

NEWINGTON TOWN PLAN AND ZONING COMMISSION

September 14, 2005

Regular Meeting

Chairman Vincent Camilli 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.

I.

Commissioners Present

Commissioner Anest-Klett
Chairman Camilli
Commissioner Cariseo
Commissioner Fox
Commissioner Ganley
Commissioner Kornichuk
Commissioners Absent

Commissioner Schatz
Commissioner Andersen
Commissioner Prestage

Staff Present

Ed Meehan, Town Planner

II. PUBLIC HEARINGS

- A. PETITION 32-05 1000 Willard Avenue, Paul DeFelice, 295 Orchard Avenue, Newington, CT 06111, owner and applicant request for Special Exception Section 6.7.2 Interior Lot, R-12 Zone District. Inland Wetlands Report required. Continued from August 24, 2005.**

Chairman Camilli: We are still waiting for the Inland Wetlands report, so unless someone wants to speak on that particular petition, we will go onto the next one.

- B. PETITION 41-05 944 Main Street, Jeffrey L. Hedberg, 27 Garfield Street, owner and applicant represented by Attorney Leon S. Davidoff, 29 East Cedar Street, Newington, CT 06111 request for zone map amendment R-12 (Residential) to B-TC Business Town Center) for property known as 944 Main Street, approximately 14, 985 sq. ft. parcel. Continued from August 24, 2005.**

Attorney Davidoff: Good evening Mr. Chairman, Members of the Commission, Mr. Meehan, Town Planner, my name is Leon Davidoff, and I am the attorney representing the applicant Jeffrey Hedberg on his petition, which is a request for a zone map amendment from R-12 residential to B-TC Business Town Center for the property known as 944 Main Street. I would like to first begin this evening by thanking the Commission for postponing last months hearing and bringing it to tonight's meeting as an item on the agenda.

Mr. Chairman, at our last meeting, we basically outlined what the background as to the zone, and what we are seeking to change, the policy reasons that we felt that the zone would be appropriate to the change, I don't know if the Commission wishes me to restate that for the record, to refresh them, or if they have that already.

Chairman Camilli: We have that on record.

Attorney Davidoff: Okay, so the only issue that we were left with was that the Commission had a concern as to future use of this property. It was the Commission's request that my client consider a restricted covenant prior to the Commission taking any action on this application. I spoke with my client concerning restricted covenants. I explained to him what they are, their legal affect and the binding nature of that, and let me just point out some of the aspects of a restricted covenant. A restricted covenant would run with the land and binds all of the owners of the premises, heirs, legal representatives, successors and assigned in perpetuity, that means forever, so when we were deciding as to what things, what property rights my client was willing to give up, and usually when people come before a zoning hearing, they are looking for more property rights, the ability to make exceptions to different property uses, not scale back the uses. It was discussed in a very thoughtful way, in a way that we felt would not be detrimental to my client's economic interests, as well as the best interest that we feel to the Town of Newington. I drafted a document and let me read for the record those points that I think are pertinent. I did speak with the Town Attorney, and the Town Planner with respect to this legal document, and one comment that I did receive from the Town Attorney was, are you sure that your client even wants to go forward with a restricted covenant because, as real estate attorneys, it is very rare that somebody would want to do that, especially since it is going to restrict the use. Basically it says that we are going to declare an express covenants stipulations restriction running with the title for the premises forever. That the premises shall be used only for those permitted uses by right subject to site plan approval in the BT Zone, including, but not limited to professional office space pursuant to the Town of Newington Zoning Regulations as the affected date hereof.

Number two is the size of the existing structure shall not increase in square footage, and the third point was that it is obviously going to run with the land and bind future owners.

I did have a discussion with Mr. Meehan about this, as to whether or not this covenant went as far as this Commission so desired, and I expressed to Mr. Meehan that at some point, if we restricted it to just professional office space, forever, and in perpetuity, the market ability of this piece of property or the ability to change the use, whenever, fifty, sixty years from now, we would never be able to do, okay? Whether it be Mr. Hedberg's grandchildren, his heirs, somebody else who owned the property, and you know, professional office space seems to be something we know today, in the year 2005. In the year 2055, professional office space may not even exist as a use because a lot of people through the electronic age that we currently live in, may just work from home. It may not be something, where people actually go there, so would that be such a great thing, having this boarded up building just sitting there, so there needed to be some flexibility. I said to my client, I think that a compromise would be only those uses that are permitted by right subject to site plan approval. What we gave up were those uses that were permitted by Special Exception. I think by restricting the size of the existing structure so as not to increase the square footage we are basically saying the footprint of the building as currently exists today, is what my client is looking for, in perpetuity would exist for future generations so that the three pillared building, up front on Main Street would not get bigger, and I think that was a major concern of the Commission.

I don't know what else I can possibly add, but the only thing that I would like to add is that in my eighteen plus years of practicing law and ten years of doing zoning type law, I think that this is probably the, this is the only time I've had to consider a restricted covenant for a zoning amendment matter, something that was usually non-conditional, and something which I, as an attorney at law, need to be very careful in terms of drafting things, which may not be in the best interest of my client. My number one duty as an attorney is to act always in the best interest of one's client, so there is a very thin professional line here that I had to walk in respect to my client and my legal responsibilities, and meeting the wishes of the Commission. Sometimes they do meet, and sometimes they don't and I said, this is probably as far as comfortable that I could advise someone to go forward with, because if you were just to restrict this to professional office, then I think that would definitely not be in the best interest of my client, and something that would

not be a position that somebody who was advocating for a zone map amendment would recommend. I understand the Commission's sensitivity, and my client understands that, and basically are still to believe with this restricted covenant, the interest of the Town will still be protected because other uses, other than professional office buildings will need to get site plan approval which would be in the realm of the jurisdiction of this Commission.

That is basically what I have to say with respect to the restricted covenant issue. We still believe firmly that the zone change to Business Town Center is in harmony and compatible with existing uses and that the proposed use on this particular application, professional office space, is one that would be of a nature to be compatible with the Town Plan of Development and Plan of Conservation. Thank you.

Chairman Camilli: Are there any questions from the Commissioners?

Commissioner Ganley: These are provocative questions, by the way, I'm still not taking a position one way or the other. What we are looking at for professional office space, I think that most of us think of CPA's, lawyers, marketing people, that sort of thing, as a type of profession in professional office space, what about a laboratory that takes samples from hospitals and checks the person out to see if they are okay and sends back a report that says, your patient is not dying of a brain tumor, something along those lines. How about a dentist? You know, a dentist wants to go in there, does that fall into that very general realm, if you will, of professional office space? That's why I, I would rather see the thing considered on a case by case basis to be sure that there is sufficient flexibility for the owner to get something that would meet the general fit, if you will, of what is in fact, proper at the time. At the time, for that setting. That is my concern.

Chairman Camilli: Anyone else. Ed?

Ed Meehan: Well, to answer Commissioner Ganley's comment, doctor's offices, and labs are permitted in the Business Town Center Zone and they are treated only different in the sense by having a higher parking standard. A professional office such as an accountant, an attorney, architect, or insurance broker, so forth, would have a different parking count of 3.5 spaces per one thousand square feet, if the Commission determined that the use met your design criteria, that is what is being proposed here, that the house be restored to meet your design criteria. If the property does not meet your town center design criteria, then the standard of six spaces per thousand would apply. So they get a bonus, or incentive to meet your architectural design criteria. For medical uses, the count is going to be higher. If they don't meet your criteria it is going to be seven spaces per thousand for a dentist or a doctor's office or a lab where you have people coming and going and if they meet your design criteria, I believe it is going to drop to four spaces per thousand, so.....

Commissioner Ganley: So that would mean that if the petitioner then, today's owner or any subsequent owner, would really have to come back, as they are doing now, the zone change aside, but would have to come back to us and say, I want to do this, with the building, and then this Commission would approve it, so I don't have a problem with any clause in the covenant that merely says that if you want to change it, come on back here.

Ed Meehan: Well, they would have to show they have the parking available.

Commissioner Ganley: Yeah, exactly my point.

Ed Meehan: Again, this gets you a little bit into the site plan issue, because they don't have the parking available, on this property, for the uses they are talking about, professional office uses, that is why they are proposing, under your site plan procedure, for cross easements with the

adjacent property. That would be one criteria. Maybe I could just review for the Commission the type of uses that you would perhaps entertain by right if this was a site plan review. The uses that are permitted in the Business Town Center Zone by right, subject to site plan approval, are, retail stores and trades, banks, personal services, hair salon, nail salons, that sort of use, clubs and fraternal organizations, parking lots, food preparation, caterers and bakeries, corporate headquarters, research and development offices, theaters and places of assembly. That has some limitations, that is not a place of assembly like an arcade or bowling alley or anything like that. It is basically a theater, a movie theater or small arts theater. Uses permitted by Special Exception which is not being proposed by the applicant, but I'll give you an idea of what those are, health clubs, dance studios, funeral homes, auto related uses, printer and dry cleaning services, restaurants, except drive-through restaurants, and mixed use development, such as commercial use on the first floor and residential use on the second floor. Those all require Special Exception. So that is sort of the menu of the by right uses as well as the Special Exception uses, if the zone change were to be made, a policy decision.

