Commission, and I believe that the Town Attorney fully, and has already opined in that same way, so I would respectfully request again that we be continued, allowed to submit the revised petition, and hopefully appear before you in another two weeks with that. Thank you.

Chairman Camilli: Thank you. Do you want to rebut again? Give it one more shot?

Bob O'Connor: I just want to say, thanks.

Chairman Camilli: Okay, we will leave Petition 27-06 open.

C. PETITION 26-06 2340 Berlin Turnpike, former Hartford Drive In, Elias M. Loew Connecticut Realty Trust owner, Toll CT Limited Partnership, applicant, represented by Attorney Thomas J. Regan, Brown Rudnick Berlock, Israels, LLP, 185 Asylum Street, 38th Floor, Hartford, CT 06103-3402 request for Special Exception Section 6.2 ground signs, R-12 Zone District.

Attorney Regan: Good evening, Mr. Chairman, Members of the Commission, for the record, Tom Regan, from Brown, Rudnick. I'm here tonight on behalf of Toll Brothers. We are here tonight for our sign approval for our two signs at the Hartford Drive-In project. As you may remember, some months ago we were here when the project was approved, and we're, at this point received our STC permit, we received our DEP permit, we are probably within a week of closing on the property, and we're just here to get final approval of our two signs, one at the entrance on Prospect, and one at the entrance on Back Lane. With that, I'll turn it over to James Surkonawicz from BL Companies to just kind of walk you through the location of the signs, and what they look like.

James Surkonawicz: Thank you. For the record, my name is James Surkonawicz with BL Companies, we are the design engineering firm. I am not sure if the Commission has a copy of, has been these plans or not?

Ed Meehan: Yeah, it's in their plans.

James Surkonawicz: The primary entrance sign is located in the center island off of Prospect Street, that is a right in, right out access point. The other sign is located at the full access driveway that leads to Back Lane in the Town of Wethersfield. The sign itself however, is still located in the Town of Newington. I have shown on the second sheet in the set of plans that was submitted, the sign on Prospect Street has columns, pillars, on either side, and will be illuminated by one spotlight on each side. The sign on Back Lane however, will not have these columns and will not be illuminated. That was at the request of the Town of Wethersfield and also an understanding that, that access is secondary in nature and didn't want the highlighting, but needed to be identified. The square footage of each sign is thirty-five feet in the center, five feet high by seven feet wide, and the two stone columns on each side of the Prospect Street entrance are also five feet high, three feet wide with caps on the end of them. The detail shows that it is a structural wall that will have a solid foundation and solid block and will have a stone facia on it. That's pretty much it, so if there are any questions?

Chairman Camilli: It meets our standards?

Ed Meehan: It meets our design standards, it's similar to, exactly what the Commission saw when you looked at the Special Exception and the site plan for this project several months ago, and it is what the Town of Wethersfield desired for the Back Lane area.

Chairman Camilli: I don't have any questions, I think it's pretty straight forward. Anyone have any questions? Is the location okay in terms of sight lines.

Ed Meehan: Yes, it's back.

Chairman Camilli: Okay, that would be the only other concern. Anyone from the public wishing to speak in favor? Against? We are going to close Petition 26-06.

Attorney Regan: Thank you.

D. PETITION 28-06 3475 Berlin Turnpike, former Caldor's American National Insurance Company owner, Stew's Wines & Spirits applicant, (Stew Leonard's) Douglas Hampstead VP G2G3 Newington, LLC, 100 Westport Avenue, Norwalk, CT request for Special Permit Section 6.6 Liquor Sales PD District.

Attorney Zullo: Mr. Chairman, Members of the Commission, Attorney Frank Zullo from the firm of Zullo, Flaherty and Murphy. With me this evening is Doug Hampstead, Vice President of Stew Leonard's, and the person in charge of this particular project. This is a pretty straight forward application, two months ago, you graciously approved the location of Stew Leonard's at the location of the former Caldor's site, on the pike, and we are here today to simply ask for approval to locate a retail liquor store within the confines of the building that you have already approved for Stew Leonard's. We abide by all of your distance rules and all of, we're not within five hundred feet of a school, we're not within five hundred feet of another establishment that sells liquor. In terms of the Special Permit requirements, we are in harmony with the area. We have a traffic plan already submitted, with you, when we came in for the original building, and if nothing else, it's just an ordinary liquor store within a super market that I'm sure you are very familiar with. Unless you have specific questions, I don't think there is anything abnormal about this particular application for problematic.

