

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

January 22, 2014

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

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Kenneth Leggo
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski

Commissioners Absent

Staff Present

Craig Minor, Town Planner

II. APPROVAL OF AGENDA

No changes

III. PUBLIC HEARINGS

A. Petition 47-13: Zoning Text Amendment (New Section 6.15 Medical Marijuana); Town Plan and Zoning Commission, applicant. Continued from January 8, 2014.

Craig Minor: Okay, the petition was continued from the last meeting because we wanted to have the GIS Department have a chance to prepare a map to illustrate what the constraints that are being suggested for the medical marijuana production and distribution to be shown on a map. Now what this plan shows, and I'm trying to get it to display on the screen, but the laptop is not cooperating, but what this map shows, and the black and white copy in your packet is not exactly the same, because the buildings are wrong, the GIS Department misunderstood what I wanted in terms of buildings, the lines are the same. So what this map shows is the Industrial areas in town, shown in gray, anything that is not gray you can ignore because the basis of this regulation is that these uses would only be allowed in the Industrial zone which was a judgment call of the Commission, it was pretty much a basic assumption that we would only entertain these uses in Industrial zones. The Industrial zones in Newington are shown in gray. There is actually a little teeny, tiny one over here, this is right around where the Connecticut Humane Society property is so, but it's so tiny that it wouldn't be eligible for a medical marijuana production or distribution because with the setbacks that you are proposing, it wouldn't qualify so you can disregard that. So these are the three areas of town that we are talking about, Fenn Road, Newington Junction and North Mountain Road. Those are the three industrial areas. Now, if the Commission used the more conservative

setback of 1,000 feet from a residential property, it would reduce the amount of usable area rather dramatically. On Fenn Road it would reduce it to this area here, which I guess we could describe as the area in the vicinity of where the Stop and Shop center is, that area there. Nothing in Newington Junction if we use the 1,000 foot setback, and just a little tiny sliver at Balf Quarry and a little teeny, tiny peninsula if you will on the north side of North Mountain Road, if we use the most conservative 1000 foot setback.

If we use the less restrictive, the 500 foot setback, that would actually open up a little tiny sliver of land off of Stamm road, would open up more land on Fenn Road obviously, it would open up some land in Newington Junction, and open up considerably more land in the area of North Mountain Road.

Then the third and final and least restrictive, the 100 foot setback would open up a considerable amount of land on Stamm Road, Fenn Road, Newington Junction and the North Mountain Road area. It's subjective. It's the Commission's choice. There are towns that have medical marijuana regulations that have not imposed any additional setbacks beyond whatever the normal setbacks are for any other industrial or commercial use. It's at the discretion of you, ladies and gentlemen.

Chairman Hall: Thank you Craig. Does anyone have any questions for Craig at the moment before we go to the public? Everybody is good with the map? Because this is a public hearing, we will hear from the public. Anyone wishing to speak in favor of this proposal? Anyone wishing to speak against this proposal? Anyone just wishing to speak? Seeing none, again, any questions from the Commissioners? Any comments? We have kept this open for several meetings. Is there more information that the Commission would require before we would consider closing it?

Commissioner Leggo: I just wanted to bring again, something from a couple of meetings ago, I just wanted to make sure my thoughts are right. I still have some strong beliefs in separating the production buffer from the dispensing. I'm kind of looking for a feeler on, make sure I'm not missing something, in the production, just in the production sites. With a 1000 foot buffer, I'm just wondering what we are buffering, what the consideration is? That's why, I didn't see a reason with a closed building, not open to the public.....

Chairman Hall: You're talking production?

Commissioner Leggo: Just production, that was just my question. I wanted to make sure my thoughts, I wasn't missing something.

Chairman Hall: Anybody else have either a response to Ken or another comment?

Commissioner Camillo: I feel the same as Ken. I don't think production should be the same as distribution. It should be a smaller buffer.

Chairman Hall: Smaller buffer for the production.

Commissioner Camillo: The production, yes.

Chairman Hall: Versus the distribution. Everybody pretty much on board with that? What are we talking, are we talking 1,000 and 500? Is anybody even thinking about the one?

Commissioner Camillo: I am.

Chairman Hall: You are, for which?

Commissioner Camillo: The production.

Chairman Hall: One hundred for the production.

Commissioner Aieta: I don't believe it lends itself to protect the neighborhood, the surrounding area. The 20/20 Plan was adamant about us taking extra precautions with the residence zones and making sure that the residence zones weren't affected. It is interesting to see in Colorado that the, where they legalized marijuana that people in the neighborhood are complaining that they could smell the marijuana. I don't know what kind of precautions or what they are going to do to preclude that from happening in a production area next to a residential area that is a hundred feet away. I don't know what kind of scrubbers or air pollution or HVAC system they have. That was one of the complaints that I read on line from people in the neighborhood who were actually able to smell the marijuana.

Chairman Hall: But was that with the production? Remember, distribution in Colorado now is for recreational as well, and what is to keep them from getting their supply, going outside and maybe.....

Commissioner Aieta: It wasn't the smoking, it wasn't the smoke, it was the smell of marijuana. They could actually smell it, there was an article, a big article on line and I believe in the newspapers.

Commissioner Serra: I just wanted to say, I agree with Mike, and with the hundred foot.

Chairman Hall: For production.

Commissioner Serra: For production, yes. I mean, I like the hundred foot with the building size, I mean that kind of, you throw both of those together in a production sense and you are limiting, but you're not, in my opinion. You still have to have the building size that is needed for it, but everything that I have read in the regulations, and what I am reading locally about what is happening is closed buildings, no signage, not open to the public, it's basically a factory.

Commissioner Sobieski: I'm assuming that this building would be closed and therefore environmentally, a closed environment, therefore you wouldn't get any smell to the outside public. From my understanding it has to be a controlled situation with controlled temperature and moisture and everything else, 24 hours a day, 365 days a year. Can't imagine you can open the windows and let the air in and out, it would throw every thing off.

Commissioner Anest: I agree. I would like to see the buffer for the production minimal and keep the dispensary to the maximum. Craig, is there a way for us to see the regulations, and what is the requirements for the building? Do you know if it's closed, if it's self contained?

Craig Minor: That's my understanding, that the state regulations require that the building be closed. What I can do is that, if you want I can bring back information on the state regulations, we can go over it in more detail under Old Business at the next meeting now that that has been brought up, actually it was brought up at the first hearing what the state regulations are, this is nothing new as far as new information being submitted so you can look into, you can take into consideration the state regulations along with your regulations, if that raises your comfort level, knowing that the state requires certain safety things.

Commissioner Aieta: If that is the way that it looks that the Commission is going, then I want to see a label on the buildings, if they are occupied buildings, what they are, like if it's Fenn

Manufacturing, I want those buildings labeled so I can see what would be affected over 25,000 square feet, you are showing them there, but I don't know what those buildings are.

Craig Minor: Okay, you would like them to be labeled?

Commissioner Aieta: Please. For the next meeting.

Craig Minor: And I know that Carol would like some of the streets labeled too.

Commissioner Anest: If you name the buildings though, that would help us.....

Craig Minor: That's what you want, okay.

Commissioner Anest: With the streets, at least you would know what buildings they are talking about.

Commissioner Aieta: I'm assuming, is there a lot of this that is vacant land, or don't we know?

Craig Minor: Hard to say. What I can do for next week is also bring a map of the same scale, an aerial photograph of Newington which would then show you where the vacant lots are.

Commissioner Serra: Just one other question while we are talking. It's going to be a secure building obviously, we're talking about a lot of different things, as far as the parking lot itself, is that a fenced, like a gate controlled area where only employees can get in to that area? Are there any regulations for that, or is it an open parking lot and anyone can pull in there?

Craig Minor: Again, I'll take a look at what the state regs call for and I'll be able to give you more information on that at the next meeting.

Commissioner Serra: Thank you.

Commissioner Camillo: If it's tough enough so that they can't dispense what they are growing, do you think the state would come back and say this would go to pharmacies?

Commissioner Serra: Say that again.

Commissioner Camillo: Gee, we can grow it in the town, but we can't dispense it in the town, and there is a demand for it, will the state eventually come back and say well, okay, the pharmacies can dispense it. CVS, Walgreens, Rite-Aid.

Craig Minor: My understanding is that the Commissioner is authorized to issue between two and four production permits, and an unspecified, in the statute, an unspecified number of distribution permits. The thinking being that he would issue as many permits as necessary based on the actual need. How many people actually register as medical marijuana users. If in the future it's discovered that Connecticut needs more distribution points, I imagine he will be, he or she, the Commissioner of Consumer Protection, will be authorized to issue more licenses for people to distribute and someone would have to apply for one of those licenses and go through the same vetting process that they go through now. As I recall the law doesn't prohibit the two from being in the same place. I know our regulations prohibit the two, but I don't think the statute does, but again, I can research that and be able to tell you definitively next week.

Commissioner Camillo: One more question, if it did go towards a corporation like a CVS or a Walgreens, would it be in one location, or would it be in all?

Craig Minor: No, it would be site specific. The license that would be granted would be for that specific location.

Commissioner Sobieski: Craig, didn't East Hartford just approve something? I thought I read in the paper the other day.

Commissioner Leggo: On Burnside Ave.

Commissioner Sobieski: I don't know if that was for both growing and distribution or just one or the other.

Craig Minor: I don't know, I didn't see that.

Commissioner Anest: For distribution.
The other thing that I think that we talked about back in December was the different hours, so I think if we are going to revamp these, that should also be incorporated.

Craig Minor: Yeah, you will probably want to have different hours for different uses.

Commissioner Anest: Because we wanted the whole thing separated into two separate things, not keeping them as one.

Craig Minor: Yes.

Chairman Hall: So at this point it looks as though we want the buildings that would be within the 100 foot buffer identified for production, and the buildings within, are we sticking with the 1000, for distribution?

Commissioner Anest: I don't think we did the 25,000 for this distribution, right?

Chairman Hall: Yes, but.....

Commissioner Aieta: Whatever he has shown that is in the gray area that could possibly to down to 100 feet.

Craig Minor: I'll have it labeled.

Chairman Hall: I think that is going to open up a few more buildings, not necessarily 25,000, but buildings that would be within that 100 feet.....

Commissioner Aieta: But that's not for growing.

Chairman Hall: Correct, that's for distribution, but don't you think we should see the whole thing so that we know what we are putting up there for the 100 and the 1000.

Commissioner Aieta: We know what the 1000 feet is for dispensing....

Chairman Hall: There's not going to be that many.

Craig Minor: Right. There are no buildings in the North Mountain Road area that are 1,000 feet away from a residential zone that are 25,000 feet or bigger.

Chairman Hall: Yeah, but we're saying that for dispensing, we don't need it to be 25,000.

Craig Minor: But you don't need two maps to show that, you just need to know how you are looking at a given building during a given conversation.

Chairman Hall: Correct, but there should be some buildings in there, wouldn't there be within that 1000 that are not 25,000.

Craig Minor: Oh, that are less than 25,000, that's what you are talking about, less than 25,000, oh, okay.

Chairman Hall: Because that would be for the dispensary, so.....

Craig Minor: Okay, I see your point, so what do you want me to tell Thad, buildings that are less than 25,000, because 25,000 is already shown, down to, what, every size, any building?

Commissioner Camillo: All buildings.

Commissioner Leggo: Industrial zone with a 1000 foot buffer.

Chairman Hall: Right, Industrial zone with a 1000 foot buffer.

Craig Minor: Okay, where someone could theoretically do a distribution?

Chairman Hall: Right, a dispensary.

Craig Minor: Okay, so it would only be here, here, nothing here, here, here and that would be it.

Chairman Hall: Right. So we will leave this open for another session, until we get that map. Everyone in agreement with that?

Craig Minor: And that's all buildings in the 1000 foot area.

Chairman Hall: All buildings in the 1000 foot area, because that would be the dispensary.

Craig Minor: Yes.

Chairman Hall: In that way we should have a pretty good idea as to what we are talking about.

Commissioner Leggo: And we want that other one for the production.

Craig Minor: And labeled, label the big ones.

Commissioner Anest: And then can you just e-mail us.....

Craig Minor: When I get it, in fact, I can e-mail you this one now if you want it and I'll e-mail the new one when I get it from Thad.

Chairman Hall: All right, so we will leave this open, Petition 47-13, we will leave open.

**B. Petition 62-13: Zoning Text Amendment (Section 3.11.7: Fueling Station)
Hayes-Kaufman Newington Associates LLC applicant, Attorney Mark S.
Shipman, 20 Batterson Park Road, Farmington CT, contact.**

Attorney Shipman: Good evening, I don't know where you want me, but I'd rather sit. I have a hip that is deciding that it doesn't want to belong to me any more, so it's easier to sit. I'm far less exciting than what you have just gone through. We're seeking an amendment of the regulation that we proposed some time ago and mea culpa, I probably should have proposed it at the same time. It really doesn't change anything, but we are seeking to expand rather than limit the properties that might be available for a fueling station associated with a grocery store and a shopping center. There is no change to the intent or spirit of the regulation, it's actually a little more expansive and allows perhaps a few more properties to take advantage of the regulation because there may be a shopping center that no longer has sufficient parking if the existing acreage is used, they may not have a sufficient location within the shopping center lot to put the facility. These aren't the reasons we particularly would like to change, but I'm trying to explain what it would do. It also, if you look at a couple of the locations in town, for instance, Target which presently isn't a grocery store under your definitions but all over the country they are expanding to do groceries, they certainly don't have sufficient area to include a station that isn't on the road, but they could easily acquire or lease a portion of the land to the rear, next door, and lease a portion of that. Wal-Mart could actually, if they expand their grocery offerings on the turnpike look to use the land or lease a portion of the land that is now the driving range, it opens up a number of possibilities. From our purposes, we are doing it because, and I say mea culpa, when the State created the road which benefited the, both the Town and us and the State, to create the busway, and left us a piece of property on the other side, it isolated it, but I failed to realize then that those two properties, the one that had the shopping center on it, and the one that was adjoining were actually in two different names and when we thought about putting them together it's quite difficult and I don't mean to make excuses, it's difficult for us because they are not one hundred percent owned, it's the same family, but not the same generations. But, none the less, I don't want to be site specific, any change to this ordinance, this regulation under the ordinance, all accesses to any of these parcels will remain internal, no direct access to the street. Shopping center parcels have to be contiguous, they have to abut the parcels so they will always appear visually to be the same, the parcel as common ownership. Shopping center tenant must still be the fueling station operator, so it can't go to some stranger afterwards, and the facility will still be limited to gasoline and bulk fuel oil sales and not be a common gas station. Why are we requesting this? When we originally proposed the regulation you had a moratorium, today, we could come in on that parcel of land and ask you for a gas station because it is Industrial Zone. Probably one of the little pieces of Industrial on Fenn Road that you are looking at on the other map, but this little piece is Industrial. That isn't what it should be, and when we come in, if we are successful here, and make application to you for the specific use, we will probably also ask for a change of zone to B Business so that it's common zoned with that of the adjoining shopping center. We could apply for that gas station, but we really don't want a gas station. The shopping center owner doesn't want a traditional gas station, doesn't want maintenance and repairs, doesn't want fuel, the oil changes and the like. This is to be a dispensing station that is related to the super market that is part of their marketing operation. It's a far less intensive use than if we were to come in for the gas station. We will have no repairs, no oil changes, no bulk fuel storage, no direct street access and the traffic issues and curb cuts, most of the traffic that is generated will come from the shoppers in the center, there will be no vehicle storage, no sales of food, cigarettes, or other retail items, no washing of vehicles, no storage and no underground tanks because that is in the (inaudible.)

I read the minutes of your December meeting when this was put on the agenda, and I noticed that there was some concern raised about the potential of this being spot zoning. Commissioner Aieta had raised that. It doesn't meet the definition of spot zoning. Spot zoning generally involves a zone change that affects only a small area. This isn't a zone change, this is a regulation change. This ordinance as it will be drafted could apply to existing or future uses in part in a B Business Zone. It could benefit other shopping centers already in existence or some that might be built. It's an opportunity for a new or relocated supermarket to have a fueling station. Most of the centers that you have approved over the course of the years have no available parking, no available space. The parking counts fill up the lots as they are. A station like this takes out a good hunk of parking, probably close to twenty-five, thirty, forty spaces and most centers can't afford that. The idea here is, and I don't want to be site specific, I've got a small drawing that I can show you how it works for the parcel we want. I actually made a few copies that I can pass out to you and have one, not large, but larger one if that's of any comfort, and the ordinance is not site specific, but I just wanted to show you how it would work for us if you have the..... I think I have enough there. There should be one for everybody and one for Craig. If you look at the map as you are looking down, the land that we received from the State is in dark blue, the land that we gave them is in gray, and that's the land that now is the road. Next to the dark blue you will see a small entryway for the shopping center which is an internal, it's not a public street, it's an entry way for the shopping center, and then the shopping center piece as you are looking down, it's to the right. This station would be situated back from the road and it would basically be accessed internally only. It would appear just as if it is part of the shopping center. That's ours. Again, the ordinance is not site specific, but I wanted to give you an idea. I read the staff report, which is very thoughtful as usual, and would like to comment on it. The staff report indicates, number one, that it would allow a fueling station that land that abuts and is adjacent to the shopping center instead of being on the land that it is located in the shopping center, however, and I want to make it clear, we didn't change the ordinance at all in respect to only permits internal access, which means it is really part of the shopping center. So, though the comment is good because it means it must abut and be adjacent to, I do want to stress that it doesn't mean you can put it out on the road just because it abuts and is adjacent to. Number two, it's subject to 6.11 but not 6.11.6 and 6.11.8 and I'd like to discuss those. 6.11.6 in your regulations sets a specific kind of building, brick, split face block, or dryvet, wall siding, uniform size, design lighting. What we have done in 3.11.Q is actually more restrictive. You have a sign-off. The only thing that is in there, we have changed it to where it should be architecturally and conformity with the rest of the shopping center, but otherwise the ordinance says specifically grants the Commission architectural approval, not just recommendations, so we would have to come in, or any applicant would have to come in with a full site plan, with elevations, with the building materials and show what they are going to look like, so that it is architecturally your call. 6.11.8 calls for a minimum area of parcel of one acre and be combined with other commercial uses when the total parcel size is not less than three acres. We have the necessary amount in the Industrial Zone. We just don't think that you need to have that big an operation, so by doing this, we are limiting the size. This regulation does not create a gas station, with all the attendant parking. The other comments are that the Planner, and thoughtfully feels that this draft should be included in 6.11. I respectfully disagree because it is only permitted in the B Business Zone. So, if it is only permitted in the B Business Zone it seems to me that it logically fits in 3.11. Not to say you can't put it in 6.11, but I think if you put it in 6.11 it becomes an offshoot of gas stations and we're not looking for that. If you leave it in B, if you leave it in 3.11.7 it is only available in the B Business Zone and it's a very limited kind of use. The question about the 200 square feet, the idea is that it will have a bathroom, so the employees don't have to go out, walk across to the shopping center, and access somebody's bathroom, and in addition to that, the ordinance permits a display of fuel oil, perhaps STP or whatever those things are, take those in every night, and you have to store them, so we don't

think that, not that necessarily it would be 10 x 20, it could be some other configuration, close to 200 square feet, but we don't think that is an unreasonable size. All in all, as I say, I should have made it part of the ordinance to start with, but feel that I'm making no change to the ordinance, but rather than making it solely limited to this property, it is now more expansive and would be available to more. As usual, I always ad-lib, but I always bring what I intended to be my presentation, and I can make it part of the record if you wish. Won't be exactly what I said, but it will be close. I don't know if the Commissioners have any questions of me, if you hold that until after the for's and against's.

Chairman Hall: Anybody have any question of Attorney Shipman at this time?

Commissioner Aieta: Are we talking about the blue area, the parcel that says, land of Hayes.

Attorney Shipman: Where are you?

Commissioner Aieta: On your map.

Chairman Hall: I think a little bit of explanation on this map.....

Attorney Shipman: The map is really the map that was done for the land swap that was done as part of, and if you notice, it's shown as exhibit A, it was exhibit A on the three party agreement between the town, the state and the Hayes's, and it was mainly intended to show the new road and the land swap. The blue is basically part of, where it says, land of Hayes, it's really Fenn Road Associates.

Craig Minor: The blue is wetlands.

Attorney Shipman: No, the blue is the road.

Craig Minor: No.

Attorney Shipman: The blue line.

Craig Minor: Yours is blue, mine's black.

Attorney Shipman: I guess my color copier didn't do a good job. It's the line going from Fenn road down. The blue, the amoeba looking, that's wetlands.

Chairman Hall: And this is the parcel that we are talking about?

Attorney Shipman: Yes, that's the parcel that, on which, a portion of which will be the station. The fueling station.

Chairman Hall: And where is the other portion? On land of Hayes, or.....

Attorney Shipman: The shopping center is shown, as you look at it, to your right. That's the land that is the shopping center.

Chairman Hall: Here, with the wetlands behind it.

Attorney Shipman: And next to that, there is a little roadway that is an alternate entrance to the center.....

Chairman Hall: And Mooyah is up here.

Attorney Shipman: Mooyah is at the front of the parcel that is to the right of the blue line and to the right of the little road. This would be back farther of Mooyah.

Chairman Hall: So it is on the south side of that driveway that runs between Mooyah and...coming off of Fenn Road, a little driveway.

Attorney Shipman: You are correct, and as I said, I'm trying to be careful not to be site specific because if you approve this, we are going to be coming in with a full site plan, request for change of zone to B Business, and all our regulations, as a matter of fact, Stop and Shop is the one that is preparing those, and they have all those ready for us, they are just waiting for me to make up for the mistake I made the first time, that's all.

Chairman Hall: Any other questions for Attorney Shipman?

Commissioner Aieta: For the Planner, what are the areas that are B zone. What are we talking about?

Craig Minor: He said B, and technically the B Business Zone are only these little sky-blue areas throughout town. I don't know where they came from.

Chairman Hall: Then they would have to be changed.

Craig Minor: Well, I think Attorney Shipman used Business Zone kind of generically.

Attorney Shipman: Yes., which would include Berlin Turnpike, Berlin Turnpike Business Zone.....

Craig Minor: That's only the green part here.

Attorney Shipman: But you have to understand, you, it would mean, somebody would have to do it like we intend to do it, they would have to come in to change the zone, to get it to qualify under this ordinance.

Craig Minor: But you want to change it to BT, not B. That's what we are saying. The red, colored red zone.

Commissioner Aieta: The red is a PD Zone.

Craig Minor: BT.

Chairman Hall: No, a PD Zone.

Craig Minor: I'm sorry, a PD Zone.

Attorney Shipman: The PD is an overlay.

Craig Minor: No. It's its own zone.

Attorney Shipman: It is its own zone, but if you look at our shopping center, which is PD it is listed on your zoning map as B Business. And then it's PD.

Craig Minor: Maybe you are thinking of an older map?

Attorney Shipman: I would accept that change. That would be a change to the existing regulations.

Commissioner Aieta: If you are talking about changing it to a business zone, you are excluding the properties that you are using as examples that could possibly benefit by this change in the regulations. If you change it to a PD zone, then you would include the Target, the Wal-Mart, some of the other big shopping areas on the Berlin Turnpike.

Attorney Shipman: We're here for, I'm proposing an amendment and as such you can easily change the language of the, you changed what I proposed last time to include some things, so certainly it's not a problem to change B Business to PD.

Chairman Hall: Let's stick with what Mark has presented this evening, and does anybody else have any other questions? All right, we will go to the public hearing part of it. If there is anyone from the public who wishes to speak in favor of this, is there anyone from the public wishing to speak against this? Is there anyone from the public wishing to speak? Seeing none, any questions, there is a lot that we have to go over here. There was a lot of information that was presented that needs to be digested.

Attorney Shipman: The only request that I would make, and it's selfish of course, is that we have an applicant ready to go, and the sooner that you can discuss this and act on it, one way or the other, because if we have to change our plan and apply for a gas station as opposed to what we are looking at, but Stop and Shop is anxious and has their plans ready to go. That's all, whatever you do.

Chairman Hall: Thank you Attorney Shipman. At this point I assume that we will keep this open and get some more information.

Commissioner Anest: Craig, currently the Stop and Shop that he is talking about is in the PD Zone.

Craig Minor: Yes.

Commissioner Anest: Not the Business Zone.

Craig Minor: Correct.

Commissioner Anest: So the special exception that we put in back in December of '11, was just for the business zone.

Craig Minor: It's more complicated, 6.11.....

Commissioner Anest: 3.11.

Chairman Hall: He's looking to amend 3.11.

Craig Minor: I thought you meant the new auto related use that was adopted last year.

Commissioner Anest: No, what we, the effective date of November of '11, when we added the fueling station, we just did it for the Business Zone?

Craig Minor: That's right, I see what you are saying. So the regulation that was adopted back then wouldn't even be useful because you identified it in the wrong zone, I don't mean you, but you collectively. Yes, 3.11.7 should have been, well no, probably would have been better because that is where you wanted to put one anyway.

Commissioner Aieta: This sliver that he is talking about, what zone is that in now? Is it in the Industrial Zone or in the PD Zone?

Attorney Shipman: The Industrial Zone.

Craig Minor: If he ever wants to use it, yes.

Commissioner Anest: The business zone is which color on that map?

Craig Minor: Baby blue. Not this light blue, this light blue is RD.

Commissioner Anest: Okay.

Craig Minor: This is Business zone, that's Business zone, there's a little node of Business Zone, there's a tiny node of Business zone, there's a little piece there.....

Commissioner Anest: None of those are near shopping centers.

Chairman Hall: No, and they don't have large shopping centers on them.

Craig Minor: 3.11.7 should have been.....

Commissioner Aieta: Should have been in the PD Zone.

Craig Minor: Should have been a 3.19 which is Special Exceptions permitted in the PD Zone. Conceptually, if the Commission is on board which what they are asking for, there are a couple of ways we could do it and give them what they want, but maybe not the way they envisioned it being, such as put it into 3.19, or combine it with 6.11 which is my suggestion, having all of the auto related regulations in one place rather than vulcanized which the zoning regs are already rather vulcanized. We could have, that's kind of like a housekeeping thing, it doesn't speak to the merits of the application. We can deal with that later.

Commissioner Anest: Well, we do, we have to change it to the PD Zone.

Craig Minor: No, that's totally different. That's a different burden that he has to deal with.

Commissioner Anest: The regulation has to be changed to a PD Zone.

Craig Minor: Yes.

Commissioner Anest: That's what I mean, it's all part of the same, say we are going to amend it to add the adjacent property, then we are also going to have to amend our regulations to move it to the PD Zone, right?

Craig Minor: You could do two things, you could either take what he is suggesting and put it in 3.19 which is Special Exceptions permitted in the PD Zone, right?

Commissioner Anest: Right, but we have to take it out of 3.11.

Craig Minor: Yes, take it out of where it is now, yes. That would all be part of the same approval action.

Attorney Shipman: I'd be happy to save you the time if you want, and I will re-draft it to be in 3.19 or 6.11, which ever you would rather it be.

Craig Minor: That's all right, that's just housekeeping. Once the Commission gives me their preference, I'll just do that.

Commissioner Anest: I would like to make a recommendation that we make it under 3.19 and not put it with the auto related. That's just my opinion. I don't know what everybody else wants.

Craig Minor: We can talk about it after it has been closed, and when we are discussing it under Old Business, we can talk about where to put it.

Chairman Hall: Anyone have anything else to add before we move on, the consensus is to keep it open.

IV. **PUBLIC PARTICIPATION** (for items not listed on the Agenda, speakers limited to two minutes.)

None.

V. **REMARKS BY COMMISSIONERS**

None.

VI. **MINUTES**

a. December 11, 2013 (Special Meeting)

Commissioner Sobieski moved to accept the minutes of the December 11, 2013 Special Meeting. The motion was seconded by Commissioner Leggo.

Commissioner Aieta: Isn't there a correction on the location?

Chairman Hall: Yes, December 11th, strike the Helen Nelson meeting room, for L101.

The vote was unanimously in favor of the motion, to approve the December 11, 2013 Special Meeting, as amended with six voting YES.

b. December 11, 2013 (Regular meeting)

Commissioner Sobieski moved to accept the minutes of the December 13, 2013 Regular Meeting. The motion was seconded by Commissioner Camillo.

Chairman Hall: The same correction, L101 versus Helen Nelson. The vote was unanimously in favor of the motion, with six voting YES.

c. January 8, 2014

Commissioner Sobieski moved to accept the minutes of the January 8, 2014 Regular Meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YES.

Chairman Hall: So all three have been accepted, two with amendments, of place, and the other as is.

VII. NEW BUSINESS

A. Performance Bond for "Harvest Village" on Deming Street.

Chairman Hall: I think that might be Deming Road there.

Craig Minor: Deming Street according to the Zoning Map.

John Carrier: Good evening ladies and gentlemen, my name is John Carrier. I am the developer for Harvest Village which is formerly Morningside and also the driving range for the Shriners. This is a property that came before you back in 2010 and was approved, and in 2012, in October we came before you to go over a few things. We wanted to add a construction entrance, some stop signs there by Barn Hill Road and Deming Street, and also go over some of the architecture, because I do all of the architecture in house and it was a little different than what was presented previously. Then we also showed you a phasing plan which was more along the lines of what we were looking to do construction wise. I see some familiar faces here, I won't take too much time or bore you guys with details. You can stop me at any time and ask a question. But we decided back at the time when we started to do this, to do phase one, two, three and four in a counterclockwise, I mean in a clockwise direction, basically coming in the main entrance, having people move in, the separate traffic pattern from what the construction equipment would be. So our construction entrance coming out in front of Barn Hill Road would basically keep them from mixing together, trucks delivering lumber, concrete, that kind of stuff. Currently we are about eighty percent complete with the site improvements. If anyone has driven by lately, there has been a lot of action going on in there for the last year or so. On the phase one, as you see, it is colored in green, and actually the landscaping has been completed. The grade out areas, the pavement, most of that has been applied, most of that is first coat only, but the entrance has actually been second coated. The buildings colored completely in brown are either one hundred percent completed or near completion, the ones that are outlined are foundation only and just started framing. We have done some utilities in Phase Two and Three. Unfortunately my utility schedule made me do everything in Phase One and Four first, which is kind of awkward, but just the way that the drainage patterns worked and detention basins, the temporary detention basins and some of the work that was done off site. All of the actual public improvements in the right of way is done one hundred percent complete. That's the sidewalk going down the entire front of the property. Any of the piping for sewer, any of that kind of stuff has been complete and also that small sliver on the northeast side, that connects to Deming Farms, there is a wetland there and there was an easement granted to this property owner now us, and that also has been completed, mitigated, etc., so that is all done. We're here before you tonight to basically ask for Phasing for bonding purposes. We sat with Chris Greenlaw and Craig Minor about two weeks ago and looked at some options and we ran into a couple of regulations that allow us to bond all public improvements but don't allow us to go into lighting and safety, including hydrants, things like that. What happened is we got a little bit of a slow start if you remember last winter was maybe not as cold as this winter, but it wasn't much better. We had that big snow storm that cost us about a month in starting

and then there were some slight hiccups with the public utility companies, storm water and all of that, which probably cost us a little bit more time. We were looking to open for September 1st, we actually didn't open until about a week and a half before Thanksgiving which in the development world is about the worst time that you can actually open something up. That being said, we've got the sewer passed all the way through, but not the water, so we haven't been able to install that last hydrant. That's not to say that everything is inactive out there. The pump station is in, the utilities, everything has been handed over, it's actually under the control of MDC at this point, the lighting, everything that we are looking for in Phase One is one hundred percent complete, so those regulations wouldn't apply if you allow us to do the phasing plan as we are requesting tonight. The only other thing I would add is, once this winter breaks we look to have the entire site improvements done, except for just the lawn establishment where we are still working, by the end of June. So, by July 1st we'll probably be in front of you looking for doing bonding for the rest of it, at least taking it down including some of the lawn areas.

Chairman Hall: Any questions from the Commission? Craig?

Craig Minor: I have no objection to allowing Carrier to bond it in phases. It is a public interest ownership development so there are significant state laws protecting the buyers of these lots, so I have no objection to approving it as such. The Commissioners do have the Town Engineers recommended amount. It's \$75,829.40 but I'm rounding that up in my draft motion to \$76,000. I believe the applicants would appreciate action tonight for personal reasons, Alan Bongiovanni's mother wants to close tomorrow.

John Carrier: Yes, she's living with him right now, so.....

Chairman Hall: So Alan wants us to close.....

John Carrier: But we also have six contracts that we need to fulfill in the next two and a half months, so, things are rolling along.

Chairman Hall: And you feel comfortable that this \$76,000 is adequate for everything.

Craig Minor: Yes, Chris Greenlaw and his staff have spent a fair amount of time on it, and they have worked in consultation with Carrier, and yes, they are satisfied that this is an appropriate number for Phase One.

Chairman Hall: And you expect around June to be back for the second?

John Carrier: Well, we're not looking to go Phase Two at that point. I would love to do one last one. Basically I would be in here maybe not June 30th, we'll be finishing up, will be looking at closings in July, depending on if you guys have a recess in July or August, we'll be looking to be somewhere in July to come back and say, we want to include the rest of the property.

Chairman Hall: Seeing no objection, I think we should be able to act on this tonight.

Commissioner Aieta: I move to move this to Old Business. The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YES.

John Carrier: Thank you.

Chairman Hall: We'll move that to Old Business, thank you.

B. Proposed LID Amendments to the Inland Wetlands and Watercourses Regulations.

Craig Minor: This was something new to me. Apparently in Newington the Town Charter or the Town Ordinance requires the Wetlands Commission, or the Conservation Commission any time that they want to amend their regulations, not only do they have to do what everyone else in Connecticut has to do in terms of sending a copy of the amendment to the DEEP for their review, by Newington regulations, the Conservation Commission also has to send a copy of their regs to TPZ for review and comment and to the Town Council for their approval, which is not true of your zoning, with the zoning regs. But it is the rule in Newington, if you had the chance to look at this regulation, in principle it's kind of similar to your draft of LID regulations, it's the way to introduce LID techniques to the development community. It's mainly definition, it defines what LID is, and then LID is then encouraged/mandated in different places in the regulations for the agency to use. What I will do, and the Conservation Commission is not in any rush to get a response from you because it will be quite a while before they are going to be able to act on this, so what I suggest is, at our next meeting I will have a draft motion for approval to recommend that you have no objection to this, and might even put some language in about how this is a good thing, so that the two Commissions are working hand in glove with LID, or whatever other language the Commission would like to have.

Chairman Hall: Any questions, comments? Okay, for next time we will have....now Craig, if an issue arose, who would take precedence? The Inland Wetlands or the Zoning?

Craig Minor: An applicant would have to comply with both regulations, and if there is a conflict, if the two regs are in conflict, there is no solution. It's not as if one Commission has jurisdiction, more authority than the other.

Chairman Hall: So we have to be very careful when we draft ours that it is in conjunction with Inland Wetlands so that we don't create a situation like that.

Commissioner Aieta: Maybe we should have done ours first.

Chairman Hall: These haven't been accepted yet.

Craig Minor: And as you know, they were developed by the same consultant team, working with the same sub-committee and the sub-committee had people from Wetlands and TPZ on it, so it's been pretty hand in glove up to this point.

Chairman Hall: And hopefully they will continue to be that way, and again with Chris being one of the prime movers on this, I think he is keeping a pretty close eye on who is doing what. Okay, so we will see that again next meeting.

VIII. OLD BUSINESS

- A. Petition 60-13: Special Exception (Section 6.13; Accessory Apartment at 18 Homecrest Street, Miguel Braga, owner/applicant; Attorney Jessica Dornelas, 350 Silas Deane Highway, Wethersfield, CT contact**

Commissioner Serra moved to approve Petition 60-13 Special Exception (Section 6.13; Accessory Apartment at 18 Homecrest Street, Miguel Braga, owner/applicant; Attorney Jessica Dornelas, 350 Silas Deane Highway, Wethersfield, CT contact.

FINDINGS:

1. The proposed apartment complies with all the requirements of Section 6.13.

CONDITIONS:

This approval is based on the applicant's representation that the unit is not in a basement.

The motion was seconded by Commissioner Anest.

Commissioner Aieta: Just a couple of concerns. I think that the way that it is laid out on the bottom floor, it is co-mingled between the upstairs apartment, unit, and the bottom. You actually have to cross through their unit to get to the storage and the office areas, it's a contrived plan and I can't support it.

Chairman Hall: Any other comments?

The vote was in favor of the motion, with five voting YES and one Nay (Aieta).

Performance Bond
Harvest Village Residential Development
Deming Street
By Carrier, applicant

Commissioner Leggo moved to approve the Performance Bond for "Harvest Village Phase 1" in the amount of \$76,000.00.

CONDITIONS:

1. The bond shall be in the form of cash, check, passbook or letter-of-credit only.

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

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

Chairman Hall: We only have the one?

Craig Minor: Right, but you actually don't have it because they physically haven't submitted their application, but since it's only on the agenda for scheduling in two weeks, I will have their completed application in time to have it in hand before the legal application hits the streets in case anyone does want to see a copy of it I will have it at that point.

Commissioner Aieta: I think we should put it on for the next meeting.

X. TOWN PLANNER REPORT

- A. Town Planner Report for January 22, 2014.

Craig Minor: Zoning Enforcement Issues Raised at Previous Meetings: None. Old Performance Bonds held by Town: I have nothing new to report, I haven't done much on it with all of the snow. Newington Junction: The Newington Junction Planning Committee met on January 14th with the consultant from Boston that CCROG had hired. The consultants presented a series of master plans for the area showing a mix of residential and commercial development ranging from low to high density and several new streets. The committee expressed a preference for the medium density concept. The consultants will submit a final report based on that concept.

Revision to sign regulations; the sign sub-committee met on January 15, 2014. The members that were present felt that the draft was ready to go to the full TPZ but it was agreed to let the committee members who were not present have a say in this first. I contacted the committee members, I heard back from one of them that was not present, and she asked that the committee have another bite at the draft. I haven't heard from the other committee member, but unless the two of you have any objections for that.....

Commissioner Aieta: Who is on the committee?

Craig Minor: Mayor Woods, he's the fourth person.

Commissioner Aieta: And Carol is on it, right? I have no problem with doing it again.

Commissioner Anest: I do have some questions.

Craig Minor: Okay, then I'll contact the committee members in the next day or so and try to find a convenient date.

Last, but certainly not least, Modern Tire. I got a e-mail from the Town Attorney this morning. The judge has issued a memorandum of decision in this case, and to cut to the chase, the judge agreed with the plaintiffs that our zoning regulation where it gives the Commission discretion in modifying certain setback requirements, and the overhead door thing, things of that sort, that the Commission exceeded it's authority to create such a regulation. Now, and there is a lot more to it than that, and I called Jack and asked him if he would be able to come to your meeting tonight to go into Executive Session to discuss it with you. He was not available unfortunately to come right away. He did however suggest to me that we just let the dust settle for a few days, not do or say anything at this point, and I'm sure he will want to come to your next meeting to discuss what the next step should be for the Commission. We live in interesting times, and this is all based on the decision that was ruled on by the Superior Court a month or so ago involving the Town of Monroe, which a town similar to Newington had similar regulations, and their regs went much further than ours did, and they gave their Commission a lot of discretion in their Special Exception regulations, and Monroe just went too far, and somebody objected and it went through the court system, and the Superior Court agreed with that plaintiff that Monroe's regulations unlawfully gave themselves too much discretion, and our regulations, although we didn't go any where near that far, in principle however, we were doing the same thing, so we will have Jack come and talk to us about it, and see where we want to go from here.

Commissioner Aieta: In light of that, we should be cognizant of that when we look at the regulation when we change the regulation that was presented tonight.

Craig Minor: Agreed. That's a good point.

Commissioner Aieta: Some of the things were arbitrary.

Craig Minor: Yes, when you act on the fuel station amendment request, probably putting it in 3.19 would be the most prudent thing to do at this point.

Commissioner Aieta: That's what I was going to suggest. I don't know how the hell we approved it in the Business Zone when this property doesn't even.....

Craig Minor: Well, remember at that time, we didn't allow any auto related use. I'm trying to find some sensible reason for it, and there doesn't seem to be any. It should have been in 3.19 from the beginning.

Commissioner Aieta: Well, we assumed what he brought in was.....

Craig Minor: Reflected his property, yes.

Commissioner Camillo: There is the mobile station.....

Chairman Hall: And a convenience store.

Commissioner Camillo: So within a mile you have three of them, and with this there will be four.

Commissioner Serra: Actually, if you count the CITGO, that's five. And if you want to go a little further, you've got the Gulf Station.

Craig Minor: I'm trying to remember if we have a separation, I don't think we do.

Commissioner Aieta: It's hard to do a change in the regulation like this when you are not talking about specifics. It's hard not to look at the specifics of an application, because the specifics makes you think about, well, maybe it's you know, it doesn't fit because of where they want to put it, or how they want to put it, there's a whole bunch of questions, so when you make a blanket change to a regulation like that, and they are coming in specifically for a site, you almost have to do it like in conjunction but you really can't because it's a bad precedent because we make a change and then they come in with something, and it might be something that we really don't want.

Commissioner Anest: We have to look at it, two separate.....

Commissioner Aieta: We have to look at just the regulation change, but the way.....

Chairman Hall: The other thing that I was thinking about, when we had talked about trying to put something in our regulations about the charging station, so I was trying in my head to put charging and fueling together, and create something which again would be sort of generic, but again, by doing that maybe we are going to limit where we might allow a charging station, where we might not allow a fueling station, so I think we have a lot to talk about and to think about.

Commissioner Aieta: The problem is that we already have one in the shopping center.

Chairman Hall: Well yes, we are trying to close the door, with the horse out front.

Craig Minor: That's a good point. We could certainly add a sentence to what Attorney Shipman submitted to address charging stations.

Commissioner Aieta: But then you are lumping it with the fueling gas type stations.

Chairman Hall: But this is not supposed to be a gas station, this is supposed to be just a fueling station. Different category from gas stations.

Craig Minor: And we wouldn't be lumping it if we do it with the 3.11.7.

Commissioner Aieta: What's the difference between what it is proposing and what the guy at Mercury Oil has, it's exactly the same thing, exactly the same thing. He has a little small building, he's not doing repairs.....

Commissioner Camillo: But it's a convenience store.

Commissioner Aieta: The one on the corner. It's a convenience store?

Chairman Hall: Oh yeah.

Commissioner Anest: I'm visualizing this like a kiosk.....

Craig Minor: Could I suggest that we not go too much farther on that, save it for the hearing. Sorry.

Commissioner Camillo: He also mentioned tanks that wouldn't be in the ground.

Craig Minor: Could we not talk about that? Could we save that for the hearing? So it's all on the record in one place.

XI. COMMUNICATIONS

None

XII. PUBLIC PARTICIPATION (form items not listed on the Agenda, speakers limited to two minutes.)

None

XIII. REMARKS BY COMMISSIONERS

None

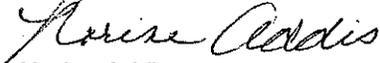
XIV. CLOSING REMARKS BY THE CHAIRMAN

None

XV. ADJOURMENT

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:10 p.m.

Respectfully submitted,



Norine Addis,
Recording Secretary