Commissioner Anest-Klett: I have a question. When you were talking about the restricted covenant and you said, but not limited to, professional, what were you alluding to on that? I mean, by saying, not limited to, you are saying

Attorney Davidoff: By saying not limited to, I wanted to specifically state what we were talking about here, professional office space, but also those other uses which Mr. Meehan just pointed out were permitted, by right in the Business Town Center Zone. The thing with restricted covenants is, once it gets recorded on the land records, there is no way to change it. It's there forever, so once somebody declares that is how they want to restrict their property, there's no mechanism, unless it is found to be unenforceable by a court of law, to remove it. So.....

Chairman Camilli: Anyone else?

I'm just going to make a little statement. That phrase in there, those permitted uses by rights subject to site plan approval, you conceded the Special Exception but you are going by site plan approval, in effect means that this covenant isn't really worth that much. As a matter of fact, they can do anything. I thought it was, I thought we gave the impression that we were going to limit it to just professional office space, so all of the things that Mr. Meehan alluded to, that would be, could happen under the zone change, really leaves the Town exposed, and I know that you are an advocate for the client, but we are the advocates for the Town and in my opinion, this does not give the Town enough security, if you will, comfort, that this will be limited to just professional office space in the future. As a matter of fact, it doesn't, so I'm frankly kind of disappointed in this covenant. That's my statement. I'll let you respond, but anyone from the public wishing to speak in favor of this application? Anyone wishing to speak against? Attorney Davidoff, I'll let you respond, you will have your chance to respond.

Veronica Charmut, 15 Ellsworth Street: I'm not used to doing this, so forgive me if I fumble. I am at 15 Ellsworth Street, which is adjacent to this property. We too, were under the impression that it would be limited to, say lawyers and professionals. When I checked further into it, and saw all that we just discussed here, I certainly don't want hair salons and retail abutting my property. I think it will adversely impact the value of our property. We originally had no problem with a lawyers office, but hearing tonight that it could be anything that is allowed under that particular zone is very troubling to me. The future is just unknown, and I certainly don't want a parking lot next to my back yard. I don't care what the business is, I don't want a parking lot there. Are they are keeping the structure the same size and the same distance from the house, I understand that it is not a proper distance for commercial to residential, but I'm okay with that as long as it stays professional office. We had no problems with the lawyers office. We do have problems with the potential future.

Chairman Camilli: Thank you for your input.
Is there anyone else?

Holly Harlow, 11 Edmund Street: Am I allowed to ask a question of the Commissioners?

Chairman Camilli: We will try to answer as best we can at the point, but you ask the question, we'll write it down.

Holly Harlow: All right. I object to the zone change, as I said in past hearings, out of concern for the historic resources and the character of the neighborhood that could be lost in the future development, and I'm aware that the state's archeologist has corresponded with Mr. Meehan and would be curious about the judgment that would be forthcoming based on that recommendation that he has, but my objection is based on the fact that this is historical property, it is characteristic of Newington, and to risk those things for future development is a concern to me. Thank you.

Chairman Camilli: Now, what was your question?

Holly Harlow: The question.....

Chairman Camilli: I mean, was there a specific question as far as....

Holly Harlow: Well, I'm wondering if the historical survey will occur? Am I allowed to ask that, or if that will have any bearing on the Commission's decision.

Chairman Camilli: I'll have the Mr. Meehan answer.

Ed Meehan: Well, this is private property, and at this point in time, there has been no permission granted or invitation from the private property owner asking the Town, or inviting the State Archeologist onto the property to do any digs or exploration of the land. I have a copy of the letter, it was provided to the Commission members as well as to Attorney Davidoff, and I'm not sure from the letter if he is addressing specifically 944 Main Street or the area adjacent to 944 Main Street, which is the town green, and there is also an intervening piece, as we found out early in this application that is owned by a separate private individual. In any case, the two private parcels would have to, permission would have to be granted. Certainly I think the Town, through the Town Council which is the body which would have to make a decision on anything happening to town property, if they saw fit, the Council could invite the State Archeologist, or the State Historical Commission to visit the green and do some of this work on town property. But, to go onto private property, that would have to be something instituted by the private property owner. This property is not in any way a National Register piece or anything on the state register that I am aware of. They are not seeking any public funds which would trigger any sort of state or federal environmental review, so I think this would have to be a voluntary action by the private property owners to initiate this.

Chairman Camilli: And if they don't?

Ed Meehan: If they don't, then they don't. I don't believe that they can be forced to do this. I'd have to look into that further, but I think the State Archeologist is calling this to the Town's attention to be concerned if there are any significant excavations there, and to make sure that information is collected. That would be something that, how that would be done, is it required? I don't believe that it is. He references the environmental review primer of Connecticut's Archeological resources. I'd have to look into that. I know that if there was any state or federal money involved in this, then before that money could be contracted and spent, under the State Environmental Policy Act, the Town, as the applicant would have to make sure that any

archeological information was collected, and we do that routinely now in Newington. We did it as part of our Small Cities project, we do it when we have a STEEP grant, the town center, we have to follow the State Environmental policy. This is not falling into that category.

Chairman Camilli: So in effect then, just so the people out there who are concerned about the artifacts, or the historical part, the only way that that particular piece of property could be investigated is if the applicant requested a survey be done.

Ed Meehan: I believe so, on the private sector part, yes.

Chairman Camilli: So even if we, the Town Council graciously accepted to say, well, we'll look into the green, and so forth, that really would not have anything to do with this particular piece of property.

Ed Meehan: No, I think the adjacent property owners would have to extend permission for anybody from the State Archeologist's office to come onto their property and to survey it. There are two property owners involved here. The Hedberg piece, which is petitioning for the zone change, is 944 Main Street, and then there is a little strip of land that, as I said before, is in a different property owner's name. They would also have to grant permission. Both of those sort of merge into that green lawn that you see in front of the 944 piece, so you would have to, you just can't go on somebody's property and start digging it up. You have to get permission.

Chairman Camilli: I don't know if that satisfies the audience, but that is the answer that we have. Before we, do you want to ask a question.

Veronica Charmut: Am I that property owner?

Ed Meehan: No you're not. The property that is proposed for zone change, is lot #34, a fourteen to fifteen thousand square foot piece, Center Court is on the east, the former Mazzocolli Plaza parking lot is on the south, 33 is actually 15 Ellsworth Street, on the north, the corner of Ellsworth and Center Court, number 73, these are assessors numbers, they aren't lot numbers, is this small intervening piece, which I think is in the name of Mongello, that is the estate name, and then this large piece right here, number 32, is the town green. This is the only public land, right in here.

Commissioner Anest-Klett: It says properties located adjacent to and part of, the historic remnant of the town green, so wouldn't that encompass 34, 33, 73, 32?

Ed Meehan: I'm pretty sure it encompasses the town green, I don't know if....

Commissioner Anest-Klett: Adjacent to...

Ed Meehan: Adjacent to...

Commissioner Anest-Klett: North, south, east, west.

Ed Meehan: I don't know that it encompasses 944 though, itself. I couldn't tell from this letter. He is certainly talking about the town green area, he talks about it being a place for meetings, musterings, and parading.

Commissioner Anest-Klett: At one time, was it like, there was more town green than there is.

Ed Meehan: Yes, you're right. There was more town green before Main Street was widened, and this is also the route of the former trolley right of way, that went right up through that, so I don't know how much of anything is left, and that goes back to the 1910, 1920's. So a lot of this area may have been disturbed over the course of Newington's history.

Chairman Camilli: So now that we have this letter, just for the process, if the property owner doesn't want to do anything, and lets it fall aside, and we can't, it says please feel free to contact me to set up a field review, but there is basically no field review to do.

Ed Meehan: Again, I think that if the private property owner wanted to volunteer and offer permission to his property, a field review could do done there, and that's the same for the town. If the town green is very important in Newington center. We have been talking about improvements to the town green this past year, and maybe extending our Main Street streetscape program to include parts of the town green, and as part of that, the Town Council could invite the State Archeologist to look at the town green, and then I think it would have to be done with some understanding of what the parameters on the study are. When is it going to be done, how long is it going to take, who owns the artifacts if you find them there, do they belong to the Town of Newington, or do they go to the state?

Chairman Camilli: Then the best we could do as a body is to refer it to the Council and just say we got this letter from.....

Ed Meehan: The State Archeologist happens to be a Newington resident, and I can certainly talk to him, and say, what does this entail, what happens in this situation, how do you work with municipalities?

Chairman Camilli: I think we should find out. I don't know what we can do, but we should at least find out what the process is.
Is there anyone else from the public wishing to speak against the application.

Randy Harlow, 11 Edmund Street: I live in the neighborhood. My family goes back to Plymouth, Mayflower, and Plymouth Colony and we are affiliated, the Harlow Family Association is affiliated with the Plymouth Antiquarian Society, and we have made a pact to preserve history as much as we can. I understand that you cannot dig on someone's private property however, to zone it commercial, and have it be not, specifically known that there won't be something else that is not there now, it troubles me because even if they did do an archeological survey, of the green and found something of worth, this particular house is purported by the Historical Society of Newington to be the site of the town's first meeting house. The original structure built in 1722. If something is found that is related to that, and it is zoned commercially, then, by what I understand from here tonight, then is that it could be put into a parking lot, and/or some other hair salon, or theater, or whatever, and we would be opposed to that for the neighborhood. It would take away from the charm of our neighborhood, and if something important was found, it would be, to me, I think the town's responsibility, although I'm not sure legally if it is, it would be the town's responsibility to protect the last slice of our colonial history, being when we were part of Wethersfield, we were one of the first three towns in the entire state and among a handful in the nation, and to protect that, is most important. To let it go by, I think would be irresponsible for all involved.

Chairman Camilli: Thank you. Someone else, wishing to speak against?

Holly Harlow: I just wanted to make a comment. To me, as a Newingtonite, and someone who wants to preserve our history and character of the town, I would consider it a good thing if the property owner would volunteer to have that done. To me, that would show regard for the

concerns of the citizens, preserve the history that could be lost. In my opinion, to disregard that, shows disregard for what might lie there and what could be lost. So I would hope that the property would allow a survey to occur on his property.

Chairman Camilli: Thank you. Attorney Davidoff, you have five minutes for rebuttal.

Attorney Davidoff: Again, for the record, Attorney Leon Davidoff, representing the applicant, Mr. Jeffrey Hedberg. I think a key point, that may have gotten lost in translation of the restricted covenant is that any use that is going to be operated out of this premises, 944 Main Street, would need to receive site plan approval by this Commission, and there needs to be adequate parking, there needs to be other factors that are in your zoning regulations, which this Commission decides, not the applicant. With respect to the professional office building, for example, we have put together a mutual parking easement to share the parking with 2-14 East Cedar Street, because Mr. Hedberg owns that parcel as well as this other parcel. If Mr. Hedberg no longer owns 2-14 East Cedar Street, or 944 Main Street, that parking easement only runs between those two parties, and obviously his heirs and assigned, but if there is a third party, that mutual parking agreement doesn't exist. So, this Commission has a lot to determine when it determines the use of the site. Parking is a big factor with this site because, when we get to our site plan application, you will notice that we only have two spots on site, we are using most of the spots at 2-14, so I don't know that it would be a wise decision to preclude corporate offices from being there, if it would be a prudent decision to tell somebody, a large financial institution wishes to convene their board meetings, in this building, they just can't do it because it doesn't fall within, quote, professional offices.

With respect to a parking lot, my client has no intention, and we stated for the record, of tearing down a structure that he paid in excess of four hundred thousand dollars for, to put in a parking lot, and this Commission would decide whether or not a parking lot would be an appropriate use for that parcel, before anyone could tear it down and make it a parking lot. A hair salon, my client is not into putting a hair salon, he has a hair salon in 2-14, he has a hair salon over at 2-14 known as Modern Hair, he has a tenant already. When you are a landlord, and I think we have to realize some of the realistic situations as a landlord, you don't want your tenants to be unhappy, you don't want them to compete with like uses. It doesn't help you if your tenants don't succeed because what happens is that you won't be able to get your rent checks, because your tenant didn't succeed because you brought somebody else in to compete against them. And who do you have to blame but yourself. I think that Mr. Hedberg has been born and raised in Newington, I believe, or lived here since he was a little kid, and thinks very highly of Newington. We aren't just talking about somebody who has come from out of town, and just decided one day, drove down the street and said, this will be a great thing to make a professional office. I think he has given this some careful thought to this, and he is willing to invest significant sums of money to make that building, and I invited the Commission the last time to view it, into updating that facility, and I think an updated facility next to the town green is something that we want, and we are having private investment dollars do this. The Town of Newington is not doing the façade improvement, the State of Connecticut or the Federal Government is not doing this. A private individual is taking his own personal property that he owns, that he purchased for in excess of four hundred thousand dollars, and is willing to commit additional funds to make it fit the design standards. That's what we are talking about here this evening.

I don't know what is going to happen tomorrow, I may not even be alive, but I don't know what the business uses or permitted uses would be, and that list that is in our zoning regulations, twenty years from now, may not be the same uses that one would think of. Computers, twenty five years ago weren't even prevalent, but are we going to tell somebody that they couldn't put in there a use where they would just have main frame servers like we have over on Fenn Road. You don't even know that that is in there in one of those parcels. If one drove by the corner of South Main Street and Park Road and Sedgwick Road in West Hartford, on the corner, across from where Deswanni used to be, okay, across from the SNET building, across from the funeral

home, inside that building that looks like just a regular house on the outside, but David Chase has tons of telecommunications equipment valued at millions of dollars, which increases the town's grand list okay, and there is one car a day that comes there, and people don't even know it, because it fits in with the character of the look.

So, in summary Mr. Chairman, I understand that it is within the discretion of this Commission to make a policy decision as to whether or not the zone change is in harmony. We have tried, and the burden has been upon us to demonstrate to this Commission that by changing the zone, from R-12 to Business Town Center, we will be consistent with the town's Plan of Development, that it will be in harmony and compatibility with the existing structures. We are not thinking of doing anything that is sort of out of the box, creating some type of white elephant, we don't wish to do anything of the sort. What we intend to do, and it is our number one intention, is to create professional office space. I don't know anything to the contrary. Every discussion I have had with my client has been to create professional office space for this structure. If I knew of another use that he was thinking of, it would be my duty to tell you this evening that there were other uses. I know of none.

I would like to address the historical letter during the site plan, I think that would be more appropriate with respect to that, but in conclusion, it's our request that on this application, the Zoning Board act favorably changing the zone from R-12 to Business Town Center. I think that by doing so, when one then approves the site plan recommendations, there will be something that the town of Newington has strived for, probably for the last several decades, to have improvements done to the town center that would make people feel proud of the way that their center looks and I think that this is definitely in the right direction. Thank you, Mr. Chairman.

Chairman Camilli: Okay. Both the people who spoke against can have rebuttal of five minutes, if you wish to rebut Mr. Davidoff 's comments.

Veronica Charmut: I guess my only question is, if you are so sure that the entire intent of the use of this building, then why don't you put your restrictive covenant in such a way that, that absolute assurance is guaranteed to people here. I'm very concerned, and I think that if the restrictive covenant said the structure will stay as it is, it will be internally, as you mentioned there is this other structure, that inside, you don't know what is in there, but outside is retained to maintain the structure and the beauty of the house, then why are you not willing to take that one step to make your restrictive covenant go that far. I'm the closest home owner here, asking that question.

Chairman Camilli: You can put that in the form of a statement, he's not going to answer that.

Veronica Charmut: I'm just saying, that I have less objections if the restricted covenant guarantees the structure stay as it is, that it looks the way that it does, and that internally that you keep it to professional offices. I have no problems with that. I have problems with the unknown. Tomorrow it could be owned by somebody else, and that somebody else could have totally different intentions, like a parking lot. I don't want a parking lot.

Chairman Camilli: Thank you. This is the last chance, we are going to close this Petition, Petition 41-05.

C. PETITION 50-05 48 Commerce Court, Zavarella Woodworking, Bruno Zavarella owner, Karen Roche, 250 West Point Terrace, West Hartford, CT 06107 applicant request for Special Exception Section 3.17.6 Recreation Use, I Zone District. Continued from August 24, 2005.

Chairman Camilli: Is the applicant here, do you want to come up?

Karen Roche, 250 West Point Terrace, West Hartford: After hearing everything that we have heard tonight, I think as far as the hair salon, I think we need to get it away from the people, and this is the perfect location for that, because we don't be near that house. We have been doing a little bit more research, on the property, and I know that one of the concerns with the Commission is the parking. We really do feel that our hours, with Zavarella Woodworking, are going to be on opposite times. We don't feel that that is going to be a problem, like I said, if we did then, we wouldn't be looking at the property. We really feel that Newington is where we want to come, we have looked in other towns, we have found properties in other towns, but we feel Newington is, we have a lot to offer Newington, and also in doing our research, also, on, I mentioned gymnastics, New England Gymnastics Express on Day Street before. It's similar to what we will be doing, and also there is Lord Edward's Grooming on Day Street. So, I won't be grooming animals, but people, so it's very similar and we really do feel that it is going to work there. I'm not sure what more you need from us, if you have questions for us?

Chairman Camilli: Does anyone have any questions of the applicant? Ed, do you have anything?

Ed Meehan: No, I think the first issue here is the Commission's interpretation of your regulations, 3.17.6, as far as the recreational use, and the other section has to do with the personal services uses in the industrial zone, 3.16.1. If you find those uses to be compatible with the industrial zone, then I think you have to look closely at the parking and the hours of operation to make sure that the light industrial woodworking operation's there are not constricted or cause a safety problem with the patrons of this operation. There are only twenty-one or twenty-two spaces at this location. It's very, it was designed as a light industrial operation, so from a site plan and a building code point of view that is what it is set up for. In fact, the front of this building has a dumpster enclosure and a fairly large exhaust system where all the sawdust shavings and anything else that is of a combustible nature is blown into this area for safe keeping, which is right next to the front door of this operation. So I think you have to look at that, too. But I think the first one is just the interpretive part.

Chairman Camilli: That is what I think we will be studying, if it is a permitted use. Anyone from the public wishing to speak in favor? Against? Okay, you're all set. We are going to close PETITON 50-05. Thank you. We are not making a decision tonight. We just closed the hearing, probably in two weeks.

Ed Meehan: The next meeting is the 28th. September 28th.

Chairman Camilli: We'll have something for you then.

Karen Roche: Thank you. In the meantime, is there any additional information that you would need?

Chairman Camilli: I don't think so.

Ed Meehan: The hearing has to be open to get it.

Chairman Camilli: I think we are all set. Thank you.

D. PETITION 52-05 Market Square – Municipal Parking Lot “Newington Waterfall Festival” Val Ginn, Committee Chairperson, 15 Golf Street, Newington 06111, request for Special Exception, Section 3.2.8 Special Event, September 24, 2005, 10 a.m. to 5 p.m. B-TC Zone District.

Val Ginn, 15 Golf Street: I'm chairing the Waterfall Festival this year, it's the second annual, we had an excellent turnout last year, we had, over what, 5,000 show up, and I think everyone had a good time. It's the same thing as last year, the only difference I would say, is that we are not going to have that many food vendors, we are just going to have a lot of chiropractors. If you have any questions for me, I'd be more than happy to answer them.

Chairman Camilli: I just want to be sure, do they have all the....

Val Ginn: Paperwork, yes.

Chairman Camilli: Paperwork and all that stuff.

Ed Meehan: It's the map of the proposed layout. It's my understanding that there will be up to thirty artists, sixty vendor spots.

Val Ginn: Yes.

Ed Meehan: Ten to five.

Val Ginn: Yes, on September 24th, but I also want to add in case it does rain on the 24th, the rain date is October 1st.

Chairman Camilli: Okay, so everything is in order to go, right?

Ed Meehan: You got your insurance straightened out?

Val Ginn: Oh, yes we did! Thank you.

Chairman Camilli: Okay, are there any questions from the Commissioners?

Commissioner Fox: Looking forward to it.

Val Ginn: Yes, please be there.

Chairman Camilli: No questions, now do you want a request, do you want us to vote on this tonight?

Val Ginn: Please. It's been a long day.

Chairman Camilli: We will close PETITION 52-05.

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

None.

IV. MINUTES

August 24, 2005

Commissioner Anest-Klett moved to accept the minutes of the August 24, 2005 regular meeting. The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with six voting YES.

V. COMMUNICATIONS AND REPORTS

A. 8-24 Referral – Nutmeg Crossing acceptance of subdivision streets.

Ed Meehan: This is a referral of the streets at Nutmeg Crossing. Those streets entail Cinnamon Ridge, a portion of Bushy Hill, and a portion of Burden Lane. This subdivision has been around since the mid 1990's, it did experience some financial distress with the original owner who was then foreclosed on, but the streets remained in the name of the original owners. Recently there has been an effort to clean up the bond on this, and there has been an agreement to do all the lot pinning and merestone work, file the required deeds and drainage easements to the town, and when that work is complete, then the bond can be released. A step in this process is the TPZ's referral, 8-24, and then the Town Council will hold it's public hearing.

Chairman Camilli: Any questions, I think it's pretty straight forward. We have a suggested motion, we will do that when we do the motions.

VI. NEW BUSINESS

A. **PETITION 42-05 944 Main Street, Jeffrey L. Hedberg, 27 Garfield Street owner and applicant represented by Attorney Leon S. Davidoff, 29 East Cedar Street, Newington, CT 06111 request for site plan approval for professional office use and request for buffer waiver, Section 3.12.4 and Section 6.1.1E joint use parking. Continued from August 24, 2005.**

Attorney Davidoff: Good evening, Mr. Chairman, Members of the Commission, Mr. Meehan, my name is Attorney Leon Davidoff, I'm representing the applicant Mr. Jeffrey Hedberg with respect to the property known as 944 Main Street. Again I'd like to thank the Commission for its indulgence for continuing this hearing to this evening, and for the record, I would like to incorporate the comments made at the August 10th meeting as part of tonight's record, and let's discuss the issues that were left open from the last meeting with respect to this application. There was some discussion as to the parking spaces on the site, there was a suggestion made by a Commission member that we had initially four spaces, we have now taken the amount of spaces to two, on the site, and by doing that we needed to make some corrections in the mutual parking easement to share the parking with 2-14 Cedar, and we have done that by adding a clause that that agreement was binding upon the successor and assigns of the agreement, so that the spaces that are along the border of the two parcels would be available to both properties for use and basically if the Commission members had an opportunity to go out to the site, you will notice that at any given point probably about thirty percent of the parking lot is vacant and available for parking and we definitely have ten to twelve spaces along this portion right here, over here for the parking.

Chairman Camilli: How many spaces all together here?

Attorney Davidoff: Joe Perraginni from A-N Consulting will address that number.

Joe Perraginni: I'm sorry, what was the question?

Chairman Camilli: The shared parking, how many spaces are we talking?

Joe Perraginni: We are looking to share twelve spaces with the adjacent property. Excuse me, ten spaces.

Chairman Camilli: You added a couple more.

Joe Perraginni: It was originally eight, we took two away from this lot, and it's ten.

Chairman Camilli: Okay.

Attorney Davidoff: I think that was an issue, we addressed that. The next issue was, we requested a waiver of the sidewalk, this evening we are still requesting a waiver of the sidewalk requirement. Basically what happens here is, if we put a sidewalk from our piece, this is all bituminous all the way to East Cedar Street, and there is no sidewalk over here on the abutter, so it would be basically a sidewalk to nowhere. So, I don't know, I think that there are better uses of resources than just to have a sidewalk to nowhere. Basically, the people who are going to be accessing the site, who work here, are going to be walking down a brick walk, through here, into here. People who will get familiar, who are clients of the professional office, will probably get something that says you can park along here, and park here and just come down this brick walk to the building. There would be no need to be out here, it's a street going nowhere and there is really no reason especially since there is a nice pedestrian walk when one walks along Main Street through the town green to East Cedar Street. That is the Commission's call, and we are just basically asking for a waiver here.

With respect to underground utilities, my client has agreed to locate underground utilities, and Joe, if you wish to demonstrate where on the map that would be.

Joe Perraginni: Joe Perraginni from A-N Consulting Engineers. There exists overhead wires from this utility pole to the building. We are showing a line here in the same location, just having the utilities be underground.

Chairman Camilli: Is that going to affect the tree?

Ed Meehan: No. They should be able to go around the base of the tree.

Joe Perraginni: A couple of other changes that were made. We are showing a location for a concrete pad for HVAC equipment if that need should be required in the future. That's, Mr. Davidoff pointed out that we did remove the two spots on this side of the parking lot, to get that pavement away from the tree canopy. We have also increased the width along this side of the parking lot, to allow for people backing out of the spaces, to have enough room to back out and we have increased the turnaround space.

Attorney Davidoff: So we have addressed the sidewalk, the parking spaces, the underground utilities and the location of the HVAC system. Those were four concerns that the engineering firm needed to address and I believe that he has done so. There was also some discussion as to color and design standards, and I do have a letter this evening, Mr. Chairman that I would like to enter into the record, from our project architect, Jennifer Morgenthau that we are in compliance with Section 3-12 D or G in respect to the material that we are going to use, so it is compatible with the town center guidelines overlay district recommendations.

Now there was some discussion as to what color we were doing. The site work and the client has provided me with a sample which I can show you this evening, but I cannot leave with you

because he does not own this, it is owned by a contractor. We're not talking Hedberg yellow, we are basically talking here this prairie wheat color so, this is new material, this is what the siding would look like, premium vinyl siding and that is the color that is chosen. I don't know if, Jennifer, you want to add anything about historical significance of color, come forward for the record.

Jennifer Morganthal, Jennifer Morganthal Architect, LLC: About the only thing that I would like to add is as far as profile promotion, the companies will try to match, as well as they can, whatever is on the building right now so the exposure is basically the width of the clapboards and things like that would be identical. We would make sure that we would choose something (inaudible).

Attorney Davidoff: I just want to point out for the Commission's point of reference, that if one drove down Main Street, and I believe that it is 486 or 496 Main Street, you will see a house that I think has a plaque on it, 1770 something, and it is of the color yellow and green, and it caught my eye as I was heading down to Yanni's for lunch one day, that here was this home, probably of a period older than the one that we are talking, and they have just recently restored it and the yellow and green that I think people were envisioning at the last meeting. But with respect to the other architectural details, I think we pointed out that we won't be altering any of those. Again, I would like to state for the record that we are looking for site plan approval for professional office space, with our mutual parking easement, request for buffer waiver, with plantings with our adjacent neighbor at 15 Ellsworth, to meet the requirements. I don't have anything further Mr. Chairman to add, and I do thank the Commission for their indulgence and...

Chairman Camilli: You also want the sidewalk.

Attorney Davidoff: I'm sorry.

Chairman Camilli: You also want to waive the sidewalk.

Attorney Davidoff: I'm sorry, thank you, waive the sidewalk requirement for this application. My client is excited about moving forward with this project and it will definitely be an asset to the town center, and is going to expend the funds necessary to have a first class building in place, and I do appreciate the Commission's recommendations, suggestions, comments through the entire procedure and I do appreciate the concerns of the neighbors who about us and who live on adjacent streets and whether or not we, well, hopefully we will get site plan approval, we are hopeful of that. If we don't, I really can't speak to what happens if we don't. I have no idea, I have not talked to my client as to what type of improvements he would make as a R-12 property owner instead of a Business Town Center. In conclusion, I respectfully request that this Commission grant us our site plan approval, and before I wrap up, let me talk about that letter that I did receive from the University of Connecticut, so I can speak for the record.

Mr. Meehan pointed out that the property is owned by a private individual and the State of Connecticut (inaudible) authority to force, mandate, I guess, an archeological survey. In the last forty-eight hours, I didn't find any legal precedent that states that they would have the right to do that on one's personal property, especially since we weren't expending any type of state funds to do so. My client is unavailable, he is in Las Vegas, and I have not shared with him the concerns raised here, so I can't really address them, as to whether or not he would voluntarily undertake that type of project, but I would say for the record, the scope of the work to be done on this project is not near the town green, any type of excavation that we are doing is on the Center Court side, and I think it is important to state for the record again that we are not putting any parking in front of the building that faces Main Street. That was a major objection that was raised by several people who thought we were going to put parking next to the town green. There is no intention of doing that, and no intention of excavating any where in that region, and I will definitely share with Mr. Hedberg the concerns raised by the State Archeologist, but with respect to this application, I don't have an answer to whether or not he would do anything.

Chairman Camilli: Any questions?

Commissioner Anest-Klett: Can we talk about the driveway, I mean the parking easement? Is that something that we should discuss?

Chairman Camilli: Well, it's the same owner, so I would.....

Commissioner Anest-Klett: He said something in the last petition, is it going to run with the land, or run with the owners?

Attorney Davidoff: The mutual parking agreement is binding, okay, upon the parties who execute it, so Mr. Hedberg as Newington Development Association, and Mr. Hedberg as a private party owner, his successors, his heirs, his legal representatives, that would be if he was, had a conservator, passed on, God forbid, things of that nature and was totally binding. With respect to a third party, there is no mutual parking, so if Mr. Hedberg sells the piece to Mr. Jones, Mr. Jones doesn't have parking for his site. Mr. Jones would be in non-compliance with your zoning regulations for lack of parking, and I guess it would be a zoning enforcement action to cease and desist operations because he doesn't have adequate parking.

Commissioner Anest-Klett: Why are you opting to go that way, and not have an actual easement? Parking easement?

Attorney Davidoff: If I went for an easement, it would still be, negotiated between the two parties, because I can't bind, who else am I going to bind now?

Commissioner Anest-Klett: A normal easement, like an easement you are binding your heirs, successors forever.

Attorney Davidoff: I know, but the people in forever are not party to this, so I don't understand how I could bind somebody else, maybe I'm missing your point, but if this is terminated, this agreement cannot be terminated, without your prior consent. There again, the Zoning Commission is in the loop with respect with the duration of this agreement, because as I said before, both parties agree to the mutual use of the parking spaces may not be terminated without prior written consent of the Town Planning and Zoning Commission and I don't know who else would use it, and I don't know why anyone would put on a land record letting somebody, a future owner of 944 Main Street why, let's say Mr. Hedberg owns 2-14 and somebody else owns 944. Why Mr. Hedberg, out of the generosity of his heart would just allow somebody to park on his property. He would incur liability issues, there would be a host of other issues, okay, which he would have no protection.

Commissioner Anest-Klett: I understand where you are coming from.

Attorney Davidoff: So, legally, it doesn't really make sense to do that. That's the best answer I can give you.

Chairman Camilli: Anyone else?

Commissioner Ganley: I made my third visit to the site this afternoon, and I did some quick little sketches and made some notes to myself, and I'm going to start with the issue of the parking, and I will develop this as I go along, but I'm not in favor of parking on the east side of the building at all. I would much rather see, instead of the twelve spaces being shared with the abutting piece of property, go to fourteen spaces, so what is two more spaces. The reason that I, and as to the sidewalk, it would run from roughly a small corral fence to a utility pole on the other corner of the

property where there are a bunch of apple and pear trees and I have no idea who would walk on it, because I never see anybody walking on this street, anyway. It wouldn't make any sense to walk on the street by the corral fence as it comes around the corner, step on the sidewalk, walk across the front of the property, to the pole, then jump onto the wood chips to the asphalt, so I know that there is a regulation, but there has to be some sense to the regulation. The other reason I object to the sidewalk is that it now represents a piece of concrete in front of the building, and the parking spaces represents some asphalt in front of the building, and the asphalt there, I parked my car there again today, on the that schlocky, raggedy apron that is there right now, and I'm guessing that you could put six cars, maybe even get a couple of wheels on the grass, so it must look pretty bad when it was a dwelling. My suggestion is this, no parking, no sidewalk on that side of the building. Run a piece of bituminous curbing from the property line all the way down, rather from the property line roughly from that corral fence all the way down to the utility pole, and landscape that parcel between the building line and the curb, so that it really looks very presentable. Put a lawn, certainly around the property there were some formal gardens, I'm not suggesting that they re-institute the formal gardens, but there is a sufficient number of plantings around that building that could be moved to the east side of that building. That would make the whole east side on the Center Court look aesthetically pleasing, and it would just look an awful lot better, to people who live across the street, who would not be looking at asphalt and concrete in front of this building, and it doesn't serve any purpose. Two parking spaces, for heavens sake, it just doesn't make any sense. I think it would spoil the appearance of the building. There are two really nice trees on the property, they need a little trimming. One is right into the utility pole, make a genuine effort to save the two trees. One is adjacent to Lot 33, and the other is just about opposite one of the utility poles. There is a vinyl fence that is located on the west side of the building that runs north and south, it's a good looking vinyl fence, probably about four and a half feet high, and it really looks kind of nice, the owner might want to consider running that fence along the edge of the parking lot that separates the two pieces of property. It's a good looking fence, and then providing the gateway with the brick walk that is going to go from the parking lot into the building. That's kind of it. I was very concerned. I stood across the street, and I just kind of stared at that building a little bit, and I thought it would serve the purpose of the neighborhood a lot better if there was just nice textured piece of greenery there with some shrubs and forget about cars and forget about concrete sidewalk, etceteras, etceteras, that's my suggestion, just clean the whole thing up. Just move the additional two spaces which seems to me it's a waste of money to put an apron from the street into the property to get two spaces, and then run a sidewalk across the entrance, or the apron that you have just put in, that nobody is going to walk on. It just doesn't seem, I think it's much easier to just green the whole thing, solve the problem. Thank you.

Chairman Camilli: Those are handicapped spaces, right.

Ed Meehan: One is a handicapped space...

Commissioner Ganley: It could be moved to the edge of the brickwalk.

Ed Meehan: They would have to do some ADA grading to make it, the existing parking lot from 2-14 East Cedar Street down to the brick walk. It's about a three foot.....

Commissioner Ganley: Across the wood chips, you're right.

Ed Meehan: They would have to have a hard surface that you could go down in a wheel chair or a walker, now they are proposing three steps.

Commissioner Ganley: But that would make a lot of sense to have a car with your handicapped person in a parking lot, than on a street. You want to get off the street, then you have to cross

the road. I see no added inconvenience to a handicapped person provided the grading has been correct, right onto the brick walk, right into the building and if they have to go into the building on the east side, where there is an entrance, there is an overgrown flagstone walk, which could be certainly improved, and they would be able to get around that way and get into the building. So I don't see that as an impediment. Handicapped parking, two spaces on either side of the walkway that would lead from the parking lot down into this building. My main concern is how the building would look from across the street, when the property owners have some concern about the building today, I think this would do a lot to satisfy them, if they could see a nice pretty up-front lawn with some shrubs, and some well groomed trees. It might solve the problem.

Ed Meehan: I would agree that restoring that whole Center Court side to lawn, simply with a curb and loam and seed behind it, would be attractive.

Commissioner Ganley: Or get some shrubs, there are some shrubs in the back that are better looking shrubs than I have seen in a lot of pieces of property, even though there has been a drought. They have some great looking, it's overgrown, yes, but I think a landscaper could salvage an awful lot of stuff from those old formal flower beds out in back, bring it out in front, and put it in the front where it would really look nice.

Ed Meehan: They would have to show, for a revised site plan, that they can meet the ADA grade from the existing parking lot next door down to the patio.

Commissioner Ganley: Well, to look at the general aesthetics, and get by this two parking spaces and sidewalk in front of the building, will do nothing for the appearance of the building. I would hope that they would acquiesce to doing their part.

Ed Meehan: I think they can make it, they have enough room to meet the slope. It's up to the engineer to design it. They have enough room, it's like it's one inch per foot. The grade for ADA is one inch per foot, so they certainly have enough room on the adjacent property to make that grade, depending on where they put the handicapped space. See where that area is cross hatched now, they could put it in that area there.

Commissioner Ganley: Okay, I got it.

Ed Meehan: Then they would run the ramp, instead of stairs there, they replace the stairs with a ramp.

Commissioner Ganley: Okay, I see.

Chairman Camilli: Joe?

Joe Perraginni: I have looked at the grade to see if we can provide an accessible route from the adjacent lot. At first glance it didn't look like we could do it with a straight run. There are, I believe four or five steps, it would require a railing, but I would look at it again to see if something creative could be done, but at first glance I could not do it. We would prefer to have both routes be accessible for anyone on the adjacent lot, we need an accessible route, and we have tried to provide it. Another comment that could be made is that we do have a lot of area that was, where we removed the two spaces, we did provide landscaping along both sides of the parking lot as was proposed.

Chairman Camilli: I just happened to catch this as you were talking. You said four or five steps, this looks like three.

Ed Meehan: Is that a typical detail, or is that what you are going to build? This shows three.

Joe Perraginni: That is what we are going to build.

Chairman Camilli: I saw three steps.

Joe Perraginni: But we do have a pitch from the patio to the steps, it's the rise that you have to negotiate and then the steps themselves, but I will look at it again.

Ed Meehan: I think you are going to need more of a run because if your grade at the parking lot is 99.5 and the grade at the site patio area Tom is talking about is 96.3, there is three feet and change, so that is thirty-six inches, and a seven inch riser, so that is five steps, so, you have to figure out our run based on five steps. So, if you moved the handicapped space toward the east, toward the street side, you could put up your run right across the front of those stalls and then down to a landing in the back, it could be done.

Joe Perraginni: The other thing to consider is that it would be increasing the length of path for the handicapped person to go. We would like to have it as close to the building as possible.

Chairman Camilli: Any other comments, suggestions? All set, thank you.

Commissioner Ganley: I'm sorry, I did leave out one. There are no parking restrictions presently on the street that I was able to find, okay, such as length of time, etc. We could request of the Town Manager that pursuant to our approval of this, in terms of the zone change, then of course the site plan, which would follow, that we ask the Town Manager to post No Parking on the west side of the street, which would be right in front of that nicely landscaped lawn, so that the neighbors would never see cars on that piece of the street.

B. PETITION 47-05 40 Commerce Court, Carducci Enterprises, LLC, owner Lauth Property Group, c/o Lauth Construction, LLC, Richard Radabaugh, 401 Pennsylvania Parkway, Indianapolis, IN 46280 request for site plan approval 16,000 sq. ft. building, insurance claim center (auto) I Zone District. Inland Wetlands Report required. Continued from August 24, 2005.

Chairman Camilli: The Planner will give us an update on this.

Ed Meehan: The applicant's engineers still are before Conservation Commission. There are two issues that the Conservation Commission has on its agenda. One is a map amendment to flag the wetlands, and the other is the small impact in the vicinity of Commerce Court. That needs to be resolved before they can come back to you. I do expect changes to the site plan, as a result of the Conservation work, particularly relative to the drainage. And secondly, the applicants came in last week, they had a meeting with myself and other town staff, and they also met with representatives of Fenn Manufacturing. There are issues that they need to coordinate with Fenn Manufacturing. One is, there is a water line that runs through this site, which is a private water line, and there is no easement of record to Fenn, and that needs to be clarified. There are also the issues that we brought up, to the designers of this driveway off of Fenn Road that used to go to Fenn, and if this site is developed will just be sort of a dead end driveway. It's been recommended that they close that off, so it does not confuse people accessing the site. The other concern that we had was this sea of pavement out in front of Fenn Manufacturing, that there be some transition in a way of a lawn from where Fenn parks to this proposed retaining wall, which aesthetically and functionally I still have concerns, aesthetically it could be a three to five foot retaining wall, and by pulling the non-usable bituminous out, and planting it in lawn it would more or less create a berm there and they may be able to lower that wall or completely eliminate

the wall. So they are trying to work out that grading issue, get permission for off-site construction work, they probably won't have all that put together for a couple of meetings.

Chairman Camilli: So we are just kind of on hold then until those issues get resolved.

Ed Meehan: The design issues.

OLD BUSINESS

- A. PETITION 45-05 277 Cedar Street known as the Eddy Farm, Lucy Eddy Fox owner and applicant, represented by Attorney Robert Randich, 363 Main Street, Hartford, CT 06106 request for re-subdivision one (1) lot, R-12 Zone District. Hearing closed August 24, 2005. Sixty-five day decision period ends October 28, 2005.**

Commissioner Kornichuk moved that Petition 45-05 277 Cedar Street, known as the Eddy Farm, Lucy Eddy Fox owner and applicant, represented by Attorney Robert Randich, 363 Main Street, Hartford CT 06106 request for re-subdivision one (1) lot, R-12 Zone District be approved the Commission finding that the re-subdivided lots conform to the zoning regulations. The re-subdivision map is entitled "Original Survey Property of Lucy L.E. Fox, sheet 1 of 1, dated 8-5-05, scale 1"=100', prepared by BGI"

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.

Commissioner Ganley: Mr. Chairman, a procedural point. You didn't happen to note for the record whether the Petition just heard was continued or closed.

Chairman Camilli: Under New Business we don't do that, that would just be on the petition, we did it on the, we closed the Public Hearing, but the, under New Business we don't do that.,

Commissioner Ganley: Thank you, Mr. Chairman.

- B. PETITION 46-05 277 Cedar Street known as the Eddy Farm, Lucy Eddy Fox owner and applicant, represented by Attorney Robert Randich, 363 Main Street, Hartford, CT 06106 request for Special Exception Section 6.7 Interior Lot, R-12 Zone District. Hearing closed August 24, 2005. Sixty-five day decision period ends October 28, 2005.**

Commissioner Fox moved that Petition 46-05 277 Cedar Street known as the Eddy Farm, Lucy Eddy Fox owner and applicant, represented by Attorney Robert Randich, 363 Main Street, Hartford, CT 06106 request for Special Exception Section 6.7 Interior Lot, R-12 Zone District be approved based on the map entitled "Original Survey Property of Lucy L.E. Fox, Sheet 1 of 1, dated 8-5-05, scale 1" = 100', prepared by BGI."

The interior lot is identified as "Proposed Lot B, 3.249 AC."

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

Chairman Camilli: Motion passes unanimously.

C. PETITION 48-05 31 Harmon Court, Maria LaRosa owner, Sebastian LaRosa, 106 Bond Street Hartford, CT 06114 applicant, request for Special Exception Section 6.13 accessory apartment, R-12 Zone District. Hearing closed August 24, 2005. Sixty-five day decision period ends October 28, 2005.

Commissioner Anest-Klett moved that Petition 48-05 31 Harmon Court, Maria LaRosa owner, Sebastian LaRosa, 106 Bond Street Hartford, CT 06114 applicant, request for Special Exception Section 6.13 accessory apartment, R-12 Zone District be approved based on the applicant's letter, dated August 24, 2005 certifying that the occupant of the accessory apartment will be a family member; and second, the house floor plans, prepared by MJO, Residential Designer, dated 2-25-05 that show the home complies with the zoning standards.

Conditions

1. The driveway shall be widened to provide parking for three (3) cars.
2. The plot plan shall be revised as directed by the Town Engineer to show proposed retaining wall height, guard rail protection, grading and storm water drainage control.

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. We have to add Petition 52-05 to the agenda, can I have a motion to that affect.

Commissioner Cariseo moved to add Petition 52-05 to the agenda. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with six voting YES.

E. PETITION 52-05 Market Square – Municipal Parking Lot “Newington Waterfall Festival” Val Ginn, Committee Chairperson, 15 Golf Street, Newington 06111, request for Special Exception, Section 3.2.8 Special Event, September 24, 2005, 10 a.m. to 5 p.m. B-TC Zone District.

Commissioner Ganley moved that PETITION 52-05 Market Square – Municipal Parking Lot “Newington Waterfall Festival” Val Ginn, Committee Chairperson, 15 Golf Street, Newington 06111, request for Special Exception, Section 3.2.8 Special Event, September 24, 2005, 10 a.m. to 5 p.m., B-TC Zone District be approved based on the schedule and events presented. The applicant shall follow the requirements of Event Application for insurance filing and the coordination of Town Department approvals.

The motion was seconded by Commissioner Fox.

Chairman Camilli: I would just like to make a friendly amendment to that and put in the rain date. Could we have an amendment to that.

Commissioner Anest-Klett moved to add the rain date to the original motion. The motion was seconded by Commissioner Fox.

Chairman Camilli: What was the rain date?

Ed Meehan: October 1st.

Chairman Camilli: So, do you want to add the rain date to that?

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

Chairman Camilli: Okay, the amendment passes. Now we will vote on the petition.

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

Chairman Camilli: Motion passes unanimously.

8-24 Referral

Nutmeg Crossing – Subdivision Street Acceptance

Commissioner Cariseo moved that the TPZ report to the Town Council its favorable recommendation for the acceptance of Nutmeg Crossing subdivision streets Cinnamon Road, Bushy Hill Road (partial) and Burdon Lane (partial.)

This recommendation is based on the developer's completion of the roads, placement of monumentation and submission of warranty deeds and drainage rights to the Town as required by the Subdivision Regulations.

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

Chairman Camilli: Motion passes unanimously.

VII. PETITIONS FOR SCHEDULING TPZ Meeting 9-28-05 and 10-12-05)

- A. PETITION 53-05 2340 Berlin Turnpike, known as Hartford Drive In property, Toll Brothers, Inc., applicants, Honey Loew and Keith L. Hughes, as Trustees of the Elias M. Loew Connecticut Realty trust, represented by Attorney Thomas J. Regan, Brown, Rudnick, Berlock, Israels, LLP 85 Asylum Street, 38th Floor, Hartford CT 06103-3402 request for Special Exception, Section 3.7.1 Multi-unit residential development, R-12 Zone District.
- B. PETITION 54-05 2340 Berlin Turnpike, known as Hartford Drive In property, Toll Brothers, Inc., applicants, Honey Loew and Keith L. Hughes, as Trustees of the Elias M. Loew Connecticut Realty trust, represented by Attorney Thomas J. Regan, Brown, Rudnick, Berlock, Israels, LLP 85 Asylum Street, 38th Floor, Hartford, CT 06103-3402 request for Site Plan approval Section 5.3 R-12 Zone District.
- C. PETITION 55-05 Sunrise Estates Subdivision, Waverly Drive, Griswoldville Road Associates, LLC, owners and applicant, represented by Mr. Patrick Snow, 110 Court Street, Cromwell, CT 06416 request for Re-Subdivision approval (2 lots) Lot 1 and 1A, R-20 Zone District.

Chairman Camilli: I think we had a little memorandum on the Hartford Drive-In site?

Ed Meehan: Yes, if you want to schedule this for the 28th of September, your next meeting, I need to get the legal notice in the paper for Saturday and the following Saturday, and also we need to notify the Town of Wethersfield, formal inter-town referral so whatever your direction is on scheduling....

Chairman Camilli: I didn't think we had a very heavy load and so I thought that we would move right ahead with it because why wait until it gets.....

Commissioner Ganley: Will it be in the Council chambers? Do you think it's going to be big, I don't know.

Chairman Camilli: I don't think so.

Ed Meehan: I don't know what is going, the reaction of Wethersfield, I don't know. We'll advertise it for here, but if it looks like it's going to be a large crowd, we can post it and move.

Chairman Camilli: Ed can usually tell that from the phone calls that he gets.

Ed Meehan: I'll check with my counterpart in Wethersfield and see what he hears over there.

Chairman Camilli: The big part of that was the zone, the public isn't even allowed to speak, excuse me, on the Special Exception. I'm sorry. So there is a public hearing.

Ed Meehan: Petition C, just for information, the applicant will not be able to be here on the 28th, he requested either October 12th, or later. So, whatever the Commission wants to do on that.

Chairman Camilli: We could make that on the 12th.

Ed Meehan: There was one petition that came in that was not on the agenda, it came in after the agenda went out to the members, for 1044 Main Street, it's called Wings Over. It's where Quiznos was looking to locate. Quiznos, the deal has fallen through, and this other restaurant has an application in to occupy that same space. Do you want to do them on the 28th?

Chairman Camilli: Yeah, sure.

Commissioner Cariseo: What was the name of it?

Ed Meehan: Wings Over.

Chairman Camilli: Chicken wings?

Ed Meehan: I think so, there is one on Prospect Street, there is one up at Uconn.

Commissioner Ganley: Are we talking, the outside seating was sort of competing interests around that.

Ed Meehan: Quiznos wanted the two tables outside, this restaurant doesn't want any tables outside.

Commissioner Cariseo: Speaking of outside, is that façade finished.

Ed Meehan: No.

Commissioner Cariseo: I saw the thing with the jewelry store, and I said, what the hell is this, with this purple awning coming down.

Ed Meehan: We are waiting for the merchants, the businesses to sign off on their signage, before they go into production. The Bike Shop has signed off, Chris Lesser has signed off, Smokers World.

Commissioner Cariseo: They are all going to be similar, you mean.

Ed Meehan: They are all going to be in the same horizontal plane, lettered signs, they won't be lit internally, there will be indirect lighting. We are having a little problem with Carvel's. Carvel's corporate, down in Atlanta wants a, they have their internal lit and they want a sort of a blue sign with pink and we said, no, it's plain vanilla. You are going to get a white sign, and even sprinkles on the cone, and the, is it the Doyle's, I think their name is Doyle, they haven't got a problem at all with what the town wants, but they are beholden to the franchise.

Chairman Camilli: You know, I've seen franchises spit nickels when they want to go in a certain spot, and now they are in there, so there isn't much we can do about it.

Ed Meehan: Well, there is probably going to be a letter generated pretty soon, because we have to get these signs into production, and that is what is holding up the awnings. We can't put the awnings on until the signs are up.

Commissioner Cariseo: That purple thing is coming down?

Ed Meehan: No, that stays.

Commissioner Cariseo: I mean, is everybody going to be able to put up a different kind of awning? After we went through all of this.

Ed Meehan: That is the color that was selected. It matches her sign.

Commissioner Cariseo: But we don't know what that looks like because it is white at the moment.

Ed Meehan: Yeah, well where that white area is, right now there is a purple sign in there that says Jewelry Warehouse. There is going to be the same color we put back that says Jewelry Warehouse. That is the color that she specified. That is her color. Purple.

Commissioner Cariseo: Who picked out the colors that are there?

Ed Meehan: Well, the colors come from the palate that was presented in the design guidelines for the town center. And then also the façade committee had a color rendering that they saw, and also this Commission saw that color rendering.

Commissioner Cariseo: And now somebody can change that to purple?

Ed Meehan: No, that was the color on the record. That was there.

Commissioner Anest-Klett: The purple, that purple is not one of the colors listed, you know like the blue, the green...

Ed Meehan: No, you're right it's not on the samples that O'Reardon and Mangonni gave to the Town Planning and Zoning Commission two or three years ago, but when the color renderings were developed by the façade architect, he did the whole Main Street, and he showed the façade committee, and he showed it to this Commission, and he showed to the tenants, and the tenants said, yeah, we want to keep our colors.

Commissioner Anest-Klett: But it clashes.

Ed Meehan: Clashes with what?

Commissioner Anest-Klett: The colors that are there, the green, that purple totally clashes with Carvels. With the green and....

Ed Meehan: Carvels has a red and white awning.

Commissioner Anest-Klett: What color red?

Ed Meehan: Sort of like a darker red, stripe, you know, beauty is in the eyes of the beholder. It is going to be a striped awning, wide strips.

Commissioner Anest-Klett: So then there is no continuity with the awnings going down, like the awnings on East Cedar Street look really nice.

Ed Meehan: A dark green, the one on the corner is going to be red striped, Jewelry Warehouse matches the color that they had, and then the next set of awnings are dark blue, in front of Smokers World, like a charcoal color in front of Flowers, Etc. Flowers, Etc. has their sign on the awning, he hasn't decided if he wants a gold lettered sign or a cream colored sign.

Chairman Camilli: Point of information. I thought that this body had the oversight in the B-TC Zone.

Ed Meehan: For site plan to come before you.

Chairman Camilli: Colors?

Ed Meehan: I don't, if it came before you and was part of a site plan, like Mr. Hedberg's project.

Chairman Camilli: Yeah, that is what I am referring to. Not this?

Ed Meehan: This is not site plan approval. This is strictly, I mean, there are no additions to the building, there is no footprint changes, no parking, no tenant changes.

Commissioner Cariseo: It just seems a shame to have done all that work and not to have it look nice all the way down.

Ed Meehan: I think it looks great, but I'm not you. If you saw the color of my house, you might not like the color of my house, if I saw the color of your house, I might not like the color of your house.

Commissioner Anest-Klett: It doesn't flow. It's very choppy.

Ed Meehan: Would you like to see the colored elevations?

Commissioner Anest-Klett: Yes.

Ed Meehan: There is your purple awning, your red and white awning, and then these are like a dark blue, and these are charcoal.

Chairman Camilli: That is what the finished product is going to look like.

Ed Meehan: That is what the façade committee saw, that is what the owners and the merchants saw, that is what this committee saw.

Ed Meehan: You can get your colors, your palate colors from a colored rendering versus what someone can do in the field.

Commissioner Anest-Klett: It looks nice, if people could see this, they would have a different feeling.

Ed Meehan: It's in the store front window of the Chamber.

Commissioner Anest-Klett: If people saw that....

Chairman Camilli: Tell them to look in the storefront window.

Commissioner Anest-Klett: I'm going to.

Chairman Camilli: Can you make a copy?

Commissioner Fox: I would like to have one because I'm accosted every day.

Ed Meehan: Every time I make a copy of the color gets a little bit darker, but I can make a copy. Everything is done there. The only thing that is not done on that site right now is the awnings, the sign, and the copping along the top of the parapet.

Commissioner Cariseo: The brick is all in here, right?

Ed Meehan: Yeah.

Commissioner Cariseo: This doesn't show brick.

Ed Meehan: There is brick in there. Well, the columns on the side are marble in that building, and then there are brick insets. And what you are looking at there, those are the awnings that come down over the lights on top of the circle windows, and what we took off of there was, they had vinyl siding on the gable. The vinyl siding came off and the gable was actually raised, and the gable was off center by two foot. I don't know the story there, but if you looked at that building before, the gable was not in the middle, the peak was not in the middle. So that caught the architect's eye.

Chairman Camilli: It's kind of hard to second guess at this point because.....

Commissioner Kornichuk: But you are going to find that all women are going to look at this building, and say it isn't finished. My wife looks at that, and she still swears that this building is not finished.

Ed Meehan: Because of that hole there?

Commissioner Kornichuk: Because of that hole. It should be a contrasting color, or something.

Chairman Camilli: What I think some of the Commissioners are reflecting is some of the opinions of the townspeople as this comes along. When you look at it on the sheet, it certainly looks a little different.

Commissioner Anest-Klett: Exactly.

Ed Meehan: Well, first of all, you don't have all the wires, on this side of the building, there are wires, there's an air conditioner, there is a door, that is why it looks so clean. Of course the AC, the door, the wires that come in overhead are all going to be painted the same color, and this east side here is not done yet. He has to fix the gutters and paint that.

Commissioner Anest-Klett: Now the back side of the building, as you come down East Cedar Street, that's just going to stay like half painted white and half brick.

Ed Meehan: We have asked Mr. Neiditz to consider painting the whole back of the building to match, but the façade program just went around to the new window. We replaced the window that was there.

Commissioner Anest-Klett: Because it looks so nice, and then you see the back of the building.

Ed Meehan: The bike shop is very happy, they have picked up three new display windows on East Cedar Street.

Commissioner Anest-Klett: I like the green awnings, those look really nice.

Chairman Camilli: Well, there was a streetscape architect, right, that was involved?

Ed Meehan: Capitol Studio Architects.

Chairman Camilli: So it was done with some planning and as the Planner said, it is in the eyes of the beholder, as all of these things are, so, we're not going to please everybody all at one time.

Commissioner Anest-Klett: The north side of the plaza is very colorful, and then as you work your way south, it dulls out. I think that is why a lot of people think that it is not finished.

Ed Meehan: Well, that is a good observation, because there was an intent to make the biggest impression at Carvel's corner. Carvel's was raised maybe six to eight feet, and when the awning goes on there, even with the trees in front, the awning is really going to jump out at you.

Commissioner Anest-Klett: Yeah, and I think that is why the people say, the color just ends.

Commissioner Cariseo: Could they put lights in those trees? A lot of people would like to see lights in those trees that would stay on all year. It would make the center look better.

Ed Meehan: Oh, the Italian lights, the little white lights?

Commissioner Cariseo: What kind?

Ed Meehan: We call them Italian lights. The little white lights.

Chairman Camilli: The liter was a little better. I noticed that....

Ed Meehan: The Town Manager has been very strident in getting more attention to that area, especially the landscaping and the liter. It is hard to have people put things in trash cans. You mentioned one near the Chamber, I went over that afternoon, everything had blown under the benches and was there, and no one wants to pick it up. They wait for someone else to come along.

Commissioner Cariseo: You didn't like my idea of the lights? It can't be very costly, right?

Ed Meehan: To run them all the time?

Commissioner Cariseo: Yes, I mean, just at night.

Ed Meehan: Well, I know that each of these lights cost about twelve dollars a month, off season, but during Christmas season it is almost twenty-six a month. So, it could get costly.

Chairman Camilli: CL&P, was there some kind of suit with CL&P to reimburse the town.....

Ed Meehan: That's not for decorative lighting.

Commissioner Cariseo: That was just a comment that someone told me, in the business section, some towns, have done that and makes the downtown part much nicer.

Ed Meehan: The trees, we are probably coming up on another, a year in the future, a round of pruning, just to keep them in shape.

Commissioner Cariseo: Keep them lower?

Ed Meehan: Yeah, keep them lower so people could see their businesses, and at that point then the wiring could be done, put back in there. All the new lights have sockets now, so you aren't going to have orange extension cords.

Commissioner Cariseo: That's wonderful.

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

None.

IX. REMARKS BY COMMISSIONERS

None.

X. ZONING ADMINISTRATOR COMMENTS

None.

XI. STAFF REPORT

Ed Meehan: On the table there is a letter from Delta Building Corporation. If you remember back the first meeting you had back on August 14th, the Commission approved a letter to Delta putting them on a thirty day notice that their bonds were going to be called. They have two bonds posted, one for Commerce Court and one for Hollow Tree Lane. The work is, this October it will be five years, that it hasn't been completed. The Town Manager did send that letter, and we sent it by Certified Mail and we gave Delta thirty days to respond. This just came in today. I have had conversations with Mr. Dayharsh a couple of times regarding this. What they would like to do is, they would like to have the opportunity to finish everything with Commerce Court, by the end of October, and then be granted at least to the end of next June to go to the construction season to finish the repair and paving of Hollow Tree. They say here, accepted by the Town, that's not quite true. The Town Engineer still has a little bit of a punch list for Commerce Court. So, I would recommend that this be considered, it's kind of difficult for the Town to get into the construction

business on this. We would have to go out to bid, and get contractors, if they will do it, then the aggravation is theirs.

Commissioner Cariseo: Has their work been satisfactory up to this point?

Ed Meehan: Their work has been slow, in respect of being slow, it hasn't been satisfactory. It's been functional, I mean, all the lots along these streets except for the one that we are talking about, Progress Insurance, all are occupied. It's going on five years, there are some sections of Commerce Court that need to be redone, and we wouldn't accept them until they are redone. We're talking about cracks, there have been a couple of utility cuts they have sunk a little bit, they have to fix those, those are some of the things on the Town Engineer's list.

Commissioner Cariseo: Any excess money in the bond?

Ed Meehan: There is substantial excess money in Commerce Court. Commerce Court is a thirty thousand bond, there is probably five or six thousand dollars worth of work.

Commissioner Cariseo: So we could make money on that?

Ed Meehan: You could make money on that one, and use it for Hollow Tree Lane. I'd have to get the Town Attorney's opinion on that. Hollow Tree Lane we have about thirty thousand dollars for that. A binder course is in, but I think the binder course has to be improved, the finished course is probably going to run all of that thirty thousand.

Commissioner Cariseo: So with the excess money we could put the lights in town.

Chairman Camilli: Just as a matter, if they don't do this work by 10/31, the first part....

Ed Meehan: Call the bond.

Chairman Camilli: Call the bond, just so we can move this forward, I think this is a good idea, if they hold to their word.

Commissioner Kornichuk: My thing is that they have been in this for five years, it was never finished, now they want an extension.

Chairman Camilli: Well, that's okay. We can, as the Planner said, we don't really want to take this project on, we really want them to do it. Maybe this should have been done before, the notification that their five years are up. I think we are getting the light at the end of the five year period if they do this correctly. We waited the five years, they didn't do it, now the pressure comes on. So that is the only reason. They do the job, then I saw we go ahead with it. If they do the first job, if not, we call the bond.

Commissioner Ganley: When would the bond recall come up? The first meeting in November because the thirty first would be the expiration date, and the first opportunity that we would have to address the issue would be, so why don't we tentatively write that in or make a note of that, so that come that meeting in November, that's going to be on the agenda.

Chairman Camilli: I think that the Planner will have that on his file.

Ed Meehan: What about the extension to June?

Chairman Camilli: Well, I would say, we cut them some slack for that, if they do the first one, the extension for June, I would give that at the end of the time. I mean, if they, what I am saying here is that on 10/31 if they have done the first part, then I think we ought to give them the extension to 6/30 on the second part. If they don't what's the difference. If they didn't do it, we might as well call it all.

Commissioner Cariseo: Is it two bonds, or just one?

Ed Meehan: Two separate bonds, two separate pass books.

Commissioner Cariseo: If they do this, what about the excess money that is in there, can you push that to the next one.

Ed Meehan: It's the same subdivision, I would need to check with Peter Boorman on that. So, it's a lock, they are interlocked this way. If you do the work, you get the bond back, if you don't do the work we call both bonds.

Chairman Camilli: Call both bonds because there is no sense in fooling around.

Ed Meehan: Okay.

Chairman Camilli: At that point we will know how serious they are, if they do the first one, okay,

Commissioner Cariseo: I'm not sure that you want to give the excess bond back.

Commissioner Anest-Klett: You have to.

Commissioner Cariseo: Depending on what the attorney says.

Ed Meehan: If you call it, no..

Commissioner Cariseo: No, no, no, say you allow them to do the first part, it's separate bond, but you then release all the money back to them.

Ed Meehan: Oh, I see, maybe you want to have a little kitty

Commissioner Cariseo: Hold that cushion back and apply it to the next one, that is certainly going to get them to get the other thing done.

Chairman Camilli: Well, if it's legal, we'll have to check it out with the Attorney, that's a good suggestion. It just gives us more money, if we could do that, I think that is a point well taken. It would give them a break, if it works, if it goes work....

Commissioner Cariseo: What kind of bond is it, cash bond.

Ed Meehan: Cash bond. It started off in Glastonbury Savings Bank, and now it's Manchester Savings, Bank North now.

Commissioner Kornichuk: I see they are doing irrigation in front of Applebee's.

Ed Meehan: We have been busy with bonds. You know, one guy does the irrigation, but it is not his dirt, so he is not going to move the piles of dirt. And he doesn't loam and seed, he just does the irrigation, so I have been going back and forth with Vornado. Today with E-Mail saying, we

have a five thousand dollar bond, and you are going to have to make this planting season, which is between now and October 15th. Get all the junk out of there, and get it loamed and seeded. I would like, like we did with Panera Bread, I want to go down there some morning, and have them turn it on, and see if it works.

Chairman Camilli: Not only if it works, but then they have to put it on. We talked about that as well, and then they don't turn it on.

Commissioner Cariseo: Is the one out in front of Outback separate? I was looking at it, the lawn looks lousy, and then you look up at Ruby Tuesday, and their lawn looks better. Two separate systems?

Ed Meehan: Could be, because Panera's is separate from Applebee, and the outer area. Panera is on their own.

Commissioner Cariseo: And nobody owns the buildings.

Ed Meehan: They lease them. They are ground leases.

Chairman Camilli: Zoning Administrator Report, do you have anything?

Ed Meehan: No, there's a monthly report, a lot of signs....

Commissioner Cariseo: A lot of junk cars, too.

XII. ADJOURNMENT

Commissioner Kornichuk moved to adjourn the meeting. The motion was seconded by Commissioner Fox. The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary