



# TOWN PLAN AND ZONING COMMISSION

## SPECIAL MEETING

Wednesday, November 12, 2014

Town Hall Conference Room L-101  
131 Cedar Street, Newington, CT 06111

6:00 p.m.

### A G E N D A

I. ROLL CALL AND SEATING OF ALTERNATES

II. APPROVAL OF AGENDA

III. REVIEW OF ZONING REGULATIONS

IV. PUBLIC HEARINGS

None.

V. PUBLIC PARTICIPATION (for items not listed on the Agenda; speakers limited to 2 minutes)

VI. REMARKS BY COMMISSIONERS

VII. MINUTES

- a. October 8, 2014
- b. October 8, 2014 Special Meeting

VIII. NEW BUSINESS

- a. Petition #45-14: Site Plan Modification at 100 Milk Lane ("Saputo Foods"). Saputo Dairy Foods USA LLC, owner/applicant; Stan Bogdan, 100 Milk Lane, Newington CT, contact.
- b. Zoning Text Amendments Proposed by TPZ:
  1. Revisions to Section 6.11 (Sale, Rental Service or Storage of Motor Vehicles)
  2. Revisions to Section 6.2 (Signs)
- c. Zoning Designation of Open Space Parcels

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NEWINGTON LAND RECORDS

2014 NOV -6 PM 12:04

BY *Tanya D. Lane*  
TOWN CLERK

- d. Bond Release:
  - 1. 1268 Main Street (Liberty Bank)
  - 2. Victory Way (Victory Gardens)

**IX. OLD BUSINESS**

**X. PETITIONS FOR PUBLIC HEARING SCHEDULING**

**XI. TOWN PLANNER REPORT**

- a. Town Planner Report for November 12, 2014

**XII. COMMUNICATIONS**

**XIII. PUBLIC PARTICIPATION (for items not listed on the Agenda; speakers limited to 2 minutes)**

**XIV. REMARKS BY COMMISSIONERS**

**XV. CLOSING REMARKS BY THE CHAIRMAN**

**XVI. ADJOURN**

Submitted,



Craig Minor, AICP  
Town Planner

**STAFF REPORT**  
***Miscellaneous Zoning Regulation Amendments***

**November 6, 2014**

**Petition #47-14:**  
**Zoning Amendments**  
**Town-wide**  
**Town Plan and Zoning Commission, applicant**

**Description of Petition #47-14:**

At the last TPZ meeting the Commission agreed to meet an hour early for the next few months to review the Zoning Regulations for items that need to be updated, clarified, or just plain fixed. This process will probably take several months before it is ready for a public hearing.

**Staff Comments:**

This is the list that I have been accumulating over the past few years of items in the Zoning Regulations that I believe need be addressed by the TPZ. I am sure the Commissioners will have some more. In no particular order:

1. The zoning regulations don't allow the modern type of gas station with a convenience store.
2. There is no category for "doctor's office". These typically need a different amount of parking than other office uses.
3. The zoning regulations don't allow restaurants that do only take-out, because of the way "restaurant" is defined.
4. Section 3.12.2.A etc.: Delete the language saying that a site plan "must be approved in accordance with Section 5.3" before there can be a change in use of the property.
5. Section 3.12.2.B etc.: Delete the language saying that an application for site plan approval must be submitted whenever a zone change is requested. Zone changes can not be approved with conditions (that is state law) so it really doesn't matter what the applicant says he intends to do if his zone change is approved...we can't hold him to that. Requiring an informal site plan as part of the zone change application is reasonable, but mandating full-blown site plan approval is not.
6. There are no "purpose statements" for the various zones.
7. Section 5.3.5 and 7.2.3: Add "submission of a certified as-built".
8. Section 6.5: The "filling of land" regulation doesn't say how much fill triggers the review and permit process.
9. Section 4.4.6: Prohibits a principal building within 50' of a wetland. This is already adequately regulated by the Conservation Commission.

10. Section 7.4.19 D: Fencing on corner lots shall not exceed 4' in height along the two (2) front sides of the property and may only be increased to 6' in height starting at the rear street side corner of the dwelling unit. The fence height and placement cannot impede corner visibility and shall conform to all applicable traffic standards as determined by the Town Engineer.

11. Section 7.4.28: Procedures to be followed when submitting the application:

7.4.28.1 ~~Application forms must be filed in triplicate.~~ **The application shall be typed or neatly printed.**

7.4.28.2 ~~Maps and plans, as defined in the applicable regulations, shall be submitted in 5 copies with the application forms.~~ **Site plans shall be submitted as follows: five full-size (24" x 36") sets and twelve half-size (11" x 17") sets.**

12. Section 3.23.1: Accessory Outside Use Standards: Insert the phrase, **"In front of" means between the plane of any wall of the building and the street the wall faces.**

13. In my opinion "bed and breakfast" should be allowed, by Special Exception in some residential zones.

14. The installation of solar panels at commercial sites needs to be addressed in the zoning regulations, so that property owners and town staff know what's required.

15. Section 5.1.2: States that a legal non-conforming use expires "if such use ceases for a period of 12 months...". That is no longer legal. The courts have ruled that a non-conforming use only expires when the owner does something affirmative to abandon it, such as converting to a conforming use. Mere non-use is not sufficient to extinguish a legal non-conforming use.

cc:  
file

**STAFF REPORT**  
***Site Plan Approval for "Saputo Dairy Foods"***

**November 6, 2014**

**Petition #45-14**

**Site Plan Modification ("Saputo Dairy Foods")**

**100 Milk Lane**

**Saputo Dairy Foods USA LLC, owner/applicant**

**Description of Petition #32-14**

The applicants have been directed by DEEP to better treat their milky wastewater before it goes into the MDC's sanitary sewer system. This is an application for site plan modification for the small utility building that will contain the wastewater treatment equipment.

**Staff Comments**

I have not completed my review of the site plan.

The proposed building will be located in an upland review area, so these plans need to be approved by the Conservation Commission before TPZ can take final action on them.

cc:  
Saputo Dairy Foods  
file



TOWN OF NEWINGTON  
TOWN PLAN AND ZONING COMMISSION  
APPLICATION FORM

LOCATION OF PROPERTY: 100 Milk Lane ZONE: I  
APPLICANT: Saputo Dairy Foods USA, LLC, Stan Bogdan TELEPHONE: (860) 666-1511 ext: 33701  
ADDRESS: 100 Milk Lane, Newington, CT 06111 EMAIL: stan.bogdan@saputo.com  
CONTACT PERSON: Stan Bogdan TELEPHONE: \_\_\_\_\_  
ADDRESS: Same as above EMAIL: \_\_\_\_\_  
OWNER OF RECORD: Catamount Newington LLC, 6 Kimball Lane, Lynnfield, MA 01940

**THIS APPLICATION IS FOR (CHECK ONE OF THE FOLLOWING):**

- Zoning Map Change from the \_\_\_\_\_ to the \_\_\_\_\_ Zone (Public Hearing required).
- Zoning Text Amendment to Section \_\_\_\_\_. A copy of the proposed amendment and the reason for amendment is attached (Public Hearing required).
- Subdivision
- Resubdivision (Public Hearing required).
- Special Exception per Section \_\_\_\_\_ of the Zoning Regulations. Explanation of the proposed activity is attached (Public Hearing required).
- Site Plan Approval or Modification
- Other (describe in detail, or attach): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

<u>Stan Bogdan</u> APPLICANT	<u>11/3/14</u> DATE	<u>See attached letter</u> OWNER	_____ DATE
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**COMPLETE APPLICATIONS SUBMITTED TEN DAYS BEFORE THE NEXT TPZ MEETING WILL BE PUT ON THE AGENDA. A COMPLETE APPLICATION INCLUDES THE APPLICATION FEE, TWELVE SETS OF PLANS (IF APPROPRIATE) AND A SEPARATE NARRATIVE EXPLANATION OF THE PETITION (IF APPROPRIATE).**

NOTE:  
PROPERTIES LOCATED IN THE NEWINGTON INDUSTRIAL PARKS (BUDNEY ROAD, PROGRESS CIRCLE, ROCKWELL ROAD, HOLLAND DRIVE AND PANE ROAD) ARE SUBJECT TO THE REGULATIONS, COVENANTS AND RESTRICTIONS OF THE NEWINGTON ECONOMIC DEVELOPMENT COMMISSION. APPLICANTS PROPOSING TO BUILD, MODIFY EXISTING SITE PLANS, CHANGE OR ADD TO BUILDING ELEVATIONS OR PLACE SIGNAGE ON THE PROPERTY ARE RESPONSIBLE FOR SECURING THE NECESSARY APPROVALS FROM THE ECONOMIC DEVELOPMENT COMMISSION PRIOR TO INITIATING THE WORK.

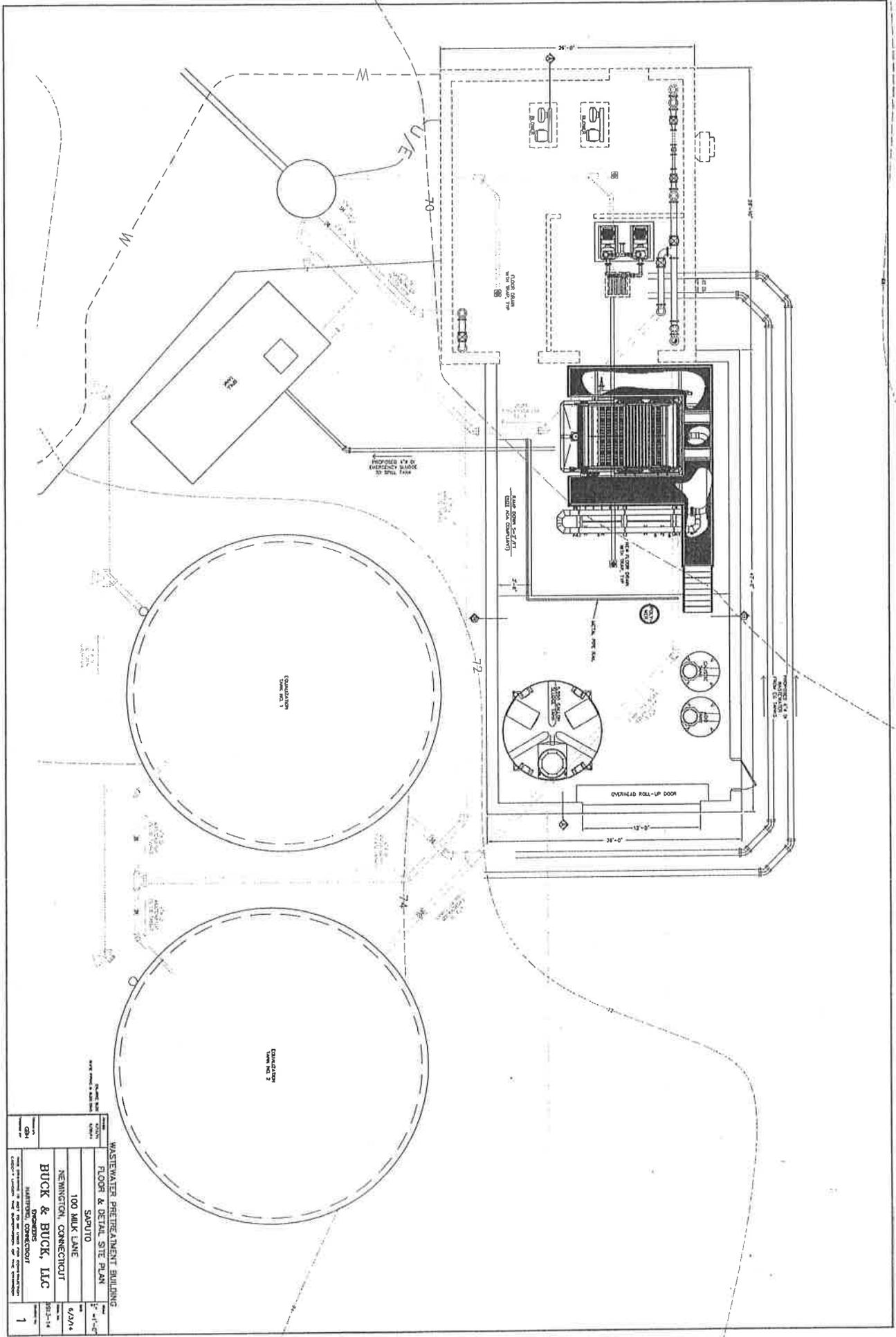
## DESCRIPTION OF PROPOSAL

Saputo Dairy Foods USA, LLC occupies the processing plant at 100 Milk Lane which is an industrial complex located on a 26.3 acre parcel bound to the west by Fenn Road and to the east by the former railroad right of way that is being re-developed into the CT Fastrak bus way. A brook flows through the lot cutting it approximately in half with the processing plant on the eastern side of the brook. The brook flows off the lot to the east, through a culvert under the railroad right of way, CT Fastrak, and then into Piper Brook.

Saputo processes dairy products in the plant which results in large amounts of wastewater, mostly from cleaning equipment, and has been issued a Notice of Violation from the Connecticut Department of Energy and Environmental Protection (DEEP) under the fats, oils and grease (FOG) regulations. They have decided to address the issue with a Dissolved Air Flotation (DAF) system that will augment the existing wastewater system by making the dairy residue in the wastewater floatable, skimming it from the water surface and storing it in a sludge storage tank. The sludge tank will be emptied, as needed, by a licensed waste hauler, trucked away and disposed of in a manner approved by the DEEP. The remaining treated wastewater will be discharged to the public sewers. Saputo has been authorized to proceed with this plan for treatment by the DEEP with the condition that the sanitary wastewater be discharged to the sewers after the process wastewater treatment system.

This proposal is for the construction of a 26' wide by 47' long by 22'-4"± tall building addition to the existing wastewater pretreatment building to house the new DAF system necessary to meet the requirements of the regulations. The addition will be an unoccupied, minimally heated, mechanical space to protect the equipment and prevent the wastewater from freezing. Additional sewers are being installed to separate the sewage from the process wastewater as well as buried piping to connect the new wastewater treatment components to the existing system.

The location of the building addition was chosen because of its proximity to the existing pretreatment system. The proposed work is in an area that has been previously disturbed and is mostly a paved driveway. The construction of the addition will result in a net increase in impervious area of 462 square feet.



<b>WASTEWATER PRETREATMENT BUILDING</b> FLOOR & DETAIL SITE PLAN SAPUTO 100 MILK LANE NEWINGTON, CONNECTICUT <b>BUCK &amp; BUCK, LLC</b> HARTFORD, CONNECTICUT	
DATE	6/2/14
SCALE	AS SHOWN
PROJECT NO.	2013-14
DESIGNER	1

## APPROVAL OF TREATMENT SYSTEM MODIFICATIONS

October 10, 2014

Saputo Dairy Foods USA, LLC  
100 Milk lane  
Newington, CT 06111

Attn: Stan Bogdan  
Plant Manager

Re: Town of Newington  
Permit No. SP0002278  
Application No. 201406780

This office has received and reviewed your application dated 5/21/2014, along with supplemental documentation dated 8/6/2014 and 9/5/2014 requesting authorization to modify the existing wastewater treatment system to address violations of the oil and grease limits in permit no. SP0002278. This includes installation of an FRC model F-5 flocculator system, an FRC model PCL-30 dissolved air floatation system, a sludge holding tank, two recycle pumps and associated appurtenances, and modifications to existing wastewater treatment system piping and electrical connections.

After review of your submittal and all associated documents, the Commissioner of Energy and Environmental Protection (the "Commissioner") has determined that the proposed changes will result in the protection of the waters of the state. You are hereby authorized to conduct activities as described in your submittal and all associated documents. This approval is issued with the following conditions:

1. Sanitary wastewater must discharge into the sanitary sewer downflow of the process wastewater treatment effluent.
2. Standard operating procedures and the final treatment scheme will be developed during a period of evaluation following the installation of new equipment and completion of associated modifications. Within sixty (60) days of the date of this approval, Saputo Dairy Foods shall submit to the Water Permitting and Enforcement Division a description of the final treatment scheme, specifically identifying treatment chemicals to be used, and a copy of the standard operating procedures.

Section 22a-430-3(i)(3) of the Regulations of Connecticut State Agencies requires that a permittee receive prior written approval of the Commissioner for any expansion or significant alteration of a wastewater collection or treatment system or its method of operation.

This is the notification required by section 22a-430-3(i)(3) of the Regulations of Connecticut State Agencies.

This notification does not relieve you of the obligation to obtain any other authorizations as may be required by Federal, State or local laws or regulations.

Should you have any questions or comments, please contact Peter Ploch of my staff at 860-424-3280.

Sincerely,



Kim E. Hudak, P.E.  
Assistant Director  
Water Permitting and Enforcement Division  
Bureau of Materials Management and  
Compliance Assurance

KH/PMP

cc: Ed Finger, DEEP/WPED, Field Compliance and Enforcement  
Suzette Flecha, DEEP/WPED DMR Section  
Brad Demarest, Saputo Dairy Foods USA, LLC, Murray, KY

**STAFF REPORT**  
***Auto-Related Uses Zoning Amendment***

**November 3, 2014**

**Petition #45-14:**  
**Zoning Text Amendment (Section 6.11: Sale, Rental, Service or Storage**  
**of Motor Vehicles)**

**Town-Wide**  
**Newington TPZ, applicant/contact.**

**Description of Petition #45-14**

This is the revision to Section 6.11 of the Zoning Regulations that was mandated by Judge A. William Mottolese. His decision upheld Section 6.11 in general, but he struck down the "and other uses as may be determined by the Commission" phrase and the three "waiver" provisions.

He struck down the "waiver" provisions because of the very recent *MacKenzie v. Planning and Zoning Commission* Connecticut appellate court decision. In that decision, the appellate court ruled that a town planning and zoning commission does not have the authority to grant waivers to a requirement in the zoning regulations - only the Zoning Board of Appeals can do that (see attached article from the newsletter of the Connecticut Association of the American Planning Association). As you can imagine, the *MacKenzie* decision sent shock waves through the State, since probably all towns contain some sort of waiver provision in their zoning regulations.

**Staff Comments**

See attached draft.

Attorney Jack Bradley told us at the TPZ meeting on September 22, 2014 that no public hearing is necessary to enact this amendment.

cc:  
file

# From the Bench

Abandoned Nonconforming Uses



by Christopher J. Smith, Esquire, Shipman & Goodwin, LLP

## A Zoning Commission's Variance Authority?

**Q**uestion: can a zoning commission waive or vary setback or landscape buffer requirements when reviewing and acting upon an application for special exception approval? Short answer: no. Why not: such violates the State's zoning enabling legislation and uniformity requirement. (A quick note: the terms "waiver," "variance," and "modify" are used interchangeably throughout this column — as you will see, the decision discussed below applies regardless of what term is used.)



In *Donna MacKenzie, et al. v. Planning and Zoning Commission of the Town of Monroe, et al.*, 146 Conn. App. 406 (2013), the State Appellate Court held that the defendant Monroe Planning and Zoning Commission ("PZC") improperly approved an application for special exception approval after "waiving": (i) a setback provision to permit parking within a designated setback area; and (ii) a landscape buffer requirement. The

special exception application was for a McDonald's restaurant.

*MacKenzie* involved a petition to rezone a portion of a property to the Design Business #1 Zone District ("DB1"), and a corresponding application for special exception approval to permit a McDonald's. The applicant had previously obtained a variance approval from the Monroe Zoning Board of Appeals ("ZBA") to permit a drive thru use component. However, the applicant waited until appearing before the PZC to seek "waivers" of the subject setback and landscape buffer requirements.

The Monroe Zoning Regulations provide "that the [PZC] may modify lot area, frontage, minimum square, and yard requirements where applied to a lot under separate ownership of record on the effective date of these regulations, so long as there is adequate provision for sewage disposal and water supply and so long as access to public streets will not create traffic hazard." The Regulations also provide that the PZC may approve "minor variations" of the Regula-

tions that protect the public health and safety, provide for the most appropriate use of the subject property, preserve property values, and do not violate the integrity of the Regulations.

After approving the change of zone and the requested waivers, the PZC approved the special exception application. Plaintiffs appealed. The trial court "upheld" the PZC's approvals, and dismissed plaintiffs' appeal. The Appellate Court affirmed the trial court's decision to uphold the change of zone, but reversed the trial court's decision to uphold the special exception approval.

The *MacKenzie* Court's decision is worth the read. In addition to the specifics of the holding, the Court provides background case citations on a number of issues that anyone reading this column should be aware of — from what is the "obvious purpose of yard requirements and setback lines," to a discussion on the difference between a floating zone and a planned development district.

(continued on page 18)



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*From the Bench, continued*

**The PZC's Waiver Authority**

A basic tenet of zoning law is that municipalities, and their boards, commissions and agencies, are "creatures of the state," and possess only those powers explicitly delegated to them by the Connecticut General Assembly. A board or commission cannot exceed its scope of statutory authority; if it does, its action is invalid and void. Applying this concept to

the Monroe matter, the Court held that a zoning commission has statutory authority to enact zoning regulations, but only a zoning board of appeals has authority to vary regulations on an application-by-application basis, as provided by Section 8-6 of the Connecticut General Statutes. Therefore, the Monroe PZC exceeded its scope of authority when approving the requested waivers.

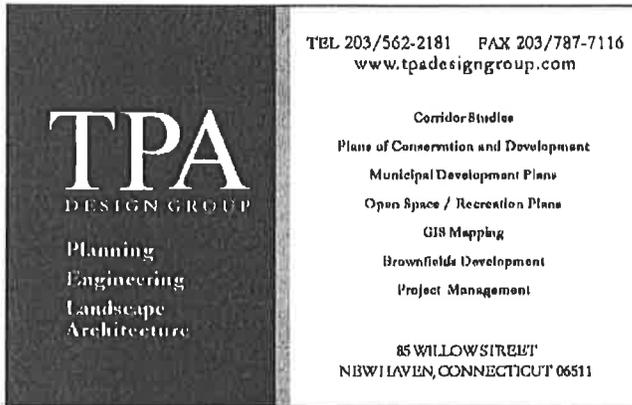
Second, the Court held that the "application of the variance power set forth" in the Monroe Zoning Regulations, "runs afoul of the uniformity requirement of General Statutes, Section 8-2." The uniformity requirement provides that properties located within the same zone district shall be treated alike unless a particular property qualifies for a variance from the zoning board of appeals under Section 8-6. Therefore, the Court held that the uniformity requirement precludes case-by-case variance of regulatory requirements by a zoning commission such as performed by the Monroe PZC.

For these reasons, the Court held that the PZC's waivers were invalid, and, therefore, since the special exception failed to meet the subject setback and landscape buffer requirements, the PZC improperly approved the special exception.

**Anything Unresolved?**

After *MacKenzie*, it's pretty clear that a zoning commission lacks authority to grant a variance of a setback or buffer requirement when reviewing a special exception application.

However, what about a zone district that provides regulatory incentives with an explicit formula for addressing bulk area requirements? For example, is it permissible to have a downtown revitalization zone, which provides that the zone's underlying coverage requirement may be exceeded by twenty (20%) if certain pedestrian friendly provisions are included in a development proposal such as bicycle racks or expanded public areas? Is this a waiver of the coverage requirement? This type of regulation may appear to be outside the scope of the *MacKenzie* decision, but we'll have to wait for a final determination from the courts on the validity of this type of "incentive" zoning regulation. ■



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## **Section 6.11 Sale, Rental, Service or Storage of Motor Vehicles**

(effective \_\_\_\_\_ )

The Commission may grant a special exception for the sale, rental, service or storage of motor vehicles in certain zones only, subject to the following conditions and to the provisions of Section 5.2 (Procedures and Standards for All Special Exceptions), Section 3.15 (Special Exceptions Permitted in B-BT Business Berlin Turnpike Zone), and Section 3.17 (Special Exceptions Permitted in I Industrial Zones).

For the purpose of this section, "motor vehicle service uses" include ~~but are not limited to~~ those of a limited repairer as defined in Sec. 14-51(a)(4) of the Connecticut General Statutes; the lubricating of motor vehicles, adding or changing of oil or other motor vehicle fluids, changing of tires and tubes, including the balancing of wheels, or installing of batteries or light bulbs, windshield wiper blades or drive belts as described in Sec. 14-51(b) of the Connecticut General Statutes; and the sale of gasoline or any other product under the provision of Sec. 14-319 of the Connecticut General Statutes. Motor vehicle service uses are allowed, by special exception, in the I zone, B-BT zone, and PD zones only.

For the purpose of this section, "auto-related uses" include ~~but are not limited to~~ dealers and repairers as defined in Sec. 14-51 (a) (1), (2), and (3) of the Connecticut General Statutes, car washes, car and truck rental businesses and other uses as may be determined by the Commission. Auto-related uses area allowed, by special exception, in the I zone only.

- 6.11.1 Auto-related uses, motor vehicle service uses, and equipment such as fuel dispensers shall be at least 30 feet from any street right of way line.
- 6.11.2 Auto-related uses and motor vehicle service uses which include repairs shall be entirely within a building and at least 30 feet from any street right of way line.
- 6.11.3 Entrances and exits for auto-related uses and motor vehicle service uses shall be at least 100 feet from a church, school, playground, hospital or any residence. ~~The Commission reserves the right to alter this requirement when, in its opinion, the natural, topographical, or manmade utilities of the site clearly indicate that this requirement is inappropriate. The distance may not be increased to more than double nor decreased to less than half the requirement herein, and any such action shall require a two-thirds vote of the Commission.~~
- 6.11.4 No display, sale, rental, or storage of any motor vehicle is permitted in the required front yard or in the street right-of-way.
- 6.11.5 No portion of any use relating to motor vehicles shall be within 100 feet of a residential zone. ~~The Commission reserves the right to alter this requirement when, in its opinion, the density of the residential zone and the natural, topographical, or manmade utilities of the site clearly indicate that this requirement is inappropriate. The distance may not be increased to more than double nor decreased to less than half the requirement herein, and any such action shall require a two-thirds vote of the Commission.~~
- 6.11.6 The façade of the building shall be a combination of brick, split face block or dryvit. Wall signage shall be uniform in size, design and lighting. The architectural style and design shall provide for a good appearance and blend harmoniously with adjacent buildings, and shall be approved by the Commission.

- 6.11.7 Overhead service doors shall not be permitted on the public street side of an auto-related use or a motor vehicle service use. ~~The Commission reserves the right to alter this requirement for a corner lot or when, in its opinion, the natural, topographical, or manmade utilities of the site clearly indicate that the requirement is inappropriate. Such action shall require a two-thirds vote of the Commission.~~
- 6.11.8 The minimum lot area for a parcel containing an auto-related use or a motor vehicle service use shall not be less than one (1) acre. Such uses may be combined with other commercial uses when the total parcel size is not less than three (3) acres.
- 6.11.9 Pursuant to Sec. 14-321 of the Connecticut General Statutes, effective June 6, 2006 the Town Plan and Zoning Commission shall act as the local authority in approving Certificates of Location (Gasoline and Motor Oil Sales).
- 6.11.10 Pursuant to Sec. 14-54 and Sec. 14-55 of the Connecticut General Statutes, effective June 6, 2006 the Town Plan and Zoning Commission shall act as the local authority in approving Certificates of Location (Dealers and Repairers Licenses).

**STAFF REPORT**  
***Proposed Sign Zoning Regulation Amendments***

**November 6, 2014**

**Petition #41-14**

**Zoning Amendments (Section 6.2: Signs)**

**Town-wide**

**Town Plan and Zoning Commission, owner/applicant**

**Description of Petition #41-14**

The Sign Regulations Subcommittee of TPZ has been working on amendments to the temporary sign regulations, to make them more "user friendly" as well as easier to enforce. The draft amended regulations also address a number of minor deficiencies in the existing sign regulations.

**Staff Comments**

See attached.

cc:  
file

Hearing date: \_\_\_\_\_

Adopted date: \_\_\_\_\_

Effective date: \_\_\_\_\_

## Draft Proposed Amendments to Section 6.2 (Signs) as of \_\_\_\_\_, 2014

[Proposed additions are shown in **bold underline**. Proposed deletions are shown in ~~**bold strikethrough**~~.]

### Section 6.2 Signs

#### 6.2.1 General:

- A. No billboards are permitted and are non-conforming uses that shall be removed and not replaced. (Effective 12-01-01)
- B. No advertising signage is permitted which does not refer to a business or activity located on the same premises. **Merchandise and/or products displayed for sale are considered signage under this section except as permitted in 6.2.1.(F).**
- C. No signs shall be located above the parapet or roof peak.
- D. The placement and erection of any signs shall require a zoning permit and a building permit, ~~except that directional signs not exceeding 3 square feet in area per side may be located within the street right of way without zoning or building permits upon the approval of the Town's Traffic authority.~~
- E. As defined in Section 9, a sign which has intermittent internal illumination by mechanical or digital controls that produce an illusion of movements such as, but not limited to, flashing, running, rotating, video graphics, change in color and brightness or scrolling advertisement message shall not be permitted except: (Effective 6-8-2011)
  - 1) Time and/or temperature sign by means of intermittent lighting, provided that the largest dimension of such a sign does not exceed 6 square feet. (Effective 6-8-2011)
  - 2) Fuel product price sign that is digitally controlled and a component of the business's free standing sign provided that each product per gallon price size does not exceed 1 foot high by 3 feet wide and does not move, flash, run, scroll, rotate or change color or brightness. Digitally controlled product price sign shall not be permitted in the Business Town Center District (B-TC) and the Business District (B) zones. (Effective 6-8-2011)

**F. Temporary Signs (effective DD/MM/2014):**

**1) A permit for a temporary sign** ~~F. Temporary permits for a sign~~ advertising a real estate development may be issued for a six month period and may be renewed for a additional six month periods.

**2) Permits for temporary signs** ~~Temporary permits for signs~~ advertising a ~~sale or~~ special event may be issued by the Zoning Enforcement Officer for not more than ~~forty (40) twenty-five (25)~~ **consecutive** days per calendar year **in increments of not less than five (5) days. upon approval of a zoning permit prior to placement.** A building permit shall not be required ~~for special event signs~~ and only the zoning permit fee shall be charged. (Effective ~~6-8-2011~~ **DD-MM-14**)

**3)** A new business coming to Newington for the first time or an existing business relocating or expanding within Newington may request an additional twenty (20) days of promotional advertising days. (Effective 6-8-2011)

**4)** Temporary signs shall only be displayed on the property of the business advertising the sales and/or event and cannot be placed in the State or Town street right of way.

**5)** Temporary signs shall not be lighted, flashing, digital or rotating, and may be denied if determined by the Zoning Enforcement Officer to be a hazard to the public.

~~Temporary signs may be pennants, streamers or banners attached to the building promoting the sale event and ground signs, not to exceed two, not higher than 10 feet and larger than 50 square feet per side. Not more than one ground mounted cold air inflatable sign, not to exceed 18 feet in height is permitted. No roof mounted sign or cold air inflatable tethered to the roof are permitted. (Effective 4-6-2014)~~

**6) Permits for temporary pennants, streamers or banners attached to the building or on the ground advertising a sale or special event may be issued by the Zoning Enforcement Officer for not more than forty (40) consecutive days per calendar year in increments of not less than five (5) days. Such banners shall be not larger than 50 square feet per side. Not more than one ground-mounted cold air inflatable sign, not to exceed 18 feet in height, is permitted. No roof-mounted sign or cold air inflatable tethered to the roof are permitted.**

**7) Temporary signs may be cardboard or plastic, on the ground, not to exceed two, not higher than 10 feet and not larger than 50 square feet per side.**

G. No illuminated sign shall be lighted or placed so as to provide glare or blinding effects upon automotive traffic or adjoining residential zones, no shall such sign diminish or detract from the effectiveness of any traffic signal.

6.2.2 Residential Signs:

In residential zones, the following signs are only permitted on a lot:

- A. One sign not over one square foot in area giving the name of the **residential** occupant of the premises.
- B. **Not more than 2 One** "for sale" or "for rent" signs not over 6 square feet in area and located at least 10 feet from the lot line. **There is no time limit on such signs.**
- C. One bulletin board on church or school property not over 36 square feet in area and located at least 10 feet from the front lot line.
- D. Building contractors signs on buildings under construction limited to a total area for all such signs of 60 square feet or temporary on site ground sign not over 6 square feet in area. All such signs must be removed within 5 days after the completion of the building.
- E. For a residential development approved by Special Exception Section 3.7 a monument sign not more than 75 square feet in area on one side, nor more than 150 square feet in area on both sides and located within the building setback lines shall require Special Exception Approval of the Commission. (Effective 8-15-07).
- F. **One sign not over two square feet in area for an approved home occupation or professional office in accordance with Section 3.4.4.B.**
- G. **One sign not over 36 square feet in area giving the name of the church, daycare, or other permitted non-residential activity on the premises that is not a home occupation or professional office per Section 3.4.4.**

6.2.3 Non-Residential Wall Mounted Business Signs [no change]

6.2.4 Free Standing Business Signs [no change]

6.2.5 Directory Signs [no change]

6.2.6 Maintenance [no change]

6.2.7 **Exceptions (effective DD/MM/2014):**

**The following types of signs are exempt from the provisions of this regulation:**

**A. Vehicle Signs**

**B. Directional Signs, including those not exceeding 3 square feet within the street right of way upon the approval of the Local Traffic Authority.**

**C. Political Signs**

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## Section 6.1 Off-Street Parking and Loading Regulations

### 6.1.1 Parking

There shall be provided, at the time of application for a building permit for the erection, alteration, enlargement or change in use of any building or land for which off-street parking is required, a plan showing functional required parking space, including the means of access and interior circulation and landscaping.

- ~~J. These regulations may be modified by the Commission where circumstances relating to the peculiar and exceptional nature of the uses are such that the specific requirements of the parking regulations do not apply.~~
- J. Other than as permitted in Section 3.23.1 (Accessory Outside Use Standards), nothing may occupy a parking space provided in accordance with Section 6.1 other than a properly registered motor vehicle (effective XX/YY/2014).
- K. For properties with parking lots on the Berlin Turnpike, the row of parking spaces closest to the Berlin Turnpike shall be reserved for customer parking only. Employee-owned vehicles and vehicles belonging to or under the control of the owner or tenant may not occupy these parking spaces (effective XX/YY/2014).

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## Section 9.2 Definitions (added DD/MM/14)

**SIGN:** Any object, device, display, or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Does not include national or state flags, window displays, graffiti, athletic scoreboards, or official announcements or signs of government. (added DD/MM/14)

**SIGN, VEHICLE:**

Sign on a vehicle of any kind, painted or attached directly to the body of the original vehicle which does not project or extend beyond the original manufactured body proper of the vehicle. Such vehicle must be registered with the State of Connecticut; in motion or parked in an approved parking or loading space at the business location; is capable of movement; and used for transport purposes in the business. (added DD/MM/14)

**SIGN, POLITICAL:**

A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election. (added DD/MM/14)



John Salomone  
Town Manager

# TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

**Town Planner**

Craig Minor, AICP  
Town Planner

## Memorandum

November 6, 2014

**To:** Town Plan and Zoning Commission  
**From:** Craig Minor, Town Planner *CM*  
**Re:** **Open Space Zoning and the 2020 Plan of Conservation and Development**

---

At the TPZ meeting on September 22, 2014 the question arose as to what exactly it means for land to be classified as “dedicated open space” in the 2020 Plan of Conservation and Development, and how that is different from the way land is classified in the zoning regulations. This memo will attempt to answer those questions.

1. The 2020 Plan of Conservation and Development:

- a. Chapter 2 of the 2020 POCD (“Conditions and Trends”) contains eight sections:

- Overview
- History of Newington
- People of Newington
- Housing in Newington
- Economy of Newington
- Land Use in Newington
- Zoning in Newington, and
- Plan Approach

b. The “Zoning in Newington” section contains a description of how all 8,383 acres of land in Newington were zoned at the time the POCD was being written. As you know, the way a parcel is zoned determines what kind of activities are permitted there. The POCD lists twelve types of zoning district in Newington:

- R-7 Residential
- R-12 Residential
- R-20 Residential
- RP Residential Planned
- RD Residential Designed
- I Industrial

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PD	Planned Development
B	Business
B-BT	Business Berlin Turnpike
B-TC	Business Town Center
CD	Commercial Development
PL	Public Land

c. The “Land Use in Newington” section contains a description of how all 8,383 acres of land in Newington were actually being used at the time the POCD was being written. In most cases the way a parcel is used is consistent with how it is zoned, but not always (i.e. there may be a “non-conforming” use). The POCD lists five different categories of land use:

Residential (single family and multi-family):	40%
Commercial/Industrial/Utility (commercial, industrial, and utility):	17%
Open Space (dedicated open space, and managed open space):	11%
Community Facilities/Institutional (community facilities and institutional):	9%
Other (roads and utility rights-of-way):	14%

The two Open Space categories (“dedicated open space” and “managed open space”) are defined as follows:

Dedicated Open Space: Land owned by the Federal government, the State, the Town, land trusts, or conservation organizations intended to remain for open space purposes.” These include all Town-owned parks and playgrounds, the Deming-Young farm, the Indian Hill golf course, the Newington Center Cemetery, and a few other parcels.

Managed Open Space: Land owned by other organizations which is used for other purposes, but provide open space benefits.” These include the Eddy Farm, the Cedar Hill Cemetery on Jordan Lane, and several parcels of condominium association-owned open space.

This section goes on to state that 92% of the 8,383 acres are actually “developed” (which is defined as “land that has buildings, structures, or improvements used for a particular economic or social purpose, such as residential or institutional”) or otherwise “committed” (which is defined as “land that is used for a particular economic or social purpose, such as roads or open space”), and that 8% is “vacant” (“land that is not developed or committed”). For example, the 18.52 acre “Marcap” parcel on Cedar Mountain that the Town later acquired is classified as “vacant” in the 2020 Plan, because at that time it was undeveloped and unprotected from development.

## 2. The Zoning Regulations:

a. As stated above, the Zoning Regulations contain twelve types of zoning district:

R-7	Residential
R-12	Residential
R-20	Residential
RP	Residential Planned
RD	Residential Designed
I	Industrial
PD	Planned Development
B	Business
B-BT	Business Berlin Turnpike
B-TC	Business Town Center
CD	Commercial Development
PL	Public Land

b. Each of these districts has a specific list of principal and accessory uses that are permitted in them. Some activities are permitted in all zones as of right, such as public libraries, public parks, and farms, and some activities are permitted in all zones by Special Exception, such as churches, hospitals, and senior housing. "Open Space" is not listed as a permitted use in any zone. In other words, technically, "open space" is not a permitted use because it does not exist in the zoning regulations as a principal use. That being said, the activities that we associate with open space (namely farms and parks) are of course permitted uses, but "open space" per se is not.

c. The TPZ could create a zone within which only the uses that we associate with "open space" are permitted, such as farms, parks, cemeteries, nature preserves, etc. Then, TPZ could re-zone whatever land it wants to preserve into that zone. This would not require the consent of the land owner but it would certainly be desirable. Keep in mind that the Newington municipal government is not subject to the zoning regulations.

cc:  
file



John Salomone  
Town Manager

# TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

**Town Planner**

Craig Minor, AICP  
Town Planner

## Memorandum

**To:** Town Plan and Zoning Commission  
**From:** Craig Minor, Town Planner *CM*  
**Date:** November 7, 2014  
**Re:** **Performance Bond Reduction at 1268 Main Street (“Liberty Bank”)**

---

The project is complete, and the applicant requested a bond reduction last December. However, the grading and the landscaping (i.e. the parking lot trees and the planting bed flowers and shrubs) were significantly different from what was shown on the approved site plan, so I did not bring it to TPZ for approval.

The grading issue was eventually resolved, but when I told the applicant that I could not support releasing his bond due to the difference in landscaping, he replied that his landscape contractor disagrees significantly with his landscape architect over the types of plants that should be used. The landscape contractor recommends using different species due to exposure to light, drainage, etc.

I told the applicant to simply submit a marked-up plan showing the substitutions, and if I was satisfied that the different plants perform the same functions as the approved plants, I would support releasing the bond. I eventually received the requested marked-up plan and I find it acceptable. I now recommend releasing the bond.

I will have a Draft Suggested Motion for the TPZ’s use at the meeting.

cc:  
file

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Reno Properties Group, LLC.  
170 Pane Rd.  
Newington, CT 06111  
December 11, 2013

Craig Minor  
Town of Newington  
131 Cedar St.  
Newington, CT 06111

Dear Mr Minor:

We are writing to request the release of a bond placed on our property located at 1268-1300 Main St. We recently received a list of outstanding items from Art Hanke for the site. We have now substantially completed this list with exception to a few plantings around the building at 1268, which need to be done in the spring. Mr. Hanke has informed us for this letter to be written as a formal request so that he can inspect the property and confirm the work that has been done, and then funds being returned to us.

Any questions or comments can be directed to our construction manager, Jarrod Kuttler, by phone at 860-830-0870 or email at [jkuttler@reno-properties.com](mailto:jkuttler@reno-properties.com).

Thank you very much for your consideration in this matter.

Reno Properties Group, LLC.



John Salomone  
Town Manager

# TOWN OF NEWINGTON

131 Cedar Street Newington, Connecticut 06111

**Town Planner**

Craig Minor, AICP  
Town Planner

## Memorandum

**To:** Town Plan and Zoning Commission  
**From:** Craig Minor, Town Planner  
**Date:** November 7, 2014   
**Re:** **Final Performance Bond Reduction at "Victory Gardens"**

---

The most recent bond reduction approved by TPZ on October 23, 2013 retained \$4,441 for signage, landscaping, and the as-built survey.

The signage has been installed and the as-built survey submitted. The applicant contacted me recently to say that the landscaping is established, and has requested a final release.

I asked the Town Engineer to inspect the site to confirm that the landscaping is established. As of this writing I have not gotten a report from him, but I will have it in time for the meeting. I will also have a Draft Suggested Motion for your use.

cc:  
Town Engineer  
file

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# TOWN OF NEWINGTON

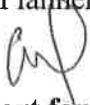
131 Cedar Street Newington, Connecticut 06111

John Salomone  
Town Manager

**Town Planner**

Craig Minor, AICP  
Town Planner

## Memorandum

**To:** Town Plan and Zoning Commission  
**From:** Craig Minor, Town Planner  
**Date:** November 7, 2014   
**Re:** **Town Planner Report for November 12, 2014**

- 
1. **Zoning Enforcement Issues Raised at Previous TPZ Meetings:** None.
  2. **Old Performance Bonds held by Town:** I will have a report at the meeting.
  3. **Newington Junction TOD Committee:** The final report from the consultants has been posted on the Town website. As of now the next meeting of the Committee has not be scheduled.
  4. **Partial Moratorium on LID Regulations:** Several months ago TPZ adopted LID (Low Impact Development) zoning regulations. The goal of LID is to let rain soak into the ground where it falls, rather than be concentrated in one place and directed to local rivers and streams. This has many environmental and fiscal benefits. However, doing it correctly requires a considerable amount of analysis: the amount of runoff needs to be calculated; the infiltration capacity of the soil needs to be determined; the appropriate LID technique needs to be chosen; and accurate plans need to be drawn. This is not a problem for the commercial property owner using a professional engineer to prepare his site plans, but it is beyond the ability of the average homeowner who simply wants to build a detached garage with paved driveway, or to put an addition on to the house.

I have been thinking for some time that we need a handout that gives detailed, step-by-step instructions to the homeowner on how to comply with the LID regulations. It will take some time to develop such a handout. Therefore, I recommend TPZ consider adopting a short-term moratorium on the residential LID regulations until this handout is available. If TPZ agrees in principle, a public hearing on the moratorium would be required.

5. **Harvest Village First Floor Master Bedrooms:** The developers of the "Harvest Village" planned unit development on Deming Drive would like to modify the footprint of several of the remaining houses, to enable the creation of first floor master bedrooms. They are finding that this is what the market wants.

This does not increase the density and only minimally impacts the amount of open space, but "architecture" was an important part of the approval process. I told the developers that I would tell TPZ about this at the next TPZ meeting, and if any TPZ commissioner feels that a formal modification to the original approval is warranted, that would be the appropriate time to say so. I will have a sketch showing the proposed change at the meeting.

cc:  
file

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