

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

January 13, 2016

Chairman Frank Aieta called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 in the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Chris Miner
Commissioner Domenic Pane
Commissioner Robert Serra
Commissioner Stanley Sobieski
Commissioner Judy Strong
Commissioner Brian Andrzejewski

Commissioners Absent

Commissioner John Bottalico - A
Commissioner Paul Giangrave - A
Commissioner Michael Camillo - A

Staff Present

Craig Minor Town Planner

Commissioner Camillo was seated for Commissioner Andrzejewski.

III. APPROVAL OF AGENDA

Craig Minor: No changes

IV. TOWN ATTORNEY PRESENTATION

A. Options for Enforcing Temporary Sign Zoning Regulations

Attorney Ancona: Thank you Mr. Chairman, Town Planner, Commissioners. I am here to discuss temporary signs, and for people at home who do not know what a temporary sign is, they are temporary signs that businesses put out for a special event for the weekend, or for some sale going on. Our regs permit those signs for up to 25 consecutive days. Apparently there are some violations happening, and I'm here to help sort out and address possibilities of how we can remedy the problem without overburdening our citizenry.

I asked Zoning Enforcement Officer Mike D'Amato to join me, because he can give you some context since he's out there every day. He knows what community and the public want, and what you want, how can we blend that. Of course I'm interested in your views on this. It dovetails with what I did years ago in developing a ticketing process. Mr. D'Amato, can you explain a typical temporary sign situation?

Mike D'Amato: As you have seen from my reports, most of the signage enforcement from my office is for temporary signs. So, whether you bring it to my attention via a phone call or I see it as a drive-by, the first thing I do is to figure out who owns the sign. That can be a property owner, it can be a tenant, it can also be someone who has just put the sign into the grass and they don't ever come back for it. So, identifying the violation obviously is the first step and then figuring out who owns the sign is the second step. That's important, because if you don't get to the right person, it's not going to come down quickly. Once we determine that, the notice goes out. The minimum for any violation is seventy-two hours. That's more or less the standard enforcement procedure. The notice goes out, and we set the enforcement up from there.

Attorney Ancona: What I passed out are some ideas and thoughts that I have sort of stolen from other towns. The top one is a typical ticket that the Zoning Enforcement Officer would fill out, after taking a look at what the violation is. A basic ticket system that would be returnable to the Town. It wouldn't be like a police ticket where it get returnable to the GA, the Geographical Area court. It comes back to the town, with an appeal process that lets the owner or the citizen say, "look, Zoning Enforcement Officer, I don't agree with this. I want to appeal this violation", and it gives them due process and an opportunity to be heard. That's the first thing. Second, and I just want to give you some ideas, the ability to see what is going on. The appeal process would be the second page, and the third page is a document which is a court document which is an enforcement of municipal regulations. It's like a citation has been issued and there's an appeal that has been lost or they didn't appeal, and at that point, we file it with the court and it becomes a judgment against that particular property. So it's enforceable in every respect that other judgments are. I don't recommend that the Town go for foreclosures, or anything like that, but it is something with a little bit of teeth, to let them know that we are serious. At this point, I would like to hear your concerns.

Chairman Aieta: I'll open up for the Commission for comments.

Commissioner Sobieski: Attorney Ancona, a couple of things. Number one, does the Zoning Enforcement Officer have the authority to issue a ticket like this? Let's say there is a \$60 fine for parking in the right of way, and he issues that, how much teeth will this have?

Attorney Ancona: There are no more teeth than what we are already doing. It's just a matter of efficiency for the Zoning Enforcement Officer and it dovetails with the process that is already in place with giving citations. This is just something that, somewhat more of an appearance of urgency.

Commissioner Sobieski: The second part of my question is, suppose somebody says, "the heck with it, I'm not going to do anything". What would be the next level - what do other towns do?

Attorney Ancona: The ticket would be enforceable with our CD-20 forms. I would go and file it; it would become a judgment just like any other judgment.

Commissioner Sobieski: Okay, but again, I can take the judgment and say, to heck with it. Just let it stay there, right?

Attorney Ancona: Absolutely.

Commissioner Sobieski: Thank you.

Attorney Ancona: You're welcome.

Chairman Aieta: Any other Commissioners?

Commissioner Serra: I like the idea, but the problem is we are creating more paper work for what we are already doing. It's going to take more time, more staff involvement, and we still may never see anything out of this. Am I reading this wrong?

Attorney Ancona: Commissioner, you are absolutely right. My hope is that it would simplify it to some degree. I didn't invent this wheel.

Commissioner Serra: No, and I understand that you are trying to help, absolutely, I'm not criticizing you in any way, I'm just trying wrap my head around it. Let me ask this, for the people watching at home, and the people in the audience. The Zoning Officer sees a violation...

Attorney Ancona: That starts the seventy-two hour notice. They have a period where they can remedy and there is no harm, no foul. After that point, if they ignore it, Mr. D'Amato can issue a citation. From there, they get a ten day period to appeal. If they appeal, the hearing must take place between fifteen and thirty days. If they don't appeal, or they lose the appeal, they will then have to pay the citation.

Commissioner Serra: I worked in the court system, so I'm very familiar with that end of it. My concern is that, I know Mr. D'Amato's time to get this all done, and I know this has been discussed before, except for civic groups, we don't want to hurt them, but at the same time, it is out of control. Now, this is just a suggestion, or another thought, when Mr. D'Amato sees this, and he goes back to his office to prepare the letter, but what if you had a generic form letter with the different types of violations on it? You're there, you see it, you check it off, you hand it right then and there?

Attorney Ancona: I think what you just described is that we are using the ticketing process rather than the citation process.

Mike D'Amato: If I could just interrupt, and correct me if I'm wrong, but the difference that I am seeing is the current process involves a notice of violation, and in most cases, second notice of violation, then citation, then cease and desist. That's the hierarchy. This process would be ticket, so there isn't a notice of violation which the post office has fifteen days to deliver, then second notice with fifteen days, citation, fifteen days. So a period of time if somebody actually wants to thumb their nose at the town, and not take the sign down, you could have thirty days, in theory. In this case, the ticket would be issued and that's it. It would leave town hall, and whether they pick it up in one day or fourteen, it doesn't change the fact that the ticket has already been assessed. So it kind of cuts down on the time line.

Attorney Ancona: That's a very good description, but I think there has to be a balance. This is still America, there is still constitutional protection, free speech and so forth. We really have to be conscious of the public's rights, and their liberty interests that we need to be very careful about. I think we all should be very sensitive to that. I understand your concern, it's not a good situation.

Commissioner Serra: I understand that, and what I'm looking at, and I'm sure you have seen it around town, those mattress signs all over the place, or craft signs, somebody running a sale around every corner, in right of ways. I mean, everywhere you look. So what we are looking for is the best way, the speediest way to get those signs removed.

Attorney Ancona: I hear you on that, but that's a different animal. Those signs are not covered under our regs; those are criminal mischief or vandalism. So that would be a criminal violation. It's a lower crime, but it is a crime, and they are basically vandalizing someone's property.

Mike D'Amato: We take those, and they go in the back of my car, whether it is the Highway Department or myself, those just come down, there's no notice. Typically I do what I can, I look

at the LLC or get the phone numbers and I touch base with other ZEO's in other towns that have had the same signs and most of them, Serta Mattress, I've sent them all notices. They go to all different parts of the State, but they are on notice that we know who they are, but if we see those in town, they get taken.

Commissioner Pane: I think it would be nice for a first offense if maybe the Zoning Enforcement Officer went in to talk to the owner and told him what the violation was, a little bit more business friendly, and tried to explain to him what the violation was. Most reasonable people will remove it. Explain to him that if it does appear again, then you are going to issue this ticket. If he has this ticket book, can he hand that ticket out right there instead of coming back to the office? He could just give this to the owner, right?

Attorney Ancona: That's the point, I completely agree with you. It would be nice to go into a business and say, look, I don't know if you know this, but you are violating our regulations, and we need to see some corrective action. I would hope that the person would comply, or if they have an objection, express an objection, to some degree, and then if they don't comply, if there is an issue, then they get the citation or the ticket.

Chairman Aieta: Just for clarification, we are only talking about temporary signs that are illegal because they are in the right of way, so when you say that people have rights, we agree with you, everyone has rights, but these signs are not legal. Drive down the Berlin Turnpike any given day, any weekend, and you will see that they pop up like flowers. They are so inexpensive that people don't care if they are up there for just a couple of hours, it's good advertisement, and you see them every weekend. That is what we can't get a handle on. We have talked about this before. The Berlin Turnpike has the most relaxed sign regulations, we give them an extra square foot for every running foot that no one else in the town has. So what happens is one person puts out a temporary sign, Mattresses or a sale this week, and then the guy next door gets flags coming up, and all of these are in the right of way. They are illegal, and people don't care if we take them or not. So we're at the point where this Commission is saying, no more temporary signs. Then you would have a level playing field for everybody. One guy is not having his sign out there every week, haircuts for \$3 and that type of thing. It would be a level playing field, and I think that would be easier to enforce because we could get the Highway Department to drive down the turnpike and pick up the signs.

Attorney Ancona: I hear your frustration, but I worry that you would be running afoul of the Constitution. I do worry, and I worry that we would get a challenge.

Chairman Aieta: The way that it is set up now, if they come in and ask for a permit, that is the reasonable and legal approach.

Attorney Ancona: But if we abolish it completely, then what happens?

Chairman Aieta: We would have to make arrangements for civic organizations to put up signs. We have talked about it in the past, but it's at the point where the Zoning Enforcement Officer is spending seventy-five percent of his time chasing down signs, and he has so many other things that he has to do. This has been going on for forty years since I have been in town, and I've been on the Commission a number of years and it's to the point where we might take that approach, and say no to temporary signs. I don't see how it's a constitutional thing; they have signage. It's not like we are saying take down all their signs on the Berlin Turnpike. We're telling them, don't put up illegal signs in the right of way.

Attorney Ancona: Mr. Chairman, I hear you, it's my job to...

Chairman Aieta: I think we take the challenge in court and see where it ends up.

Attorney Ancona: That's fine, but it's my job to tell you what my concerns are.

Commissioner Pane: The previous Commission and I think Carol Anest, Commissioner Anest, talked about having community signs in key locations for civic groups. I think that is an excellent idea and I think that if you do remove temporary signs from the sign regulations that we should proceed with that. I also think that if you do remove the temporary sign regulation, you should still leave some opportunity for a brand new business for X amount of days, for three weeks or whatever, they can have flags and a grand opening, or a business that is under new management or something like that.

Chairman Aieta: Any other Commissioner remarks?

Commissioner Sobieski: I know that DOT will remove those signs periodically on highways, like the Berlin Turnpike. Maybe I'm misunderstanding, but are you saying that by removing those signs they could run afoul?

Attorney Ancona: No, I'm not saying that, because those signs are in the right of way. In the Newington right of way it is a different matter altogether.

Commissioner Sobieski: So the Newington right of way and the State right of way basically parallel each other.

Attorney Ancona: Absolutely. They have no right, no matter what our regulations say, to put anything in a municipal or state right of way.

Chairman Aieta: That is ninety-five percent of the violations. We're not going on to the front door of the businesses and ripping down their signs. Any other Commissioner comments? Thank you, we appreciate you coming in.

Attorney Ancona: Thank you very much.

Chairman Aieta: Just one other thing before you leave, Attorney Ancona. Are we going to bring this to the Council so that we will have this system in place so that we can use this ticketing system?

Attorney Ancona: That would be your call whether you want to bring that up.

V. ZONING ENFORCEMENT OFFICER REPORT

Mike D'Amato: I have a couple of things to go over other than the report, but we can start with that. Does anyone have any questions about anything on the report or anything not on the report?

Chairman Aieta: On the Berlin Turnpike, S & M package store: we gave them permission over the summer to have a hot dog stand there. That time has run out and now they have a taco truck there. Also, Doogie's has a running lit sign around his windows on the outside; it's multi-colored and it's a classic example of what the regulations say not to have. Any other Commissioners have any violations that they have seen?

Mike D'Amato: So the other thing, the e-mail from this afternoon...

Craig Minor: Let's see if I can bring it up [displays map on the monitor].

Mike D'Amato: This is a map of zoning enforcement actions for 2015. It is designed to show properties only; it doesn't show the number of enforcement actions. I know it's busy, but you can look at it at home. You can see there are five different categories of signage violations. Obviously the purple flags are signage. The "vehicle" symbols represent commercial vehicles, recreational vehicles, unregistered vehicles. There are a couple of farm animals, chicken complaints, and two or three home businesses without permits. What doesn't show up is that there is a business on the Turnpike that I have sent fifteen or twenty notices to over the course of 2015; they show as one flag because they are one address. But I just wanted to give you an idea of what is going on where. You will see that there are a heck of a lot of flags along the Berlin Turnpike.

The other thing that I would like to show is a comparison between temp sign violations and permanent sign violations. Everything in yellow is a temporary sign violation in 2015. I knew it was going to be something that came up tonight, so I wanted to show you. All these things are active, so if you go home tonight and you click on something, it will show you the address; whether the complaint was brought by myself or received from you or a resident; and a little bit about what is going on. In most cases the comment is what I put in the letter. For new businesses I always word it so that they understand that there is a temp sign permit that they can apply for, and I have a hand-out, so they hopefully do something legitimate. I just wanted to give you a graphical representation of all these. As you look at it, you may have questions. Other than that, that's all I have for tonight.

Chairman Aieta: Any questions for the Zoning Enforcement Officer?

Commissioner Pane: Mr. Chairman, I think we should move the ticket system forward to the Town Council. I think it will save the Zoning Enforcement Officer a lot of time and I think that is something that we should move forward to the Town Council.

Chairman Aieta: Do you want to make that in the form of a motion?

Commissioner Pane: I move that we move the ticket enforcement system to the Town Council for action. The motion was seconded by Commissioner Camillo. The vote was unanimously in favor of the motion, with six voting YEA.

VI. PUBLIC PARTICIPATION (for items not listed on the agenda)

Gail Whitney: I'm the Executive Director of the Newington Chamber of Commerce. I can't even say how many times people call me who are opening a new business and have questions about sign. I'm not asking for special dispensation, but when we have a Chamber event, we have signs - please let us keep our signs up. Any time we have a community event, we try to keep them up just for the week of the event. We do have the zoning regulations that we give to businesses that come to the Chamber and we make sure that they are aware of them, and if there are any questions to call the Town or myself or Mike. It's always been an issue. I can't tell you how many times I've had people call me and tell me that they have an issue with signage or they can't open their business because of the sign regulations. Everything seems to be about that, so I'm really hoping there is some kind of resolution about that and whether they can have it for a specific period of time or what.

Chairman Aieta: The Commissioner said that we would take into consideration new businesses and ownership changes in businesses, so you have a period of time to advertise on temporary signs.

Gail Whitney: That would be greatly appreciated. Thank you very much.

John Bachand, 56 Maple Hill Avenue: I just wanted to say I saw the agenda and I just wanted to complement the Planner's efforts on that map and I wondered if we could get them handed out, or posted on line so that other people could see them. I think that is a step in the right direction. I also wanted to mention, well just one improvement, the busway is not very clearly designated on there. The little green star shows the station, but I think we could highlight the busway itself. It might help a little bit. Also, the State's approach to this busway has been a work in progress right along. They drastically reworked their master plan and now they are talking about, I guess this was always on the back burner, expanding their service, but now they are really aggressively, rapidly expanding, going to the east and the south all over the place, kind of making Newington the center of what I call the Central Connecticut Transportation Universe. I think that is a good thing. I think it takes pressure off us, for originally it seemed like they were pushing the housing element so I think the moratorium has been good, it's given us time. Some people seem to think that there is a, well, "time is of the essence" factor, but I don't feel that, and if worse comes to worse it would have to be extended a little longer. I wouldn't even be opposed to that but I'm saying, it seems like just the time that we have had it, and the way the State has treated it has been a good thing so far. Thank you.

Chairman Aieta: Anyone else from the public like to speak at this time?

VII. REMARKS BY COMMISSIONERS

None.

VIII. PUBLIC HEARING

- A. **Petition 41-15: Special Exception (Section 3.2.9 Adult Day Care) at 26 Church Street. New Life Adult Day Care Inc., applicant, Vaishnav Parivar of Connecticut Inc., owner, Sachin Patel, 69 Cherrywood Drive, Nashua NH, contact. Continued from December 9, 2015.**

Chairman Aieta: This is the third hearing on this application. We held it open for an additional meeting. We would like to have the applicant and the public talk about items that have not been covered so far. We'd like to hear if there is any new evidence that you think the Commission needs to hear. We don't want a rehash; we had a two and a half hour meeting at the last meeting, and the Commissioners are very well aware of all of the different nuances of this particular case, so we would like to move it along tonight and not rehash the same thing that we have heard for the last two meetings. If the petitioner could come up with their representative and give us a brief overview of anything new that they would like to add?

Attorney Paul Doyle: Good afternoon Mr. Chairman, Commissioners. This being the third session I'm not sure I can add too much. As you remember, at the first hearing issues were raised by the neighbors. Mr. Minor and I met, and we drew up a list of issues with the neighbors, but that's unrelated to this application. I know the Commission was concerned about that, but what Mr. Minor and I drafted lays out the issues. We conducted a public meeting, some of the members were there, we met with the neighbors, and that list was compiled and a memo of understanding was mailed today. We gave the neighbors two weeks to comment on it, and we hope that the Town and my client will sign it, but as far as this application, I have nothing further to say.

Dr. Patel: Thank you. At the last meeting we were asked about the day care, the commuting and everything. It's the use of the building only, that's all I have to say.

Attorney Doyle: Thank you Mr. Chairman.

Chairman Aieta: I will open it up to the public. Anyone wishing to speak in favor of this application, come up and if you have something to bring forward to the Commission please come up and state your name for the record. Anyone in opposition to this application?

Hal Whitney, 31 Old Hatchery Lane: I apologize, I was not at the previous meeting. The reason for that is I received notice of the November 12th meeting about the adult day care, but I didn't attend because I thought since it is a religious organization that it involved the voluntary efforts by the congregants. Then in December I received a registered letter from the president of the temple, Roger DeSai inviting me to an informal meeting at the Town Hall to discuss issues that were raised at the November 12th meeting. I was intrigued about what those issues might be, so I attended the informal meeting on December 16th, and I was surprised by some of the things that I heard from my neighbors who live on the property line with the temple. Issues of trespassing, theft, threatening of neighbors by temple congregants, loud late night celebrations, and trash overflowing onto their yards. My wife and I live right in back of the temple. We've heard the noise, and we were willing to be good neighbors, and I can tell you the loud music ended at what we thought was a reasonable hour but now I learned that it ended not through the courtesy of temple congregants, but because of the police and fire marshal being called because of the loud music and the over capacity crowd. The informal meeting which I attended was supposed to be an effort by which the congregants and the neighbors would get together and resolve the issue, but as I observed Mr. DeSai, his body language at this informal meeting and during the exchanges, I watched his eyes continuously rolling as the Brodacki's listed their complaints. It was obvious that he did not take these issues seriously. I have heard that the promises to address the issues have been made repeatedly for a number of years, and none have been met. Of the temple's zoning for religious purposes, I read Mr. Minor's memo to you folks from January 5th that says that adult day care is permitted in all residential zones, but I think that is non-profit. This New Life Adult Day Care, the petitioner, is a domestic for-profit organization. I don't feel that running a for-profit adult day care for seventy-five attendees is a good fit for the neighborhood. Based on the bad faith promises made to the neighbors, and a complete lack of empathy by the temple as they intrude on the privacy and the rights of their neighbors, I think approving this petition would just acerbate the existing issues. I'm asking you to please deny this petition. Thank you.

Chairman Aieta: Thank you. Anyone else in opposition? We want to keep this to the adult day care and really don't want to rehash the existing problems of which we are all aware.

Deborah Brodacki Magnum, 10 Church Street: I know you don't want to rehash, but we had a meeting and discussed it, and I'm still against it for all of the reasons I gave before. It is a residential neighborhood, and this is a for-profit business. I think adult day care is a good thing to have, but not here. I think this is a very poor choice for a business like that, with the traffic, etc., etc., etc., everything that I brought up in prior meetings. My feelings have not changed about that. I feel this is a very inappropriate location for this type of a business. That's it. Thank you.

Chairman Aieta: Anyone else wish to speak in opposition to this application? If you would like to get up, you can comment and just state that you have no opinion either way.

Gail Budrejko, 21 Isabelle Terrace: This is just a comment and I apologize for not being at the last marathon meeting, but I'm still confused as to why this isn't viewed as a change of use for this building. A religious use is very different from having a for-profit in the same confines. Since this is a for-profit, I assume that we will be getting some tax revenue for it.

John Bachand, 56 Maple Hill Avenue: At the last meeting you kind of had to pry it out of them if it was for-profit, or not. I'm not for or against it. The concept itself is great; I'm just worried about the precedent it sets for allowing a business in a religious building or property. It seems like the majority of the use will be for this business. The way I see it is that it is actually two businesses -

it's one running the day care, and then the rent collection turns the church into a business too, as a landlord. I'd be supportive if it was the church running it as an outreach or a community service or something like that, but I'm worried about the precedent because we have a lot of other religious entities that have property that have been tax exempt for so long. Thank you.

Chairman Aieta: Anyone else? Seeing none, I'll have the petitioner come up and address the issues in rebuttal.

Attorney Doyle: First of all, some of the issues raised have nothing to do with the application before us. I'm apologetic that some people thought that the temple is not sympathetic to the neighbors' concerns, because they are. In good faith we drafted the memo of understanding which will provide a written documentation of the sincere efforts of the temple with the Town of Newington, so again, it will be a good paper trail. They are very trusting. There is a sincere appreciation from the Temple to address the neighbors' needs and I think the proposed solutions that Mr. Minor and I have crafted will lead to a lot of problems being resolved, and I'm confident of that.

There are a lot of concerns about the for-profit status of the applicant. To be honest with you, if I was the creator of the corporation, it's a Massachusetts corporation, I would have created a non-profit corporation, but the truth of the matter is, this is not a highly profitable business. There are very large labor costs and insurance costs; even though technically it is a for-profit entity, it is not the (inaudible) of a truly profitable business enterprise. If approved the Temple will have to come back every two years and I request that Mr. Minor be in direct communication if any problems arise. I encourage the Commission to approve it. It's going to help seniors throughout Newington and in the greater Newington area. You have a significant need for all our families to try to provide some adult care and respite care for our care givers. I thank you for considering our application and I urge you to support it.

Chairman Aieta: Just for your information, and the public's information, the Commissioners are well aware of the separation between the two issues that we have here. We're looking at this special exception for a day care. We are not taking into consideration the other problems that would be left for another day. All of the Commissioners have been aware of how we are separating, keeping our minds clear that we are here only for the special exception on the day care. We are not co-mingling the two different issues, or the two different situations.

Craig Minor: Attorney Doyle or Dr. Patel: can you speak to the question that was raised before about the taxes, the status of the tenant? I realize that they are a tenant so they don't pay taxes on the building, although you could say that they do through their rent, but will they have any equipment that might show up on the Newington grand list?

Dr Patel: As I explained at the last meeting, we will occupy a certain part of the building on Monday to Friday from eight to four. We will be using a certain part of the temple which we are renting. The evenings and weekend will be used by them - there will be no doctor's office or anything such as someone asked about the last time; there will be no pharmacy, no doctor's office, no medical examination rooms or anything.

Craig Minor: Maybe I didn't express the question well. I mean, will you own anything that would be taxable, such as the vehicles, special equipment?

Dr. Patel: No. The vehicle will be owned by the corporation.

Craig Minor: Okay, that's a good example. Where would the vehicle be registered? In Connecticut, or Massachusetts, I mean, New Hampshire?

Dr. Patel: In Connecticut.

Craig Minor: But not necessarily Newington? So there wouldn't be any revenue from the vehicle?

Dr. Patel: Newington, Town of Newington.

Craig Minor: It would be registered in Newington, okay, so then there would be some revenue from your vehicles. Is there anything else you have that would benefit the town?

Dr. Patel: Right now, most of the, there is nothing of an asset kind of thing you can count, but nothing else.

Craig Minor: Okay, thank you.

Dr. Patel: Chairs and everything would be used from the temple.

Attorney Doyle: They are already existing.

Dr. Patel: We don't have any intention and I can assure the neighbors, there is not going to be extra parking for the neighborhood. As mentioned at the last meeting, these people are coming in by vans, they are not coming in in seventy-five cars; they are coming in five or six vans that will be bringing the people over.

Attorney Doyle: Thank you.

Chairman Aieta: The opposition has the opportunity for final rebuttal.

Hal Whitney: Is this is an elderly adult day care, or are we going to have people coming in there with drug problems, or emotional issues? Do we know that it is strictly a day care for elderly people?

Chairman Aieta: It's an adult day care, and they are nodding their heads, saying that it is specifically for geriatric type patients.

Gail Budrejko: I'm sorry, this is my ignorance, but as a religious entity they are tax exempt, the building, whatever, but now you are bringing in a for-profit business, which will presumably be paying rent and generating income as a for-profit type activity. I don't understand where Newington is not going to get anything from this. Thank you.

Chairman Aieta: Anyone else wish to speak? This is the final rebuttal. Seeing none, I'll ask the Commissioners for their remarks. Any questions? Seeing none, can I get a motion?

Commissioner Pane: Mr. Chairman, I move we close the public hearing for Petition #41-15.

The motion was seconded by Commissioner Serra.

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

Chairman Aieta: We will put this on the next meeting agenda under Old Business. You will have an opportunity at the next meeting, as Commissioners, to discuss it.

B. Petition 44-15: Special Permit Section 6.6: Sale of Alcoholic Beverages at 2610 Berlin Turnpike (Aldi), Aldi Incorporated CT owner, Aldi Incorporated CT, applicant, Kyle Voiland, 295 Rye Street, South Windsor, CT, contact.

Chairman Aieta: Is the applicant here? Come forward, state your name for the record and give us a presentation of what you are requesting.

Patrick McDermott: Good evening Commissioners, I am Director of Operations for the Aldi South Windsor division, and with me this evening is Daniel Shea, district manager for Aldi. Thank you for the opportunity to present our case this evening. Basically we would like the opportunity to sell 13 types of beer from within our store. No wine. At this time we do not sell any alcoholic beverages so this would give us the opportunity to expand our product line. It is already in our stores nationwide. We currently carry beer and wine in our Vermont stores and are looking for the opportunity to expand the product line in Connecticut.

Chairman Aieta: Just a couple of questions. The permit for a grocery store - is it a combined permit for beer and wine, or is it just a beer permit? Do you know that?

Commissioner Pane: What was the question?

Chairman Aieta: They are looking to sell beer, and I believe that the permit is for beer and wine both, which is not a problem, we just want to make sure that we're giving you what you are asking for. Plus we want to make sure that if it's wine, that you have the opportunity to do too.

Craig Minor: [Looking at the zoning regulations] Well, it just says "store". There are four classes of liquor permits in Newington. The first one is "restaurants and the like"; next is "club and the like"; the third one is "store and the like", which is this, and the fourth one is "bars and the like". So, it would be a store. If we had an application for a conventional package store, it would be the same category.

Chairman Aieta: I believe the State breaks it down into many different permits, like for a grocery store would be beer and wine. Have you had any contact with the State Liquor Control Commission?

Patrick McDermott: Not that I'm aware of. At the present time we are just interested in carrying these 13 beer items; we don't plan to carry wine at the time.

Chairman Aieta: You would still have to go to the State.

Patrick McDermott: Correct.

Chairman Aieta: I was wondering if you did that and they put any light on the subject of whether it is a beer and wine permit?

Patrick McDermott: I don't know the answer to that question.

Chairman Aieta: I'll turn this over to the Planner who has done some research on distance requirements.

Craig Minor: Mr. Chairman, the only issue that I was concerned about when the application came in is the requirement that like uses be at least 500 feet apart. The nearest retail distributor of alcohol is the Stop and Shop which is well over 1300 feet away; the requirement is that it be at least 500 feet away, measured from front door to front door. So there is no problem with approval as far as location is concerned. I have no concerns with the application.

Chairman Aieta: Any Commissioner remarks? We'll find out exactly what you are looking for; it might be that you can sell any kind of alcoholic beverage.

Commissioner Pane: I don't think so. I think it's only beer and wine, and there are only so many liquor permits for the town of Newington. I think it's six or seven that can sell liquor and there is only so many of those. "Beer and wine" is everything else, unless it's a restaurant.

Patrick McDermott: I believe Commissioner Pane is right.

Craig Minor: As I said, our regulations don't make a distinction as most towns do between a package store permit and a grocery store permit, which the State does. The State has many different classifications; we just seem to have one retail class, and that is "store".

Commissioner Pane: Should we put this off Mr. Chairman until the Planner gets a little more information?

Craig Minor: If you want more information I will try to get it for you, but our regulation is pretty clear. I think it is not what we thought it said, because we apparently have only one retail category in Newington.

Chairman Aieta: So whatever is allowed by the State as a "store", that's what we will grant. We have no problem with the distance requirements; other grocery stores have the privilege of selling beer, so I don't see this as an item we should not grant. I'll ask the public for comments. Anyone in favor of this application? Anyone in opposition?

Commissioner Pane: I move to close Petition 44-15 and move it to Old Business for action. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YEA.

Chairman Aieta: We will be voting on this tonight so that you can get going on the work that you have to do for the State of Connecticut.

IX. APPROVAL OF MINUTES

- A. Regular Meeting November 12, 2015
- B. Special Meeting November 23, 2015
- C. Regular Meeting December 9, 2015
- D. Special Meeting December 9, 2015

Commissioner Sobieski moved to accept the minutes of the regular meeting of November 12, 2015; the special meeting of November 23, 2015; the regular meeting of December 9, 2015; and the special meeting of December 9, 2015. The motion was seconded by Commissioner Camillo. The vote was in favor of the motion for the November 12, 2015 and November 23, 2015 with five voting YEA and one abstention (Strong). The vote was unanimous in favor of the motion with six voting YEA for the December 9, 2015 regular meeting and special meeting.

X. NEW BUSINESS

- A. Discuss Zoning for TOD (Transit Oriented Development)

Craig Minor: If the Chairman likes, I will read the memo that I prepared for the Commission.

"At the meeting on December 9, 2015 the Commission decided to focus on TOD zoning for just the Cedar Street CTfastrak Station area for now, and to consider Newington Junction later.

There was consensus on keeping the current zoning (I and PD) in the Cedar Street Station area, and to allow, by special permit, transit-oriented development that is not expressly permitted in the regulations for these zones. Portions of residential neighborhoods that happen to be inside the ½ mile radius of the Station should be protected. New development that promotes the goals of the TOD district (to be determined) should be encouraged through "incentives" such as reduced parking requirements, or an increase in the amount of allowable floor area.

Using these ideas as guidance, I prepared a *draft* set of regulations for what I'm calling the "TOD Overlay District". This is only a draft, for the purpose of kicking off a discussion about the kind of development that TPZ wants to see in the Cedar Street Station area. As of this writing I am still finalizing this draft, so it will be sent under separate cover.

At the last meeting a set of land use maps showing vacant and under-utilized parcels in the two CTfastrak neighborhoods was distributed. I was asked to revise these maps to show wetlands and 100-year flood plain, and the names of the owners. This turned out to be too much information to show on a single map, so I asked the IT department to put the owners' names on one copy of the original map, and wetlands/flood plain on another copy of the original map. See attached."

Craig Minor: Tonight before the Commission arrived I distributed copies of the draft TOD District Overlay regulations that I have proposed. I'll turn it back over to the Chairman for discussion.

Chairman Aieta: For the public and people that are here tonight, we are looking at two different types of regulations for TOD. One for the Cedar Street Station area, and a completely different set of regulations for the Newington Junction neighborhood. The Planner has put forward a draft that gives general information, purpose, procedures. I'll open it up for discussion. I think you got this beforehand, before the meeting. It's not that long and I hope you read it. Are there any questions?

Commissioner Pane: If this is going to be for just the Fenn Road area, should we reference that at the top somewhere? Also, in the 2020 Plan on Page 24, under "Community Character", it gives the following General Goal, and maybe the Commissioners might want to add this at the very top of this regulation as a general goal: "Locate development in places and at densities which support the desired overall character of Newington" with "Smaller mixed land uses adjacent to future transit stations." Just a suggestion. That's all I have right now Mr. Chairman, thank you.

Chairman Aieta: I'd like the Planner to explain the overlay concept because this is not a zone change per se, this is an opportunity for the land owners in that area to take advantage of some incentives. I'll let the Planner explain.

Craig Minor: The driving principle I was working under was that the Commission didn't want to take away any of the existing rights of property owners in that area. I came up with a regulation that left the PD regulations and the Industrial regulations the same as they are now, so if somebody wants to do something under the old rules, those rules are still there. What this would do is to give those property owners the opportunity to do something different, something TOD oriented. That process will involve public hearings, a special permit, with the applicant describing what they want to do and how it is TOD, is pedestrian-friendly; how it takes advantage of this resource that CTfastrack is. To encourage that kind of development, which is to the Town's advantage, these regulations give the Commission the ability to offer incentives to encourage

developers to propose mixed use development, and dining and entertainment clusters which was something we had heard about during the public information meeting a couple of months ago as something people in Newington would like to see. Medical offices. I have this in brackets because I haven't defined the term, but "high tech research" is another type of activity that we would like to encourage developers to come to Newington with. We know we can't make them, but we can encourage them to by giving them incentives such as allowing greater density, or allowing less landscaping, or allowing more of everything. We can think about it, we can talk about it more. That would be a way to encourage it without anybody feeling that they are being pressured. Again, this is by special permit so there will be public hearings where citizens would have the opportunity to express their concerns or opinions or support even, of the proposal. I suggested a couple of things that I think we want to encourage in this district, but obviously it's up to the Commission to decide what the goals of this district are.

Chairman Aieta: We are doing this as an overlay district because we can't go in and just wholesale change the way people's properties have been zoned and take away their rights to come in under those underlying zoning regulations, but with these incentives it would be to their advantage to come in under this regulation to take advantage of the incentive items. We're looking for developers, or the people who own the land, the vacant pieces, to come to us and show us what they would like to see on their property. There are a multitude of different uses that you can do in a PD Zone. It allows commercial, it allows some industrial, it's a wide sweeping zone. We would encourage the developers. Do we want to specifically say, on this piece of property we want to see a medical office building? We could be sitting here for thirty years waiting for that to happen and it never happens. I think it is incumbent upon this Commission to allow the developer to bring forward what he envisions for his property, and we, under this type of overlay zone, we can direct him in a direction we would like to see. We want the opportunity for developers to come in and show us what they want to do. Under this regulation, this gives the public the right amount of input. Every one of these applications will be a public hearing, the public will be notified, the public will be encouraged to attend and speak on the applications, so I think we are covering all of the bases with an overlay zone like this. Are there any Commissioners remarks?

Commissioner Sobieski: Chairman Aieta, to the Planner. I'm a little confused. I'm looking at the first map and I see flood plain, I see wetlands; I go to the second map, owned by the Town of Newington as development. My question is, can someone build in a hundred year flood plain?

Craig Minor: It depends what they want to build. The short answer is yes, but it depends on what they want to build.

Commissioner Sobieski: Let's say I want to build three-story housing.

Craig Minor: Housing?

Commissioner Sobieski: All right, let me go back and say, I want to build a three story family house for myself.

Craig Minor: Yes, as long as you don't mind being up on stilts, and as long as the volume of those pilings don't reduce the flood storage capacity of your parcel. You would have to find somewhere on your parcel to excavate land to compensate for the volume of your pilings. If your whole lot is flood plain, if there is nowhere that is not flood plain where you could do this, then no. As a practical matter it is very difficult, extremely difficult. If the topography is just right, and what you want to do meets FEMA's regulations, if you don't mind paying for flood insurance and you have a very clever engineer, if the Wetlands Commission is okay with it, if all these factors line up right, it's conceivable that you could get permission to put a building in the flood zone.

Commissioner Sobieski: I'm looking at the second page here and it says, "Vacant parcels and low utilization". Now, put one on top of the other, this is in wetlands right now in some form, whether it be the hundred year flood or the wetlands in general, because that's why I was a little concerned because I wouldn't want to see wetlands or the hundred year FEMA flood area affected.

Chairman Aieta: It's not going to be a radius; it's going to be an odd-shaped configuration to include the pieces of property that are buildable.

Commissioner Sobieski: I realize that Chairman Aieta, I just don't want people to get the impression that this could be developed here. That's all I'm saying.

Chairman Aieta: I think what the Planner said is correct. It could happen, but is it practically going to happen? Probably not.

Commissioner Sobieski: Thank you.

Chairman Aieta: Any other Commissioner remarks? What would be the next step on this? Do we refine this a little bit more?

Craig Minor: Exactly. I would feel better if there was more conversation about this at the next meeting or two. I want to think about it some more, and to get your thoughts some more, on what the goals should be for this district. Maybe some other incentives that I haven't thought of that you might could think of. Some other goals that I haven't thought of. I'd like to give you folks a chance to mull it over and maybe at the next meeting discuss it some more, and when you think it's ready to present to the public for comments. We could go straight to a public hearing with a final draft. That is what we normally do when the Commission has a text amendment, like the sign regulations. We workshop it up to where we think it's ready for prime time, and then we have a public hearing, get comments from the public, refine it, and then adopt it. I'd like to move a little bit slower on this one, personally. I'd like to have some informal public information sessions first, and then go through the standard adoption process.

Chairman Aieta: I just don't want us to be here in June or July looking at this and not moving it off the table. I envision us being able to move this, at the latest in March. That is the time frame that I would be looking for.

Craig Minor: Then skip my suggestion of having public information sessions and go right to the public hearing. You can keep the public hearing open as long as you want - the sixty-five day rule only applies to applications from the public; you can take as long as you want to get public input. Like you did with the commercial vehicle regulation. You kept that hearing open for a long time to get public input.

Chairman Aieta: When we did the 2020 Plan, we kept it open for nine months because it was something that we hoped to get some coverage from the newspapers and encourage people to attend the public hearings. I think when we had the informational hearing it was good; we got input and we heard a lot about what people said they didn't want. It's up to us to tell them what we envision happening there. We will keep it on the agenda, we'll see if we can massage it a little more.

Craig Minor: I'll keep in under New Business for the next meeting and maybe the meeting after.

Commissioner Serra: Just one question. The map is a great idea, and the overlay came out fantastic. Do we know what the buildable acreage is here, or can we find that out? Because we all know that somebody threw around the 100 acres figure.

Craig Minor: That was Newington Junction that they were talking about.

Commissioner Serra: I think it would be a good idea to know what we have here.

Craig Minor: I think our IT department could come up with a methodology to calculate the square footage of unbuilt, but buildable land there is within...we'll use the half-mile radius?

Chairman Aieta: Just for now, yes.

Craig Minor: Just for now. Okay, we can do that.

Commissioner Serra: Just to get an idea of what we are looking at.

Chairman Aieta: But we would probably, I've looked at this, and we probably would end the zone at the railroad tracks that run across Cedar Street and not extend it beyond Maple Hill Avenue and up into Alumni Road and that area. We could use the railroad tracks as one of the boundaries; it would be an irregular shape and encompass the pieces that are available for development. Any other comments by the Commissioners? Any other questions?

B. Discuss on-going review of Zoning Regulations

Chairman Aieta: The Planner passed it out for our review.

Craig Minor: 35 or 40 some pages of it, just through Section 4 I think.

Chairman Aieta: You can take the information that the Planner gave us, and you can see where he has suggested corrections to the Zoning Regulations. So if the Commissioners review these changes, we could go over these sections at the next meeting.

Commissioner Pane: Mr. Chairman, is there anything more than what we have here?

Craig Minor: Yes; if you flip to the last page, because I didn't bring a set, and tell me what the last section is...

Chairman Aieta: Section 3.28.8.

Craig Minor: Right.

Commissioner Pane: Could we get it all at once?

Chairman Aieta: Well, there are some that haven't been reviewed, but if you would like to have it all...

Commissioner Pane: Could we get the changes we have made, and then there will probably be a section that hasn't been reviewed, like the definitions section, or where ever it was where you left off.

Craig Minor: Right. What I wanted to do is give you these forty-five odd pages now, and then at your next meeting give you the rest of them, which is probably a similar amount of pages. As the Chairman said, these are all the changes that your predecessors tentatively made, and hopefully you are still in alignment with what last year's TPZ wanted to do. In the next week or so I'll send out the rest of it.

Chairman Aieta: So if the Commissioners, in the next couple of weeks would just review this you could see where the Planner has removed some items, and the items that he added are underlined in bold so you can see the changes that we went over as a Commission, up to this point.

Craig Minor: Every one of those changes were discussed by the Commission, or didn't discuss because there were no objections to my suggestions.

Chairman Aieta: Any questions from the Commissioners? We will leave this on the agenda if there are any changes or things that the Commission may want to talk about. I think we should move right on to the balance, just to get it to the Commissioners. If you have changes that you would like to see, just make them.

Craig Minor: I'll try to restrain myself from doing that, because I don't want to make it too complicated. What the Commission has, the Commission has already looked at and agreed to, so I don't want to add anything new that hasn't been vetted by you.

Chairman Aieta: Okay, fine.

C. Appoint Alternate Member to CRCOG Regional Planning Commission

Chairman Aieta: I haven't already discussed this with the Commissioners. Would anyone like to serve as the alternate member to CRCOG? Stan is the member from the TPZ to CRCOG, so Stan will attend hopefully all of the meetings. Anyone want to be an alternate? Mike, do you want to do that?

Commissioner Camillo: Sure.

Chairman Aieta: An alternate can be an alternate, right?

Craig Minor: I don't see why not.

Chairman Aieta: Then we will put your name forward to the Town Council. Will you take care of that?

Craig Minor: Yes.

D. Discuss the Sec. 8-24 referral process.

Chairman Aieta: I'll turn this over to the Planner and then we will have a discussion on this. The liaisons from the Council are here tonight, so we will have the opportunity to discuss with them.

Craig Minor: As citizens of Newington and members of this Commission, you have probably heard the phrase "8 dash 24" or "8 24". That is shorthand for is a state law in Connecticut that requires the Town Council, or the Board of Ed, whoever the final authority is on any major action, to run that action by the Planning Commission first, for the Planning Commission's opinion. Any purchase or sale of land has to come before you for your opinion. Any "substantial improvement" to a piece of town property has to come before you. Leases have to come before you, but it's not clear whether if the Town wants to lease out land it has to come to you, or if the Town wants to lease land from somebody else it has to come before you. I've heard that it goes both ways, but those are the types of things that have to come before the Commission.

If the Planning Commission doesn't think the proposal is a good idea, then the Commission issues an unfavorable report. If the Town Council still wants to do it, it can go forward, but the Town Council motion to do so needs to pass by a super majority. That is the process. It's called a "referral" because it starts with the Town Council. The Town Council, through the Town Manager, sends the proposal to the Town Plan and Zoning Commission, and we put it on the next agenda for action. Sometimes the Town, and I'm talking from experience in other towns, sometimes the Town Manager or the department head comes to the TPZ meeting to answer questions about the proposal, because it really shouldn't be for the Town Planner to advocate for it. I'm neutral, I'm the staff, so it's not for me to convince you that it is a good proposal. The Council, through the Manager, should make the case for why the Town should do this thing, so I can remain neutral and tell you whether it is consistent with the Plan of Conservation and Development, or if it will fit with a project that we know is coming in the near future.

That's the process. There is some debate over whether an 8-24 referral can include a public hearing. I think you can always hold a public hearing on anything, but if you still have to render your decision within 35 days. The statute can be vague as to whether a particular project requires an 8-24 referral - in some cases it's crystal clear, but in some cases it's probably best that the Town err on the side of caution and send it to TPZ for a recommendation.

Chairman Aieta: We would hope that the Town Council would err on the side of caution. I don't think that the Council should consider this board as stepping on their toes, or trying to tell them what to do, or anything like that. The Town Council should use this board as a resource. We can do the due diligence that they don't have the time to do, and we have expertise in zoning and expertise in the Plan of Conservation and Development, we have all of those checks and balances, to give a report back to them. What they do with that report is up to the Council. They could approve it, disapprove it, they could do whatever they want, but I think the Council should use us as a resource, and not look at us as just another layer of bureaucracy that they have to contend with. Hopefully the two Councilors that are here could bring that back to the Council and be vigilant when things come up. Do you have copies of this, Carol, Gail, of the 8-24 regulation? We will get it for you. So it's basically up to the Council to refer it to us. We can't go to the Council and say, well, you didn't do this. It's not our rule; our rule is to be here for the Council and the Council has to refer it to us, so the onus is on the Council to do that. Not upon the TPZ to tell the Council to do it. Hopefully with the two liaisons we've got this covered. I know that there are some things happening right now at the Council level that require a referral to this board. One is the MDC thing that you talked about last night.

Craig Minor: The statute requires that the 8-24 referral take place before the agency takes final action. So what that means is, an agency can hold public hearings on it, they can even budget money for it, they can do everything up to the final action which is to actually purchase the land, or whatever the project is. So if citizens read in the paper that the Town Council has voted to take the next step on something, or put it in the CIP budget, that's okay, it's just that the final action cannot be taken until the 8-24 referral process has run its course.

Chairman Aieta: Would you get for the two Councilors, the liaisons, the information that you gave us on 8-24? Get it to them as soon as possible. Any questions from the Commissioners on the 8-24 review? Any questions from the liaisons? Carol? Gail?

Gail Budrejko: I feel very confident in having Carol serving here with me having been on TPZ, and maybe it's just my frustration with the levels of bureaucracy or whatever, but it seems to me that from what you just said, the onus is on the Council, it's not up to the TPZ to bring it to the Council. But if you, as citizens, or residents of Newington are aware of

something that is going on, that's being discussed at the Council level, can't you contact one of the Councilors?

Chairman Aieta: In reality, we could do that, but by the regulations, it's not our role.

Gail Budrejko: I know it's not your role, but...

Chairman Aieta: You can be assured that we are all aware of what the Council is doing, and we're watching, and if there is something that comes up, we will definitely tell you that maybe you should look at this. We won't leave you in the dark.

Craig Minor: I've had many conversations with the previous Town Manager, and I will with the acting Town Manager, about projects I've gotten wind of that need an 8-24 referral. I emphasized that the burden is on the Town Council only because I wanted to make it clear what the process is. But there is certainly consultation; we're not siloes.

Gail Budrejko: Communication has been a problem so much in the past, and then after something happens, there is finger pointing. We really need to work cooperatively, regardless of title, or what Commission we are on. I feel this is true of the 8-24 process which has been so contentious in the past. The more communication and "heads up" we can have would be appreciated.

Chairman Aieta: Thank you Gail.

XI. OLD BUSINESS

- a. Petition 44-16: Special Permit (Section 6.6 Sale of Alcoholic Beverages) at 2640 Berlin Turnpike. Aldi Incorporated CT, owner; Aldi Incorporated CT, applicant; Kyle Voiland, 295 Rye Street, South Windsor, CT contact.

Commissioner Strong moved to approve Petition 44-15: Special Permit Section 6.6: Sale of Alcoholic Beverages at 2640 Berlin Turnpike (Aldi) Aldi Incorporated CT owner, Aldi Incorporated CT, applicant, Kyle Voiland, 295 Rye Street, South Windsor CT, contact

No conditions.

The motion was seconded by Commissioner Pane.

Chairman Aieta: Any questions from the Commissioners? They meet all the requirements and the big thing was the distance requirement and they meet that. The Planner has done his due diligence on it.

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

XII. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 01-16: Special Exception (Section 3.2.9: Group Day Care Home and Child Care Center) at 600 North Mountain Road. Autism Families Connecticut, applicant, Rondeau Investments LLC owner, Mary Helen Richer, P.O. Box 370162 West Hartford CT, contact.

Chairman Aieta: I'll ask the Planner go give us a brief overview of what this is.

Craig Minor: This organization contacted us a few weeks ago. They are looking to move to Newington. They have a location picked out which they thought was appropriate. It's in the Industrial Zone, and so it sounded like a really good use, but the zoning regulations didn't clearly say that an autism support group would be a permitted use in the Industrial Zone. Group day cares and child care centers are a permitted use. The staff didn't feel that this was too much of a stretch for this zone, but that is for the Commission to decide. If the Commission feels that no, this is not appropriate, then let me know and we will return the applicant's application fee and that's that. If the Commission is not sure whether this is a good fit or not and would like more information, then let the hearing take place and get the information that you need. Then at that point make the decision as to whether it is appropriate or not.

Commissioner Sobieski: This 600 North Mountain Road address seems very familiar. Is this the place where they tried to put in a day care earlier? About a year ago, or so.

Chairman Aieta: No. This is in back of a commercial, industrial type building. I'm not sure who the tenant is in front but it's some type of an office use. I've done some research on this. This organization does most of their activities during off hours. Does it fit in the Zoning Regulations? Well, the Zoning Regulations doesn't have every single thing documented. I mean, the Commissioners have to look at it and say if this will fit for this, is it a school, is it a day care center, what is it. My interpretation of it is that it fits as a group day care type facility and it would fit the regulations as written, so I would like to hear comments from the other Commissioners. That's my take on it after doing some research on it. It's a perfect place, this is not in a residential zone. It's in an Industrial area, mostly during off hours. You'll have to make your own determination from the information that is presented at the public hearing.

Commissioner Pane: Mr. Chairman, I think it would be a good fit there, and we should hear the application.

Chairman Aieta: Anyone else?

Commissioner Strong: I agree.

Commissioner Serra: Yes.

Chairman Aieta: Okay, we'll bring it forward to get some more information at the public hearing. At first blush it looks like it's a fit for that zone.

Craig Minor: Thank you.

XIII. TOWN PLANNER REPORT

A. Town Planner Report for January 13, 2016

Craig Minor: The first item is "Zoning Enforcement Issues raised at previous TPZ meetings". The big one is the Hindu temple. I'll just read my memo:

"I met with Paul Doyle last week to go over all of the neighborhood complaints that came up during their community meeting earlier this month, and to brainstorm some possible remedies. We came up with a long list of issues and proposed remedies, which he will present to his clients and hopefully get their consent. My recommendation is to then present it to the Town Manager for his input, and then TPZ. The problems between the temple and the neighbors are a community issue, so I felt it would be good to get the Town Manager involved. Attorney Doyle

also sent me the attached list of religious events for the Vallabhdham Hindu temple, as TPPZ has requested."

If you look at those three pages of religious events, you'll see that there are three pages based on the size of the attendance. The first page are the smaller events between 50 and 70 people, all of which can be contained within the building. These are events that pretty much attract the local devotees. The second page is the larger ones; events that will have between two and three hundred fifty persons. The last page is the major holidays where they have attracted as many as 1000 people: the Diwali Festival of Light, and the Hindu New Year. That is the information that was requested. As Attorney Doyle mentioned earlier tonight they sent a letter to the neighbors with the list of problems and suggested remedies. Such as a problem with the fence: they are proposing to put up a fence; the problem with windblown fireworks: first of all they will ensure that only legal fireworks are set off, and they will be respectful of wind and things of that sort before they set off fireworks. I don't have the final version of that list yet but I will share it with the Commission. I'm sure the Commission would like to see what the suggested remedies are that the temple has agreed to for these problems.

Chairman Aieta: Yes, we would like to see that. I'll open it up for discussion from the Commission.

Commissioner Sobieski: Mr. Planner, I'm looking at this last page here, you're talking 1000 people. Can that building hold that many?

Craig Minor: Oh no. Absolutely not. That would be the event where they would have tents, and I know having a tent raises issues for TPZ. So there will have to be more discussions about these large events between the Commission and the congregation.

Commissioner Sobieski: Do we know roughly about how many people that building is supposed to hold?

Chairman Aieta: Do we know the occupancy of the building?

Craig Minor: Well, it's being renovated now, and the Fire Marshal hasn't gone through it yet so I don't know what the final rating will be, but I think it is going to be not more than a couple of hundred at the most. So we definitely have to deal with the issue of what do they do when they have 500 or more people. What do we do with those holidays?

Chairman Aieta: Here is a question that I have. There's two conflicting regulations here. You have the Fire Marshal putting a number on the total occupancy of the building. But then we have the other part, the parking that might not support the occupancy that the Fire Marshal put on. Maybe they can put 500 people in the building, but they only have parking for 150 cars. So, how do we figure it, maybe two per car, so that's 300, so there is conflict between the Fire Marshal's occupancy and the occupancy based on parking? Am I correct?

Craig Minor: Yes.

Chairman Aieta: So that is something that we have to look at as Commissioners. We'll have to see what the Fire Marshal comes up with as a final number for that building, because I believe there's only 130 something, how many spaces?

Commissioner Pane: 137 I think, or 107 or something like that.

Chairman Aieta: Those are paved per our regulations, paved parking. When they have these big events, they park on the lawn in the front which is not paved, which is not allowable. They have used the church next door, but I heard that they don't have permission to do that. They've used two schools, Patterson and Wallace for parking. They said they had permission from the Town, but I'd like to see some kind of communication from the Town, who gave them permission, and what liability the Town has for people walking in the dark from the parking area back to the church. There are issues here that we have to look at as a Commission. I'll open it up for any other discussion on this. On the fire issue, do you have any comment on that?

Commissioner Miner: Not until the final plans are done for the building. We will have a better idea of the FDA standards of what is allowed.

Chairman Aieta: You can see our dilemma here. The building might take X amount of people but how do they get there, where do they put their cars? They can't leave them in the middle of Church Street. That is something that we have to look at. We have to define where, for these big events, where the parking is going to be.

Craig Minor: They have agreed to have a shuttle bus for their major events. So we need to work out the details of that.

Commissioner Sobieski: They should have to abide by the same rules that Plaza Azteca has to abide by.

Craig Minor: Except they are a church. That does make a difference.

Commissioner Camillo: They don't have room for 1000 people, so shouldn't we encourage them to look for a place to have their festivals where they can fit them in? That's what a lot of churches do when they don't have the room, instead of causing problems for the neighborhood.

Commissioner Miner: Could they put 1000 people on their property? Yes, if there was zero parking on that property and if everybody was shuttle-bused in. You might physically be able to do it, but that still leaves you with the whole issue of getting everyone safely to the church.

Chairman Aieta: At the last event, they had their parking lot filled, they had parking on the grass area in front of the temple, they had the church parking lot across the street, they filled the Patterson parking area in the front and the back, and they were working on Wallace. You are talking a serious amount of cars there. There were a lot of cars. There were Commissioners who drove by there that particular night, and they can attest to how many cars there were.

Commissioner Miner: I drove down the street, and there were cars trying to travel side by side and people walking two and three abreast, in the street, on both sides.

Chairman Aieta: In that area there are no sidewalks and there is no good street lighting. It's a bad situation.

Commissioner Serra: They tied up the Police Department because they had to direct traffic, so they were tying up officers. I'd like to know the size of these tents, and what the occupancy is per tent. I don't believe that is going to get them to 1000 people.

Commissioner Pane: On this list, it appears that just the last page is going to be a problem, it's six events for eight days. The first one is coming up on March 26th. I think they should

come and explain how they are to handle that event. How are they going to handle the parking, how they are going to handle...and explain to us how everything is going to work so that we can establish conditions or modifications to make sure it is not going to create any problems for the safety of the residents in the neighborhood there.

Chairman Aieta: The other problem we have is that they are in the middle of renovation and by March 8th the renovation is not going to be completed, so they will be occupying a building that is under construction. I think they really ought to come in and explain to us how they are going to deal with that.

Commissioner Strong: With 500 people, how are they going to fit all of them in?

Chairman Aieta: That's up to them to come in and explain.

Commissioner Sobieski: If the building is under renovation, are they allowed to get more people in there than what it can handle?

Commissioner Miner: There still has to be a rating, I'm sure.

Chairman Aieta: We'll have to get some input from some other agencies to determine that, but the final say is this Commission. You have to take into consideration what I said about the parking, and we are going to need some assurance that they got permission from other people to park on their property, including the Town of Newington. The liability issue concerns me for the Town. If someone falls or gets hurt on Town property, we're liable, if they have permission or not.

Commissioner Sobieski: You might also need a police officer directing traffic.

Chairman Aieta: Well, that's a given.

Commissioner Sobieski: I think the police department needs to weigh in on this too. We need to find out exactly what needs to be done here.

Commissioner Serra: Another question I have about safety is on the very first one, March 26th. It's a bonfire. You're talking 500 to 750 people. What size is the bonfire? What safety precautions are they taking? Are they going to have somebody there if this fire gets out of control? We need more information on this.

Chairman Aieta: What happens with the Fire Department for something like this? Do you guys get involved?

Commissioner Miner: All of that would go through the Chief's office. We have participated with the fall events, where we have a standby crew that is provided for the event, but that all goes through the Chief.

Chairman Aieta: They may have done it in the past, but I don't believe that there has been any communication with the Fire Department.

Commissioner Serra: Doesn't mean they have done it right though.

Chairman Aieta: I'm saying in the past, I don't believe that they had communications with the Fire Department. We want them to come in.

Craig Minor: Yes.

Commissioner Miner: For the October events, the neighbors had also said that the dumpster doesn't get emptied promptly and it overflows all over the place, but when it does, it's like at five o'clock in the morning.

Chairman Aieta: A lot of these things were brought up at that meeting. Hopefully they addressed all of that stuff. We'll know when the Planner brings back their agreement.

Craig Minor: Right. The thing that remains sticky, and this is a problem for anybody who lives near a restaurant, is that dumpsters are dumped early in the morning.

Commissioner Sobieski: We set a time limit if I'm not mistaken for Middlewoods, they couldn't dump before a certain time. We had set a time frame that they could not dump, that they had to dump after seven o'clock.

Craig Minor: I don't know if we can do that. I'll be blunt with you. If they were coming before you as a special permit, the way Middlewoods did, you could require anything reasonable regarding traffic, whatever. But when it's a religion, I'm cautioning you to be very careful and to definitely, well, just be very cautious about restricting people's religious expression. I just want to plant that seed. The dumpster, well, you're probably are not violating their religious rights by telling them to have the dumpster done after 7:30, but the bonfire, the fireworks, colored powder, other things that are part of their religious expression - just keep in mind this isn't the Knights of Columbus having a party, this is religious expression.

Commissioner Serra: On the dumpster situation, I was here when they did their neighborhood meeting. That was brought up and they did say they would contact the refuse company and try to get a later pickup. I don't remember the exact time, maybe 7:30, 8:00, something like that and the residents agreed that would be fine.

Chairman Aieta: Okay, the next item on your report: status of the Town Center Streetscape Project Phase VI.

Craig Minor: The Town got a \$470,000 grant from the State to do this. It's basically a curbs and sidewalk project. It will continue the theme of the other improvements on Market Square with the same style bricks and pavement, trees and park benches depending on how far our budget will go. There are three options that our engineering consultant has proposed. The committee that is overseeing this will present those options to the Acting Town Manager and the Mayor as soon as we get them from the consultant. We will then show those options to the stake holders, and by that I mean the residents and the businesses in that neighborhood. Then we'll bring them to the Council for a decision on which option to go with.

Chairman Aieta: Any questions on this item?

Commissioner Serra: The question that I have because it has been such an issue on Market Square is bump outs. I know they have been changed once from when they were originally done, but people are still complaining, it's still an issue. Can we take a real hard look at these bump outs?

Craig Minor: I know that the committee is aware of that, we did talk about it, because Town Engineer Chris Greenlaw is on the committee and he was the project manager for the project on Market Square. He remembers very painfully the issue with the original bump outs which were curbed and then replaced with an at-grade texture where the bump out is; it's not physical. I think that is the direction that we are going.

Commissioner Serra: I just wanted to make sure, I just wanted to keep it safe for everybody.

Chairman Aieta: That's a nightmare for the public works to plow.

Craig Minor: Yes, which is why we are consulting with the Superintendent of Highways.

Chairman Aieta: Last item is the Open Space Committee.

Craig Minor: I'm just letting the TPZ know that the Open Space Committee has been reconstituted. They will have their first meeting tomorrow night. I read through the minutes of the Council when it was reconvened, and their duties are reactive to what the Council wants. I have a hunch that they will be somewhat proactive - I would suggest to the Council open space things to consider. We'll see what direction they want to go in, and I'll keep you informed of their efforts, and visa versa.

Chairman Aieta: That was done by the previous Council in September, wasn't it? In reviewing it, I saw that the Planning Commission had a seat on the old open space Commission, I know that the Chairman sat on it, but not the new one; is there a reason?

Councilor Anest: Every time that they talked about land use, the TPZ members would have to recuse themselves. So it wasn't comfortable.

Chairman Aieta: I was just wondering and thought if it wasn't a problem, we could put someone on it for information.

Craig Minor: That's all I have for my report.

XIV. COMMUNICATIONS

- A. "The Role of Alternate Members of Connecticut Land Use Boards" (Connecticut Planning, Fall, 2015.)
- B. Letter from Eversource to Town of Newington re "Central CT Reliability project" dated December 17, 2015.

Craig Minor: The first item is an article that was in the Connecticut Planning magazine about the role of alternate members of land use boards. I thought it would be interesting reading. It's only of interest to the alternates, but someday you might be an alternate on some other board, so it's a useful item.

The second item is a letter from Eversource, formerly CL&P, as they are about to embark on a major project improving service in central Connecticut. It's called the "Central Connecticut Reliability Project", and it involves just a small portion of Newington, but it is an issue that will affect those residents and other residents so I thought I would make the Commission aware of it. In case the Commission has any questions, you can follow up with Eversource or if you want me to I can. There is no action required by you.

Chairman Aieta: What exactly are they doing?

Craig Minor: They are replacing the existing overhead wires and they are installing some new lines along Cherry Hill Road and then up to West Hartford, so it will only affect the residents of this area, Cherry Hill. The overhead wires will be replaced.

XV. PUBLIC PARTICIPATION (for items not listed on the agenda, each speaker limited to two minutes.)

None.

XVI. REMARKS BY COMMISSIONERS

Commissioner Pane: I was just wondering, through the Chair, if the Planner had an update from the Town of Berlin about the screening of the solar panels?

Craig Minor: Yes. I talked to the Town Planner in Berlin and I asked her if she would ask the operators if they would be willing to extend the row of arbor vitae, because there is a row of arborvitae on the plans, but only on the east side; it doesn't wrap around the north. She said she would talk to them about that.

Chairman Aieta: So they do have plans to buffer it somewhat to Episcopal Road.

Craig Minor: Yes. A row of arbor vitae nine feet on center, kind of zig zagged.

Chairman Aieta: If you drove down Church Street into Berlin, past Rowley and you look to the right, you will see a solar farm. There has to be a thousand panels there. They are starting to put the panels up there, all the structures are up, and they are putting the panels in. It's a massive undertaking.

Craig Minor: This whole area, [pointing to a diagram on the monitor] the shape of an aircraft carrier, that's how big it is, and the plans do call for a row of arbor vitae on the east side, but nothing across the top.

Chairman Aieta: Until those trees grow the site is level to the street on the east side, but it elevates to the west, so you are going to see it for a number of years because there isn't a grade change that is substantial.

Craig Minor: Nine feet on center - I think that is kind of wide, but that is what was approved.

Commissioner Pane: Is it a double row? I know in our regulations we call for ten foot on center, but they are staggered so there is a row behind another row in front.

Chairman Aieta: Okay, at least we got something. You will stay on top of it so we can get some more information?

Craig Minor: Yes.

XVII. CLOSING REMARKS BY THE CHAIRMAN

None.

XVIII. ADJOURN

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

Respectfully submitted,



Norine Addis,
Recording Secretary