Chairman Camilli: I don't have any questions. It meets all of requirements.

Commissioner Kornichuk: I just have one. You said liquor, is it wine, or is it liquor and wine and everything, like a package store?

Attorney Zullo: It's a retail package store.

Douglas Hampstead: There is no permit, I believe, in the State of Connecticut I believe, that only refers to wine. Doug Hampstead, for the record. Unfortunately the state requires you to sell liquor, with a liquor permit. You can't go in and just open a wine shop. Part of their statutes is that they require you, and this is because the distributors have all the leverage with the Commission, they force you to sell liquor. Almost seventy percent of our sales are wine, and the rest were liquor, so the focus seems to be on wine. Two thirds of our store is at least wine.

Commissioner Kornichuk: I've just never seen liquor in the grocery store.

Chairman Camilli: Are there any other questions?

Ed Meehan: Is a permit available for a package store?

Douglas Hampstead: We checked with the state and there is one permit left in Newington, otherwise we would not be, originally we didn't even propose it.

Chairman Camilli: Okay, any other questions? Anyone from the public wishing to speak in favor? Against? We will close Petition 28-06.

Attorney Zullo: Thank you very much.

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

None.

IV. MINUTES

April 26, 2006 TPZ Regular Meeting

Commissioner Kornichuk moved to accept the minutes of the April 26, 2006 regular meeting. The motion was seconded by Commissioner Pruett. The vote was unanimously in favor of the motion, with six voting YES.

April 19, 2006 TPZ Plan of Development Workshop

Commissioner Kornichuk moved to accept the minutes of the April 19, 2006 Plan of Development Workshop. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with six voting YES.

V. COMMUNICATIONS AND REPORTS

Ed Meehan: On the table is an invitation to a June 3rd trail walk, sponsored by the Newington Healthy Alliance and Greenways Committee. It's an all day affair. Also there is an article that I copied out of a planning magazine, for those of you who are following the New Britain/Hartford Busway, and bus rapid transit in general, it talks about the L.A. system, but some of the folks from ConnDot and CRCOG are quoted in this article about the New Britain/Hartford busway plan. I thought you might be interested in that.

Did you all see the invitations about the ground breaking at Stew Leonards tomorrow?

Commissioner Ganley: There was a piece in the Courant also on the state legislature approving moneys specifically for the for the busway, so there is now some state money out there, I mean, it's part of the package, but nonetheless, there is state money available for this busway project. It looks like it is going to, it seems to me, absent some major engineering defect, I think it is going to go.

Chairman Camilli: Well, I don't know. I watched the Council meeting last night, it was kind of like, I'm not sure, they still have to get through a federal hurdle. It's not quite over apparently. I mean, if they don't, it all depends on, according to what the state fellow said, whoever it was, they have to submit an application by the 7th of July, and they really....

Ed Meehan: They have some deadlines, and it's related to the engineering part of it. If the deadlines aren't met, and they don't get a good recommendation, it slides back to the bottom of the pile, there are other cities, metro areas that are competing for the money.

Chairman Camilli: I mean, he was fairly confident, but you know, they still have to go through some hoops. I think a couple of council people asked if it was a fait accompli, and he kind of skirted that, to be honest with you. I mean, it wasn't a yes, and it wasn't a no, it was very well done, so I'm not sure if it's, even to get the money, if it's absolutely sure but, and also, the two stations. The Council did a fairly good job, I thought, of asking some pertinent questions, and it's, I think it's going that way, but it's not there yet. I don't know what you thought, you were there.

Ed Meehan: Well, they have these milestones they have to meet, internally at ConnDot to get their application down to Washington. Then they have to convince the Federal Transit Administration that this project still ranks high enough to get federal funds. They may all happen this fall. Then you really have to get into the engineering, the construction engineering of the stations and the twelve mile busway is broken into five different engineering sections. They still haven't finished their due diligence on the environmental issues, on the sites that they need to acquire. They need to begin the rights of way acquisition process which they follow the normal

ConnDot procedures which takes anywhere from a year to eighteen months. So they have a lot of work to do ahead of them.

Commissioner Ganley: There's something with Amtrack, don't they come to a point where they are sharing a part of the track with Amtrack.

Ed Meehan: They have some safety issues because of the closeness of the Amtrack line, and the buses they have to work out when they get up into West Hartford, and Hartford.

Commissioner Ganley: I'm just wondering, if the legislative action was designed to put the State's best foot forward, that is, we got some dough, part of our application, we're putting some money up.

Ed Meehan: It's a catch-22, if the state didn't do it, then they would have no foothold to go to the feds.

Commissioner Ganley: They seem determined to go ahead with this.

Chairman Camilli: The other thing that they were, one of the fears that the Council people have is, you know, the TOD's and it was strictly, from what I could gather, a transportation part, rather than a development around, which they were concerned about, you know, they said that the local towns would have a say so, the say so about what would be developed if they wanted to, around the stations. I mean, it's like two separate things going on the same time.

Ed Meehan: Well, it was a good hour and fifteen minutes discussion last night, the Council did a very good job of asking questions and listening. Much better than a public workshop where you don't have people across the table, I think, I mean, the workshops are good, but it's better to have your seven or eight Council people there, and the Mayor asking these questions.

VI. NEW BUSINESS

None.

VII. OLD BUSINESS

- 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. Hearing closed April 26, 2006.**

Commissioner Schatz moved that 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 be approved based on the following:

1. This entire property is within the 100 year flood hazard zone.
2. The Newington Conservation Commission acting as the Inland Wetlands Agency approved Application No. 2006-2. All requirements of this approval are made a part of this Special Permit.

3. In addition to the applicant's engineer certification of flood storage area capacity, the engineer shall certify to the Building Inspector that the lowest floor level is at least one (1) foot above the base flood elevation and that all utilities (meters, compressors etc.) are above the 100 year flood level. These certifications shall be provided prior to the issuance of Certificate of Occupancy.
4. Approval is based on plans entitled: "Site Plan Proposed Building at 295 Stamm Road, Property of Alex Lomaglio Trucking, Inc." Scale 1"=20' prepared by Nadir Donat, revised dated 4-11-06, Sheets 1 to 2.

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

Chairman Camilli: Motion passes unanimously.

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. Inland Wetlands Report received.

Commissioner Kornichuk moved that 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 be approved based on plans entitled "Site Plan Proposed Building at 295 Stamm Road, Property of Alex Lomaglio Trucking, Inc, " Scale 1" = 20' prepared by Nadir Donat, revised dated 4-11-06, Sheets 1 to 2 and building elevations by Norfolk Design, LLC.

Prior to the Chairman signing the site plan mylar the following modifications shall be made:

- A. Show location of dumpster enclosure,
- B. Identify the surface of non paved parking area behind the building,
- C. Add note "No construction materials to be stored outside of the building",
- D. Modify retaining wall detail to show metal beam guard rail protection,
- E. Add Zone Table and Landscape Table.

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

Chairman Camilli: Motion passes.

C. PETITION 20-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 3.15.3 Restaurant Use, B-BT Zone District. Hearing closed April 26, 2006. Sixty five day decision period ends June 30, 2006.

Commissioner Fox moved that Petition 20-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 3.15.3 Restaurant Use, B-BT Zone District be approved the Commission finding that the proposed redevelopment of

this corner property for restaurant use is consistent and compatible with adjacent land uses and the zoning plan for the Berlin Turnpike.

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

Chairman Camilli: Motion passes unanimously.

- D. PETITION 21-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 3.15.4 Restaurant Use Drive-In, B-BT Zone District. Hearing closed April 26, 2006. Sixty five day decision period ends June 30, 2006.**

Commissioner Pruett moved that Petition 21-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 3.15.4 Restaurant Use Drive-In, B-BT Zone District be approved based on site plan prepared by Bohler Engineering, P.E., revised dated April 19, 2006, scale 1"=20' sheets C1 to C8, D1 to D4 and architectural elevations A2 and A3.

1. This Special Exception acknowledges variances granted by the Zoning Board of Appeals for Drive-In restaurant uses permitted A) reductions in minimum distance to residences, B) driveway separation to intersection, C) maximum impervious coverage area.

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

Chairman Camilli: Motion passes unanimously.

- E. PETITION 22-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 6.2.4 pylon sign, B-BT Zone District. Hearing closed April 26, 2006. Sixty five day decision period ends June 30, 2006.**

Commissioner Ganley moved that Petition 22-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp., owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street, Hartford, CT 06123-1277, request for Special Exception Section 6.2.4 pylon sign, B-BT Zone District be approved based on the following:

1. The pylon sign shall not exceed 18 feet total height and shall be located as shown on the plan, no part of the sign shall project into the state right of way.
2. The sign design shall be as presented to the Commission entitled "90-80 Road Sign with Reader Board" prepared by Image Point, scale 1"=32', dated April 10, 2006.

3. The 3' x 8' double sided reader board shall not display flashing, running, rotating, alternating words, lettering, logos or other digital messaging announcements.

The motion was seconded by Commission Fox.

Chairman Camilli: I just have a question. When they say a reader board, number three, we have another situation on the Berlin Turnpike where it does rotate to some degree. What constitutes that, I mean, and I'm not trying to....

Ed Meehan: I think that, you are referring to the Walgreen's....

Chairman Camilli: Yeah.

Ed Meehan: When the Walgreen's sign was approved, there was no language like this in the motion, it was based on the record of the attorney who presented the sign, and I think the applicant said, we are not going to have rotating, flashing, running sign.

Chairman Camilli: Yeah, but then it was, right?

Ed Meehan: On occasion it has been, as different store managers come in, and are either trained, or show up there, that don't know the history of the sign, you will get a day or two where you know, it's advertising multiple products over a short period of time, so in this case, we tried to spell out exactly what is not supposed to happen there. As far as the length, I would say, if it is changing more than once an hour, it's too much. If we went out there, and it said, Big Mac's, dollar specials, and then we went back fifteen minutes later and it was Whoppers, they don't sell Whoppers, do they? Quarter pounders, I think it's judgment. I tried to think of everything that I've seen on these digital signs, and, they rotate, they sort of look like a wave, so that is why I put digital in there.

Commissioner Ganley: The site plan is retro 1950's, they didn't have those then, ergo, they should not have them now.

Chairman Camilli: Well, they are going to have, it's a question of, as I said, we ran into the problem with Walgreen's, that's the only reason I brought it up, but I think Ed tightened it up. I think there is enough teeth in there in case something....

Ed Meehan: We have a couple of reader boards on the highway.

Chairman Camilli: Oh, they're fine.

Ed Meehan: They either change them manually or they may program them.

Chairman Camilli: Okay, I bring that up, not so much for this application, but because of Walgreen's.

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

Chairman Camilli: Motion passes unanimously.

F. PETITION 23-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp, owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC, One State Street, Hartford, CT 06123-1277, request for Site Plan development, Section 5.3 5,265 sq. ft. restaurant use, B-BT Zone District.

Commissioner Schatz moved that Petition 23-06 2355 and 2371 Berlin Turnpike, known as McDonald's, McDonald's Corporation/Franchise Realty Interstate Comp. Owner, McDonald's Corporation applicant, represented by Attorney Susan Hays, Updike, Kelly & Spellacy, PC One State Street Hartford, CT 06123-1277, request for Site Plan development Section 5.3 5,265 sq. ft. restaurant use, B-BT Zone District be approved based on the plan prepared by Bohler Engineering, P.E. revised dated, April 19, 2006, scale 1"=20' sheets C1 to C8, D1 to D4 and architectural elevations A2 and A3.

1. Prior to the Chairman signing the site plan mylars the following shall be addressed:
 - a. At the southwest corner of the property adjacent to the dumpster enclosure, where 2 to 1 slope is proposed, the landscape shrubs "Rock Mountain Juniper" planting beds, shall be extended approximately 30' to 40' along the property lines. The size of these plantings shall be increased to 5' to 6'.
 - b. The Town Engineer's technical comments and requirements shall be incorporated into the final mylars and the applicant's engineer shall coordinate with the Town Engineer a pre construction meeting.
 - c. Prior to the issuance of the Certificate of Occupancy the applicant's engineer shall certify that the storm water control system has been installed in accordance with the approved plan.

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

Chairman Camilli: Motion passes unanimously.

VIII. PETITIONS FOR SCHEDULING (TPZ May 24, 2006 and June 14, 2006)

- A. PETITION 29-06 Assessor Map NE 505 East Cedar Street, known as Cedar Mountain parcel, Connecticut Children's Medical Center owner, Reno Properties. LLC, 170 Pane Road, Newington, applicant, represented by Lewis Wise, Rogin, Nassau, Caplan, Lassman & Hirtle, City Place I, 22nd floor, Hartford, CT 06103, request for subdivision CD Zone District. Schedule for public hearing May 24, 2006.
- B. PETITION 30-06 Berlin Turnpike, known as Lazy Boy site, CNLRS Exchange I, Inc. owner and applicant, represented by Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 request for Special Exception, Section 6.2.4 Free Standing Sign, PD Zone District. Schedule for public hearing May 24, 2006.

Chairman Camilli: We've got this Cedar Mountain....

Ed Meehan: Confirm the Commission wants to bring that to public hearing, and the public legal notice needs to go in this weekend and the following weekend for a May 24th hearing. Lazy-Boy, I'll give you an update on that. This is for the free standing sign. I talked to Attorney Mason, Kevin Mason today, and the parties who appealed are going to withdraw their appeal of the TPC decision. The property owners involved have worked out a resolution of the concerns, but they

need to bring that to the superior court judge to ratify the agreement, before they can actually have an approval.

Chairman Camilli: There's no changes to the site plan?

Ed Meehan: No changes to the site plan, and the judge just has to ratify the withdrawal. They are still endeavoring to get their State Traffic Commission certificate, in fact, we were discussing that with the State Traffic Commission staff today. There was a push to get them on for next Tuesday, but they asked me, as the Town Planner, would I support that, I said I would not, because until the court actually signs that agreement, we don't have an appeal that was withdrawn, and they don't have an approved site plan, and technically there are still some drainage issues that A-N Engineers have not worked out yet with our Town Engineer, that Mike Mancini has some concerns with, as well as the State of Connecticut, having to do with the size of the drainage system in the Berlin Turnpike. So, I think another month. The State Traffic Commission meets the third Tuesday of every month, will give them time to get the legal and the engineering parts out.

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

None.

X. REMARKS BY COMMISSIONERS

None.

XI. STAFF REPORT

A. Planning Department 2006-2007 Strategic Plan and Quality of Life Trends

Ed Meehan: I have a couple things. You have the invitation to Stew Leonards tomorrow, if you can make it.

A couple of development projects coming that you should know about. Sam's has filed their plans with the Conservation Commission for Wetland Approval for the 135,000 square foot Sam's down at the Caldor Plaza. That will go to the Conservation Commission next week, and it will be scheduled for public hearing in June. That will probably take a month before Conservation, and they will be coming in then to TPZ, with their development plan.

The development on Charlie Lowe's piece, on the top of the mountain, the developer is probably a month away from filing that, getting pretty close. He did show us some building elevations, and he's working on the traffic, so that may be filed with Conservation Commission next week. It has to go to Conservation first.

There was some action on the old Krispy Kreme. There is a bank looking at that site right now. They may be filing plans pretty soon on that site.

Chairman Camilli: They want to use the pad, right? They want to put a pad in there.

Ed Meehan: The bank wants to take the Krispy Kreme itself, and convert it to a bank, use the drive through lane as their ATM lane and the attorneys representing the bank were unsure about the pad site, that's a separate deal with the owners of the property now. I advised them just to know what it is, because I think a bank works well there from the point of view that it is open nine to five, it's not open weekends. Issues with the neighborhood would be much quieter, but a pad site, we will have to see what happens there as to what.....

Chairman Camilli: They bought the whole thing, right?

Ed Meehan: Bought the whole thing. So that is moving along.
The Chamber of Commerce, on May 16th, is going to be presenting an awards to the town for the town center design, the town center façade design, and the streetscape, the design you guys approved, so that's some nice recognition.

Chairman Camilli: Anything on the Plan of Development.

Ed Meehan: I need to talk to you for some dates, we'll call them focus meetings. My calendar is getting jammed up in May, but I'm looking toward the end of May, for at least the first focus meeting to go over the housing, economic and population components, and invite Chamber of Commerce, Economic Development once we get a date. Then, in June, we will do the other three components. That's pretty much it.

XII. ADJOURNMENT

Commissioner Kornichuk moved the adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary