

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

February 26, 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 February 12, 2014.

Craig Minor: Nothing new since the last hearing. The Town Attorney was sent a copy of the regulations a little while ago, but, and I contacted him today and he has not had a chance to review them so he asked that this be continued again.

Chairman Hall: So we will leave it open. This is a public hearing, so we'll see if there is anyone from the public who wishes to speak to Petition 47-13. Anyone in favor? Anyone from the public wishing to speak against it? Anyone wishing just to speak. Seeing none, let's have the Commissioners weigh in. We have talked about this generally over many weeks, we haven't really talked about it in depth at this point and this is a good opportunity. We were going to have the attorney come, or at least read into the minutes his opinion, but we'll wait for that for another time. We will continue to leave it open, but at this point, is there any discussion, any direction that somebody feels that they need to bring forth? No questions?

Commissioner Leggo: I just think we've pretty much, we've talked out a bunch of the small issues, and concerns, I just think we just need to hear from the lawyer.

Commissioner Aieta: What exactly is the attorney, why are we getting a legal opinion?

Chairman Hall: I just think anytime that we review something of this magnitude that we would have the attorney take a look at it before we have a final ruling on it. My feeling is that we really didn't get an awful lot of opinion from the public which surprised me. I thought something of this subject matter would attract a little bit more, pro, con, neutral, whatever. I don't know whether it's because the weather has been against us and people just don't want to come out at night, but even in conversation around town, I haven't run into people who have had any strong feelings one way or the other. There has been plenty of press, other areas, other states, other towns, it has not seemed to strike any kind of a cord here in town so that when we do make our decision on this, it is pretty much our decision, so I think we need to have certainly the Town Attorney's opinion as well and everyone around the table, an opinion from each of us, so that when we do make the final decision, we feel as though we have done our due diligence.

Commissioner Aieta: One other point, when this was first advertised, was it in the paper? It wasn't advertised in the paper, right?

Craig Minor: Right, it wasn't advertised in the paper, we did the required legal notice and a copy was filed with the Town Clerk, but we didn't go beyond the requirements. I mean, there have been newspaper stories, so I think the public is aware of it.

Commissioner Aieta: I think most of the newspaper stories said that the distances were 1,000 feet from a residence zone, both for the dispensaries and the production, and we're looking to reduce the buffer to the residence zone down to 100 feet, something less than 1000 and that would affect a lot of people along the Fenn Road and North Mountain Road area. If the people knew that we were considering a reduction down to 100 feet and they were right across the street from that zone, they might have the tendency to come and give us some input. When we talked about the 20/20 plan after hours and hours of public hearing, one of the things that we talked about was making sure that when important things came up that the public, residents that were affected would get some kind of notification. So I think if we are considering changing it down to 100 feet and that's the way we are going to go, then I think some notification to the people should be done.

Commissioner Leggo: I agree with Frank that people in the town need to know when some major change is being done. I think the press did a great job in their article, they kept up with anything that we were recommending or talking about, so it was never really advertised that 1000 feet for both, it was constantly mentioned, but as we talked about changing it, in the paper it also talked about the changes. I do agree with Frank though, if something major is going to be changed that we should try to get the word out as best we can.

Commissioner Sobieski: The only thing we were going to change to the 100 feet, unless I misunderstood was the production not distribution. Distribution stays at 1000 feet.

Chairman Hall: Correct. Other discussion? If no one else has anything to say at this point, we will keep this open and await the response from the Town Attorney.

B. Petition 05-14: Special Exception (Section 3.2.8: Charitable and Civic Events) at Newington Municipal Parking Lot. Newington Kiwanis Club, applicant.

Chairman Hall: I have to recuse myself on this one. Carol, if you would take over please?

Vice-Chairman Anest: Sure.

Vice-Chairman Anest: Is the petitioner or representative here this evening?

Dan Henry, 140 Fisk Drive: I'm president of the Newington Kiwanis and this is essentially a petition to continue what we have done in that lot for a little over ten years I think. During that time we have raised, or should say donated back to the town over \$100,000.00 including thousands of dollars to the Newington Food Bank.

Vice-Chairman Anest: Craig, do you have any comments?

Craig Minor: No, the reason the hearing was kept open was because the sign did not get put up in time for the last hearing, so this is just to make sure that we are complying with the statute that says that a sign for a public hearing must be put up at least ten days before the meeting which has now been up well beyond ten days so that's really the only reason this was kept open, and it also gave me the chance to circulate the second page of their letter, so you ladies and gentlemen have that also.

Vice-Chairman Anest: Thank you Craig. Since this is a public hearing, is there anyone here who would like to speak in favor of this petition? In opposition to this petition? Would just like to speak? Seeing none, are there any Commissioner comments?

Commissioner Aieta: I'd like to move this to Old Business and act on it tonight, and I'd like to have a consideration that we extend the period of time that they have an approval to use the lot so they don't have to come back to the Zoning Commission. It's three years now, and I'd like to extend it to five years so that they don't have to come back every three years, they would get an extra couple of years out of it.

Commissioner Sobieski: Second.

Vice-Chairman Anest: Okay, we will close this and move it to Old Business for a vote this evening.

Craig Minor: I don't have a draft suggested motion, but I could put together one.....

Vice-Chairman Anest: Well, they are not starting until April, correct?

Dan Henry: April 27th.

Vice-Chairman Anest: So we could vote on it next meeting. There is no rush.....

Commissioner Aieta: They have other approvals that they have to get.

Craig Minor: They have, they now have the town approval.

Commissioner Aieta: Then we should move it along.

Craig Minor: I don't think there will be any conditions. I can have it ready.

Commissioner Leggo: Is there anything we have to do other than a condition or a comment to extend it from three to five?

Craig Minor: Just vote on it.

Commissioner Leggo: Just vote on it for five.

Chairman Hall: Thank you Carol.

C. Petition 02-14 Zoning Regulations Text Amendment (Sections 5.3, 6.1, 6.10, New 6.16, 7.4 and 9.2) regarding Low Impact Development. Town Plan and Zoning Commission, applicant.

Eric Moss: Good evening, my name is Eric Moss and I am with the firm of Fuss and O'Neil and our firm along with Glenn Chalder of Planimetrics was hired by the Town of Newington to essentially develop a revised policy to incorporate low impact development, or LID into the town policy, both in terms of the town regulations and also the town stormwater design standards. I just want to spend a few minutes speaking briefly on what is LID, and after that I'll turn it over to Glenn and talk about the regulation changes that are in front of you as part of this hearing.

LID is really an alternative to the traditional stormwater. It emphasizes the use of vegetation and soil and mimicking natural hydrological conditions on a site in order to manage stormwater runoff. The idea behind LID is to manage rainwater close to where it falls rather than collecting stormwater into a large end of pipe retention basin and quickly getting rid of it off the site. So it really is a new philosophy in stormwater management that is being adopted both at the state level and also by many municipalities such as Newington. There are many benefits of LID. Benefits to property owners and developers and to the municipality itself and also to the environment. In terms of property owner benefit, it really involves reducing land clearing and grading, potentially reduced infrastructure costs, a development using LID versus traditional hard pipe drainage systems. In terms of the town itself it balances growth with environmental protection so provides protection to water quality and reduces run off and it also includes things like ground water recharge and recharging out wetlands and ground water supplies. Again many municipalities have adopted and have gone through the process of LID, so Newington is not alone. With that, I will turn it over to Glenn to talk about specific regulatory changes that are being proposed.

Glenn Chalder: Thank you very much. As Eric indicated, my name is Glenn Chalder from Planimetrics and I'm working with Fuss and O'Neil and a subcommittee in terms of the LID regulations. The key aspect I think of the changes that are being proposed for the regulations tonight are to remove impediments from the regulations which currently prevent LID from being implemented. So the regulation changes are to enable LID to happen in Newington. LID is appropriate in most situations, but not all situations, but again, allowing it to happen allows these kinds of decisions to be made. The regulation changes related to zoning fall into a couple of major categories; the first overall is the introduction of two new definitions to the Zoning Regulations. The first of which is a definition of impervious surface, and much of LID revolves around the concept of drainage of impervious surfaces, and the second is a definition low impact development techniques. You will notice as part of a subsequent application before you tonight there are changes to the Subdivision regulations and also wanted to let the Commission know that this very same definition which is proposed is included in the Wetlands Regulations. All the regulations will be consistent, but this defines the terms which I think will help us to move forward.

Part two of the Zoning Regulations proposed is a new section to the Zoning Regulations, is a new section related to stormwater management and particularly this refers to the LID development and the stormwater manual for the Town of Newington and the standards and guidelines which are contained in that manual for people to follow. I think one of the things that we have highlighted as part of our discussion here is the threshold that we would want to have for a residential lot, as when a residential homeowner might appear before the Commission. The draft that was created suggested a threshold of 300 square feet, but I think in terms of discussions that have been had that a higher threshold would be appropriate in

this kind of situation because again, what we are trying to do is remove impediments and create opportunities.

The third part of the Zoning Regulations changes relate to your parking regulations. There are a couple of changes in here. The regulations require for example that parking lots be curbed and if we are going to allow for runoff to naturally dissipate and be infiltrated into the soil then get rid of the curb and allow it to go into the grass in certain situations would be one way to do it. It doesn't mean that the curbs are going to be eliminated everywhere, but this regulation change would allow for that to happen. We also noticed that as part of our analysis of the parking regulations that the parking standards in Newington were higher than what the Institute of Transportation Engineers and others believe are the, evidence shows for parking demand and utilization. So one of the suggestions here is for the Commission to create or adopt new parking standards, the first of which would be to reduce the minimum requirement and then get the Commission, if they are comfortable doing so, adding a parking threshold where above that threshold if somebody chooses, let's say, looking at the first line item on the table, this is on page 5 by the way, of the handout, business offices and financial institutions, the current standard is six spaces per thousand square feet of gross floor area, the suggestion would be to reduce that to five spaces per thousand and a parking threshold of four, and above that parking threshold, those parking spaces would be pervious pavements, etc. I have to think this though.....

Commissioner Aieta: This isn't right. The parking requirements are going to change from six to five, per thousand square feet.....

Glenn Chalder: I'm going to have to ponder this for a moment though as we move on, whether the title of these two columns is reversed. In other words what it says today for business offices the minimum number of spaces is five, and the parking threshold above which you have to, no, that is right. You have to put in five, four of which can be regular pavement, and then the last parking space needs to be pervious.

I think there are other changes in the parking section that allows the Commission to permit a reduction of up to twenty-five percent of the required, I'm back on page eleven at this point in time, reduction of the twenty-five percent of the required parking spaces when the parking needs of the users occur at different times of the day. So, again, this is an opportunity for somebody to perhaps testify before the Commission that they don't need all of these parking spaces and we could have less impervious coverage overall.

On page twelve there is some indication that in addition to regular bituminous concrete the Commission would accept pervious concrete or pervious pavers as parking lot surfacing techniques.

Commissioner Aieta: Are we changing the size of the spaces?

Glenn Chalder: No, these diagrams, we simply repeated the diagrams which are your current regulations, and we tried to clean them up because the ones in the current regulation are a little fuzzy, so we tried to make this clearer, but no changes. Also on page twelve a new provision which would allow the Commission to defer the immediate the installation space if you believe that there might be some reason why the applicant doesn't need all of those spaces today, he would have to show where they would be provided on the site plan, but could get a waiver for installation of twenty-five percent of the spaces. There are also some provisions related to landscaping, again designed to facilitate and allow for the implementation of LID techniques.

Starting on page fifteen, the fourth major setup changes for the Zoning Regulations relating to the landscaping, and really what we are doing here is simply clarifying that landscaped areas can also be used for LID areas in terms of creating manufactured wetlands, retention basins

and other things, but since we want the vegetation to renovate the stormwater and to allow it to infiltrate, we just want to remove any impediments here in the landscape section of the regulations.

On page seventeen, the fifth major component here is, we have suggested changes to Section 5.3 of the regulations, and this is the information that would be submitted by an applicant as part of the plan. In order to evaluate the applicability of LID techniques, we're asking them for information on the hydrologic soils group, this information is readily available on the web, you just need to look at your site and identify what those hydrologic classes are, need to identify the locations of trees, and areas from the natural diversity data base, and this would again give the Commission and staff information about the suitability of the site for LID techniques.

On page twenty of the regulations, changes to Section 7.4 which relates to the site plan review standards and points out that the low impact and stormwater manual for the Town is the design manual to be used, and then it provides conditions in here related to parking, drainage, sidewalks, curbs, etc., designed again to promote the implementation of LID techniques. So those are the changes that are proposed to the Zoning Regulations and in a sense what they do is to remove possible impediments to the implementation of LID and give applicants the opportunity to move ahead.

Chairman Hall: Do the Commissioners have any questions?

Commissioner Sobieski: You are saying one parking space and four additional ones would have to be pervious pavement. Is that designed for the hundred year standard or fifty year.

Glenn Chalder: It's not really related to the flood standard at all. The question is sort of parking utilization.

Commissioner Sobieski: I'm referring to the runoff. If you get a hundred year storm, a heavy rain.....

Erik Moss: In general, all of these LID practices are designed to handle the water quality event which is basically a twenty-four hour rainfall, the first inch of rainfall over the impervious area of the site, so by very nature, they are designed to handle a lot of the small, more frequent rainfall which accounts for about ninety percent of the runoff on an annual basis. Most of the LID systems have overflows and by-passes for larger storms, of course they can be designed to handle larger volumes and pervious pavement you would have to design the reservoir that is the base below the pavement to manage a larger volume, but typically it's that one inch rainfall event.

Commissioner Sobieski: That's what I was wondering, maybe instead of one space it should be two for pervious pavement.

Glenn Chalder: This is sort of up to the Commission. What we were deciding to do here is to create an opportunity that, we think that your parking standards are in excess of what would normally be covered. When we drive down our streets we look at parking lots and very often there's a lot of empty spaces. By allowing the pervious pavement on some of those spaces we're allowing the water to percolate and those can create dual functions, and really during the Black Friday situation, yes there probably would be a car there, but hopefully it's not raining or if it was the water would still be able to percolate once it got underneath the car, so we were attempting to move the Commission in the direction of having standards that were better tuned to what the information shows, and I think if the Commission feels a little bit more aggressive in terms of pervious or impervious, you could move in that direction. We're comfortable in recommending this standard.

Commissioner Aieta: Is there a section in here that addresses snow storage, and also hit upon the dilution of the salt that they use upon the roads and parking lots? How is that handled, if it is handled at all?

Eric Moss: I don't recall a specific issue of snow storage in the regulations.

Glenn Chalder: I'm looking for that right now. If it's not in your current regulations today, then we haven't added it.

Eric Moss: In terms of potential impact of deicing materials, salts and chlorides on environment, that is an issue that is being looked at both by the State, the Connecticut DOT has been studying that problem along with DEEP, and nationally it's been a issue especially for highways and roadway uses and large parking lots. All I can say is LID, a lot of these techniques, the salts are fairly soluble, they tend to move with the water, so they will get into ground water, into the subsurface. A lot of these techniques are designed so that the plantings that are in the rain gardens and the bio-retention basins, they are not necessarily going to treat the salts per se, but they are designed to withstand, salt tolerant species. We get the benefit of the removal of the other pollutants, the sediment bound, the oils, the greases, the solids, but LID practices aren't intended to really get at, dissolve pollutants like the salts. Those are something that with current stormwater practices you are going to have the same issues and that's why it's being studied, whether you look at LID or traditional stormwater management, so it is one of those things that is being looked at carefully and it is going to be an issue, but the benefits of LID out weigh the benefits of traditional stormwater in many other ways.

Glenn Chalder: I'm not finding anything in your current regulations relating to requirement for snow storage in a parking lot.

Commissioner Aieta: It would be under the site plan review section.

Chairman Hall: I know that we always review that, with the site plan.

Commissioner Aieta: I know when we have developments we want to see where the snow storage is.

Chairman Hall: Every plan that comes before us, we have them tell us where the snow storage is going to be.

Commissioner Aieta: That would be important if you weren't going to put in the curbing and then you were going to store the snow, you wouldn't get the runoff anyway.

Eric Moss: You wouldn't want a site with a retention system in an area where you are going to be piling snow for example. You want to have a dedicated area for your snow storage that is different than your LID.

Glenn Chalder: Under your current regulations there is a Section 7.4.17, we aren't making any change to that, so what that says today, "Provisions shall be made for the storing of snow from parking areas from within the site, in a location which is both appropriate and not required for other purposes. The area shall be shown on the plan as snow storage area."

Chairman Hall: Page twenty-five says no changes proposed for the following section and that is one of them.

Glenn Chalder: So that section stands.

Chairman Hall: Other questions?

Commissioner Leggo: A question from what Frank said, would it be a concern at that point that these parking spots that we are hoping to have the water actually be able to percolate and, wouldn't we have to look at that for snow removal, that the snow is not being placed there?

Chairman Hall: Yeah, I think that when we do the site plan that would be something we would have to take into consideration.

Commissioner Leggo: That would be an important factor because now if there is curbing is being left out and other things were being changed, those spots being open are going to be important that they are opened up so the water can get there.

Chairman Hall: Any others? Okay, this being a public hearing, is there anyone from the public wishing to speak in favor of this petition? Anyone speaking against it? Anyone wishing to speak? And we have none. Thank you very much gentlemen, we appreciate your time.

Glenn Chalder: The question again for the Commission relates to the residential threshold and if you have any questions on that.....

Commissioner Aieta: We talked about that, and we talked about increasing it from 300 to 600.

Glenn Chalder: I think that is an appropriate threshold, I think, a two car garage we believe would be approximately 500 to 600 square feet, so a property owner could do up to that before the threshold did apply, and even if the threshold was triggered by something that they were doing, a possibility of a rain garden or other fairly modest installation could address that situation, so I think you can accomplish the benefits town wide in all sorts of situations with that kind of threshold. That would be appropriate.

Eric Moss: The manual does reflect 600 square feet right now. It has been raised in the manual.

Chairman Hall: What do we want to do with this petition? Close it, leave it open, what do we want to do with that. Do we think we have enough information on this to close it? Okay, so it is the consensus of the Commission to close Petition 02-14.

D. Petition 03-14 Subdivision Regulations Text Amendment (Section 2.0, 3.6, 3.7 and 6.3) regarding Low Impact Development, Town Plan and Zoning Commission, applicant.

Chairman Hall: Good evening again.

Eric Moss: Good evening. My name is Eric Moss and I'm with the firm of Fuss and O'Neil. Again, our firm was hired by the town to help adopt Low Impact Development policy conditions and design standards and to help implement LID for stormwater management and development projects. Again, LID is an alternative stormwater approach. It really again, is based on the principles of using vegetation and soil and capturing and managing stormwater close to where the rain water falls, as opposed to the traditional end of pipe approach. Again,

LID is being adopted and required by the State of Connecticut and also by many other municipalities throughout the state and our firm developed a design manual for use by the town. We have also proposed regulatory changes to the subdivision regulations and Glenn will go through the major proposed changes.

Glenn Chalder: Thank you. Again, Glenn Chalder from Planimetrics again working with a sub-committee, a committee in terms of the implementation of LID. We reviewed the subdivision regulations for possible impediments for the implementation of LID and have some proposed regulation changes here for your consideration. Zoning Regulations generally deal with the use of the property, Subdivision regulations create the process by which new lots, or the creation of new lots are reviewed. So it's slightly different than zoning in the following situations; when a subdivision is created and new roads are built, this is where the LID standards would apply in this kind of situation, so the nature of the changes which are proposed to the subdivision regulations are the same changes to the definition section in the Zoning Regs are also proposed in the subdivision regulations, and again, this creates a consistency across the land use regulations for the Subdivision regulations, the Zoning Regulations and also the Wetland Regulations.

Starting on page two we are recommending the modification of Section 3.7 of the regulations, this relates to drainage, stormwater improvements to refer to the manual, identify the standards in the manual which are applicable and make some other changes here, stormwater one word rather than two for consistency, and so on.

Starting on page five, the proposal here is to make changes or modifications to the street requirements. On the bottom of page five it says, except when modified or waived by the Commission in order to implement LID curbs are required. So, we are continuing with the historic curb approach in Newington, but based on a review of a particular application where LID is appropriate, the curb could be eliminated by the Commission in that situation, but the default would be curb.

Commissioner Aieta: Point of order. There is a law suit that's, that recently went back to court because of a case in Madison, or somewhere downstate, and one of the things that came up was the Commission being able to waive their own regulations. The regulations should be what the judge said apparently was that the regulations have to be one way or the other and we can't really waive.....

Glenn Chalder: This is the situation where we have the difference between zoning and subdivision regulations, waivers and modifications are specifically authorized by statute. So we have a situation here where we can do this. The court case that you are talking about is known as the McKenzie case, and that is the Zoning Regulations, and I'm not sure of the details of this, of the situation in Newington, but this is subdivision regulations and waivers are clearly authorized, probably have a waiver provision already in your regs.

Craig Minor: Probably.

Commissioner Aieta: So that would not apply to the subdivision regulations, it only applies to the Zoning regulations. Okay, thank you.

Glenn Chalder: Good point. Starting on page six, we've identified some changes in street design criteria for your consideration. Some of the pavement widths that are being required in town were overly wide and in many situations given current design standards, so we recommended some changes and reductions to the paved width, and these are minimums, so depending on the circumstances, traffic flow, etc., the Commission could review the applicability of these, but we recommended some specific numbers. The current regulations in some places have ranges, they said, the minimum width is thirty to thirty-six feet. Well

that, what is the standard? Again, we defaulted to thirty feet in those kind of situations for paved width. We clarified on the bottom of page six that if meeting is provided, for example an entrance way on a road or something, that really the paved width is half of the above requirement, and we made some changes on page seven to the table of standards. The only change really proposed here overall is for the minimum center line radius on a local residential street and a residential access street. On the recommendation of the town engineer, those are recommended to be increased from 150 to 200. The other changes in here were clarifications of some wording that we thought was missing, or some clarifications to this table overall and particularly in terms of the cul-de-sac, the table appeared to be unclear as to the dimensional standards for a right of way radius and a pavement radius and so we clarified that in terms of permanent residential cul-de-sac. Starting on page eight, the fourth major change in the regulations, the information to be submitted to the Commission and to staff in terms of reviewing a subdivision, and again, it's calling for information related to LID techniques that would be utilized, information about soil classifications or tree of the natural diversity data base, limits of disturbance construction, etc., again, to allow staff to give good advice to Commission in terms of the best implementation of LID techniques. So those are the nature of the changes to the subdivision regulations, and again, these are designed and intended to remove impediments to LID to allow this to occur in the future.

Chairman Hall: Commission questions? Everybody all set with this? Again, because it's a public hearing, anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone wishing to speak? Seeing none, again, what is the pleasure of the Commission on this?
The consensus is that we will close it and move it to Old Business, and thank you for your time and effort on this. We appreciate it.

Craig Minor: So Madam Chairman, can the consultants leave? Are we going to be discussing it under Old Business tonight, or should they stick around?

Chairman Hall: I think everybody is pretty content with this, so I think they can leave if they wish.

Craig Minor: Okay.

Chairman Hall: Again, thank you for your time.

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

None

V. **REMARKS BY COMMISSIONERS**

None

VI. **MINUTES**

A. February 12, 2014.

Commissioner Sobieski moved to accept the minutes of the February 12, 2014 Regular Meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion with six voting YES.

VII. NEW BUSINESS

A. Petition 56-13: Subdivision at 365-375 Willard Avenue (Spectrum Office and Technology Park) Spectrum Office Condominium Association owner/applicant, Attorney Tamara Kagan Levine, 231 Farmington Avenue, Farmington CT contact.

Attorney Tamara Kagan Levine, office address 231 Farmington Avenue, Farmington, Ct: I represent the association in connection with basically separating the property commonly known as Spectrum Office Park. That property currently consists of two buildings, one at 365 and one at 375. They are completely separate buildings, they have only a common driveway right in the middle of the building, and one building is owned entirely by one entity, the other building is what you would more typically find as a condominiums. There are several units, and each is owned by a different person or entity. The various owners of the units have decided amicably that there really is no reason to be operating this property as a condominium. The entity that owns one building sometimes wants to do certain things, improvements to the property, the other unit owners don't want to do them, so they decided to go their separate ways. Basically the building that is owned by the one entity will just be a regular office building as we know it, the other building will remain as a condominium, known as Spectrum Office Condominium. So basically we have submitted the survey showing the division of the two properties, have made agreements on the easement so both sets of owners have access to the other property for purposes of maintaining various utility easements on the property. Basically that's it, it's pretty simple.

Chairman Hall: All right, everybody has a copy of the map, so, and also the letter that was sent to Craig. Craig, do you have any more information at this point than what we have heard?

Craig Minor: Well just to back up a little bit, it is a subdivision, and although the property is fully developed I felt it was appropriate to comply with the subdivision regs as much as possible, so I directed the applicant to submit the two plans that are required, the record subdivision plan and then the plan that shows the development which is existing already, but still that information should be shown, should be on file, and as long as, and I did have a discussion with the applicant's surveyor the other day. The only issue he had was, obviously no engineer today is going to put his seal on a plan that was done by some other engineer, which is perfectly reasonable, so Alan Bongiovanni agreed to put a note on the plan to the effect, to that effect, so the information will be there, will be available to any subsequent owner who wants to know what the information is, and where the information came from. I haven't received a revised plan, but it's pretty clear what information is needed and if the Commission is so inclined, I wouldn't have any objection to approving it tonight with that condition, and I have a draft motion if the Commission feels that it is appropriate.

Chairman Hall: Any questions from the Commissioners?

Commissioner Sobieski: What about snow removal? You have a common driveway.

Attorney Kagan Levine: They worked that out, it's actually included in the easement agreement, so one party will take responsibility for the snow removal and the other one will reimburse.

Chairman Hall: I'm assuming that the north building is the one that is going to remain condominium and the south building will be the single entity.

Attorney Kagan Levine: Yes.

Chairman Hall: And that broken line down the center of the entryway is how they are going to subdivide.

Attorney Kagan Levine: Yes.

Chairman Hall: Any other questions?

Commissioner Aieta: Move this to Old Business to vote on.

Chairman Hall: Everybody feel comfortable with that. Move it to Old Business and Craig is prepared for that. Thank you very much.

VIII. OLD BUSINESS

E. 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.

Chairman Hall: Attorney Shipman, do you want to come forward?

Attorney Shipman: Yes, I don't know what more I can say to you other than what we said at the public hearing, so I will defer to staff if they have comments and to the Commission if they have questions.

Craig Minor: I don't have any comments really, other than if it does get approved is what I recommend is that the language be moved to Sections 3.15, 17 and 19, because those are the sections that allow gas stations, which this is.

Attorney Shipman: I have no objection to proposals to that effect, and I indicated that was appropriate.

Chairman Hall: Commissioners have any questions or comments?

Commissioner Aieta: How is this affected by the law suit on auto related uses, if any?

Craig Minor: I don't believe it is. The lawsuit involves Section 6.11.

Commissioner Aieta: This is not in that section. This is separate section for gas stations.

Chairman Hall: He is recommending moving it out of 6.

Craig Minor: Well, no, I'm recommending that we leave 6.11 completely alone, just don't go any where near it, but take this section out of 3.11 which I believe is the special permit in the business zone, which gas stations aren't allowed in, and put it in Zoning Regulations Industrial Park special regs, Berlin Turnpike special regs, special exception, and PD special exception, which are the three zones where gas stations are allowed. Under 6.11, true, but I don't see any reason to be concerned that the, let me start over, the challenge to the Zoning Regulations, 6.11 zoning regulations, the judges decision spoke to specific elements of that regulation, which he found invalid, but the judge specifically said that the remainder of the regulation is still valid, so I don't see any problem with alluding to that regulation, because the regulation itself it still valid, but a couple of sections of it are not. The judge didn't question

the division, the creation of two different classes of auto uses, he didn't question that, and if he had, then I might be a little reluctant to recommend this course of action, but he didn't so I don't think there is any problem in proceeding this way.

Attorney Shipman: Just as a matter of course, we were creating a use that really isn't a gas station use. It is auto related, but it isn't a gas station use which was a good focus of the litigation if I remember correctly.

Craig Minor: Well I'm not sure how strongly you want to make that point because that is how fuel stations.....

Attorney Shipman: You had a moratorium at the time we presented this way back when....

Craig Minor: Right.

Attorney Shipman: And that was the purpose of it, that it didn't deal with Section 6, or Article 6 because we were trying to avoid the moratorium.

Craig Minor: Right. And the approach that we are taking tonight continues to avoid that section.

Commissioner Aieta: Wouldn't it be prudent to put all of the auto related uses into one section of the regulations?

Craig Minor: Yes, I wish we could but under the circumstances with the Modern Tire appeal, I wouldn't recommend it.

Attorney Shipman: It also removes your flexibility going forward.

Commissioner Aieta: That was one of the concerns of the judge that we have too much flexibility.

Attorney Shipman: Well, there is flexibility and then there is flexibility in terms of where you have the uses and how you can approve them as opposed to flexibility in how you exercise your authority. There's a big difference.

Chairman Hall: Other comments, questions? So what is your pleasure on this? Move it forward for a vote, tonight or the next meeting?

Craig Minor: If you want, I have a motion, and I have a revised regulation, if you want.

Chairman Hall: Do you feel comfortable doing it tonight, or do you want to do it in March, our first meeting in March.

Attorney Shipman: We have, if you notice on the agenda, without being presumptive, we have, trying to move forward, and if you approve it tonight, we have a scheduling application on to actually change the zone of the parcel in question and get the whole process before you as soon as possible. Our change of zone will have to go to a regional authority so we're kind of trying to keep the ball moving. We couldn't file that application if you didn't act tonight.

Chairman Hall: Okay, let's decide what we want to do with this one.

Commissioner Anest: Could we take a recess to review, to look at it.....

Chairman Hall: Sure, do you want to take that recess now. We will take a five minute recess to review the paperwork that Craig has at this time.

Recess at 7:55 p.m. Meeting resumed at 8:00 p.m.

Chairman Hall: Everyone has had a chance to review the draft suggested motion, questions of Craig?

Commissioner Sobieski: Craig, what happens if this shopping center gets sold to XYZ Company, and they don't have the facility for gas. Can they sublease this? Would this still apply?

Craig Minor: So if the current owners, if they sell the facility and a different grocery store, because it's the grocery store, it's Stop and Shop who is the applicant when they come in, so what's your question?

Commissioner Sobieski: So let's assume that new owners come in.....

Craig Minor: New owners, new landlords. Landlord doesn't matter, it's the Stop and Shop that would have the permit.

Commissioner Sobieski: A new grocery store goes in, they don't want to sell gas and they decide to sublet it to another company.

Craig Minor: They wouldn't be able to. The fueling station can only be operated by Stop and Shop, I'll personalize it to make the point clear.

Commissioner Sobieski: So in other words, if somebody else came in, and they did not have the capacity of running a gas station, or a fueling station, this would not be run.

Craig Minor: Correct, they would have to mothball it or take it down.

Commissioner Sobieski: Okay, that's what I wanted to know.

Commissioner Anest: Craig, you said that you did get a response.

Craig Minor: An e-mail from the Central Connecticut Regional Planning Agency this afternoon. "Hi Craig, my apologies for not sending that. We found it not in conflict. It seems like a reasonable accommodation to me." This is from Timothy Malone, Senior Planner and Economic Development Program Manager for the Central Connecticut Regional Planning Agency. And the comment that we got from CCROG, I quoted part of in my report.

Commissioner Anest: So we would have to amend the motion then saying that we did get a response.

Craig Minor: Yes.

Chairman Hall: Any other comments, questions? Craig, you feel comfortable with this, as stated and as presented?

Craig Minor: Yes.

Chairman Hall: Everybody is comfortable with this and you want to vote on this tonight. You feel that you have had enough time to review it and that you feel comfortable with it. That seems to be the consensus.

Craig Minor: Okay, let me modify item number four.

This amendment was referred to the Capital Region Council of Governments and the Central Connecticut Regional Planning Agency. A "not in conflict" response was received from CCRPA, and the following comment was received from CCROG.

Chairman Hall: Okay, well this will be the second one now, because we are going to do the, actually we have three of them to vote on. The Kiwanis, the Spectrum Office Park and this one, so let's take them in order. You will have to take over, because for the Kiwanis I have to recuse myself again. Maybe we should do that one first since that is the longest, and you're dying to read it.

Commissioner Anest: Right, I am.

Petition 62-13

Text Amendment to Section 3.11.7 (Shopping Center Fueling Station)

Hayes-Kaufman Newington Associates LLC, applicant, Attorney Mark S. Shipman, contact.

Commissioner Anest moved to approve, with modifications, Petition 62-13: Zoning Text Amendment to Section 3.11.7 (Shopping Center Fueling Station) Hayes-Kaufman Newington Associates LLC applicant, Mark S. Shipman 20 Batterson Park road, Farmington CT, contact. Effective upon publication."

FINDINGS:

1. Section 6.11 (Sale, Rental, Service or Storage of Motor Vehicles), does not allow fueling stations in the B Zone. Therefore Section 3.11 (Special Exceptions Permitted in B Business Zone) is not the appropriate place for fueling station regulations. Fueling stations are allowed by special exception in the Industrial, B-BT and PD Zones only, so the appropriate places are Section 3.15 (Special Exceptions in the B-BT Zone), Section 3.17 (Special Exceptions in the I Zone) and Section 3.19 (Special Exceptions in the PD Zone).
2. The current regulation does not expressly permit the creation of a fueling station at the perimeter of a shopping center. This amendment would clarify that it is permissible.
3. This amendment is consistent with the Plan of conservation and Development.
4. This amendment was referred to the Capital Region Council of Governments and the Central Connecticut Regional Planning Agency. A "not in conflict" response was received from CCRPA and the following comment was received from CROG

"For sites located on a municipal border, we recommend that the Town take into consideration the uses across municipal boundaries and that any more limiting/restrictive setback requirement, screening or restrictions on intensity of uses, particularly for sites bordering residential uses in neighboring towns, be applied so as to mitigate impacts across municipal borders."

MODIFICATIONS:

1. The “fueling station” text that is currently at Section 3.11.7 shall be removed and placed in Section 3.15 (Special Exceptions in the B-BT Zone), Section 3.17 (Special Exceptions in the I Zone) and Section 3.19 (Special Exceptions in the PD Zone.)

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

Petition 56-13

Subdivision Approval

365 and 375 Willard Avenue

Spectrum Office condominium Association Inc., applicant

Commissioner Camillo moved to approve, with conditions, Petition 56-13; Subdivision at 365-375 Willard Avenue (“Spectrum Office and Technology Park”) Spectrum Office Condominium Association, owner/applicant, Attorney Tamara Kagan Levine, 231 Farmington Avenue, Farmington CT, contact.

FINDINGS:

1. The site is currently fully developed, no additional building is anticipated.
2. The Conservation Commission approved this subdivision on January 23, 2014.

CONDITIONS:

1. The plans shall be revised to address the comments in the Town Planner’s letter to the applicants dated February 11, 2014 with the exception of Item 2 b (professional engineer’s seal, imprint and signature.)
2. In lieu of submitting a Utilities and Improvements Plan as required in Section 6.3 of the Subdivision Regulations, the applicants shall file a “Reciprocal Easement Agreement” on the land records.

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

Chairman Hall: Carol, I’m going to turn this over to you for the next, and Stan, you are going to be reading that one.

Petition 05-14

Special Exception (Section 3.2.8: Charitable and Civic Events)

Town Center Municipal Parking Lot “(Constitution Square)”

Newington Kiwanis Club, applicant.

Commissioner Sobieski moved to approve, with conditions, Petition 05-14; Special Exception (Section 3.2.8: Charitable and Civic Events) at Newington Municipal Parking Lot. Newington Kiwanis Club, applicant.

FINDINGS:

1. This event has been conducted successfully by the Newington Kiwanis since 1992.

CONDITIONS:

1. This approval shall be good for five years (expires December 31, 2018.)

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

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 07-14: Special Exception (Section 3.2.9: Child Care at 795 North Mountain Road, Nguyen Holding LLC owner/applicant, Hai Xavier Nguyen, 795 North Mountain Road, Newington, CT, contact.

Craig Minor: The first one is for a day care at 795 North Mountain Road. I spoke to the owner/applicant, and he assured me that the operator of the day care will be at the hearing to answer any questions you might have about their operation, how much experience they have. They are currently in Hartford, I'm not clear if they are closing their Hartford day care and moving to Newington, which doesn't make sense, because the families going to where ever they are in Hartford aren't going to want to bring their kids to Newington, so is this going to be a second operation because they are doing well, we'll find out I guess at the public hearing.

Commissioner Camillo: It's only two miles away.

Craig Minor: Okay, it still seems kind of odd to be in a different town, but we'll find out.

Commissioner Aieta: 795 North Mountain Road, is that a commercial building?

Craig Minor: Yes. It's a commercial building. The front half of the building is a single story, and that's where the day care will be, the back half is two story, the bottom floor is vacant, the upper floor is taken up by Mr. Nguyen's financial services business that he owns.

Commissioner Camillo: Next door to Custom Metal Crafts.

Craig Minor: I don't know who is next to him.

Commissioner Camillo: A metal plating company I think it is.

Craig Minor: It is an Industrial Zone, so I wouldn't be surprised if there are industrial uses up there. Day care is allowed by special permit in any zone, for exactly this reason, because a day care may make perfect sense in one Industrial location, but not in another, and the public hearing will be your opportunity to ask whatever questions you have to make you comfortable that this is an appropriate activity at that location.

Chairman Hall: And they know that they have to put a sign out?

Craig Minor: Yes, they know. So I recommend that this be scheduled for your next meeting.

Chairman Hall: That's March 12th.

- B. Petition 08-14: Special Exception (Section 6.2.4: Free Standing Business Sign at 72-82 Pane Road (Newington Electric) EBI Pane Road Realty LLC, owner, Sign Pro Inc., applicant, Kyle Niles, 168 Stanley Street, New Britain, CT, contact.

Craig Minor: 8-14 Special Exception for a free standing business sign, at 72-82 Pane Road. I haven't, I've looked at the application, I haven't gone over it with fine tooth comb, but it appears to meet the requirements, so I recommend that we do go forward with the public hearing. That would also be March 12th.

- C. Petition 09-14: Special Exception (Section 6.13: Accessory Apartment at 71 Eddy Lane, Frank and Sally Cefaratti, owners; attorney Bradley N. Malicki, Halloran & Sage LLP, 213 Court Street, Middletown, CT applicant/contact.

The third one is for an accessory apartment at 71 Eddy Lane. I have, I did go through this application and it does meet all of the requirements. The accessory apartment, it's in the Goldilocks Zone, it's not too big, but it's not too small. It's got its own private access from the front and back but it also has access from the rest of the house, so I don't see any problems with this, so I recommend that the hearing be scheduled for March 12th.

Commissioner Aieta: They had an approval for this at one time?

Craig Minor: Yes. They had approval, I have the letter and they just didn't, the previous owner, maybe two owners ago, just didn't come in and file the letter with the Town Clerk. It's as simple as that and therefore it's as if they never had approval.

Commissioner Aieta: This is a new owner?

Craig Minor: Yes, this is I think even two owners later. They are looking to market it. They are looking to see it, and they want to be able to honestly advertise it with an approved accessory apartment which at the moment it doesn't have because their predecessor forgot to file the permit.

Commissioner Aieta: I don't think that was the intent of the regulation that we start making every single family home in the Town of Newington into a duplex or a two family house in anticipation of selling it at a higher profit. I mean, if they were moving their mother-in-law or mother in there, or somebody and they wanted it for those types of reasons, I would (inaudible) towards the application, but just to change it, that opens it up for anybody who is selling their house to come in for a change and try to jump the price up on their house, now it's not a single family house, it's basically a duplex or a two family.

Craig Minor: But if it meets the requirements, what reason would you have not to approve it.

Commissioner Camillo: It was approved in 1995.

Craig Minor: I know, but I'm ignoring that. You're right, it is to their benefit, but technically they never filed it. I'm treating it just on its merits today and its merits today with your current regulations which are different I think than what they were back then, it meets the requirements.

Commissioner Anest: Right, but if this was filed, in the appropriate time, it would not be coming before us.

Craig Minor: That's right, yes.

Commissioner Aieta: I think you are opening yourself up for anybody who is selling their house to come in and ask for an in-law apartment.

Commissioner Anest: I don't think so because it's a little bit different because it was approved.

Commissioner Camillo: And completed.

Commissioner Anest: And completed, except for, what was it, plantings that weren't done? Was the c.o. not issued because the plantings weren't done?

Craig Minor: As far as I know, the c.o. was issued.

Commissioner Anest: So the c.o. was issued on this, so the only deficiency on this is that this letter was not filed in the Town Clerk's office.

Craig Minor: Right.

Commissioner Camillo: So if the c.o. was approved, who files this, the Town Planner?

Craig Minor: No, the applicant. And the ZEO, when the building permit application comes in, checks to make sure that the permit was filed, and I guess that didn't happen back in 1992 or whenever.

Commissioner Anest: 1995.

Craig Minor: Right, a long time ago.

Commissioner Aieta: It hasn't been used as an accessory apartment?

Craig Minor: Oh, I believe it has.

Commissioner Aieta: It has been?

Craig Minor: Well, I don't know. We will find out when the applicant makes their presentation.

- D. Petition 10-14: Zone Change (Industrial to PD) at 16 Fenn Road. Fenn Road Associates LLC, owner, The Stop & Shop Supermarket LLC, applicant, Attorney Mark S. Shipman, 20 Batterson Park Road Farmington, CT, contact.

Craig Minor: Attorney Shipman just now gave me the map that he purports to be the map submitted with his zone change application, I haven't even looked at it.

Craig Minor: Hmmm, now this is wrong. The bad news is that it is wrong, the good news is that he has plenty of time to fix it before April 9th.

Chairman Hall: April 9th?

Craig Minor: Yes, which is in my memo, and I'll get to that it a minute. Oh, I see what, oh I'm sorry, I see what they are doing. They are only looking to change part of it, well, I guess that is their prerogative if they want to do that.

Chairman Hall: What do you mean, they only want to change part of it?

Craig Minor: Well.....

Chairman Hall: You mean, not the back piece?

Commissioner Aieta: Do they own the back piece? The State of Connecticut, Department of Transportation?

Craig Minor: Good question, let me take a look at it.
I think they do own it, but this little finger of green is Industrial Zone.....

Commissioner Anest: Isn't it the dark, the dark dotted line, isn't that what they want to change to PD?

Craig Minor: Yes. Because the zoning map is based on the Assessor's map which is not exact, the fact that it shows as a nice, exactly the same width for the whole length of it..... It's a nice uniform width, so

Chairman Hall: It looks like the circle was drawn by hand with a magic marker, it's crooked up here.

Craig Minor: That's because the parcel itself is crooked.

Chairman Hall: Okay. So it has to jog a little?

Craig Minor: Yes, exactly.

Commissioner Sobieski: The property in back, is that the State or is it theirs? Now, or formerly of the State of Connecticut Department of Transportation.

Commissioner Aieta: Where does it say that?

Chairman Hall: N/F, now or formerly of.

Commissioner Aieta: So we don't know if it is or not.

Chairman Hall: Right, so we can find that out before the next time too.

Craig Minor: And it still looks like it is leaving a sliver of land, well, I'll talk to their engineers, I'll talk to VHB.

Chairman Hall: And our GIS Department could probably help too.

Craig Minor: So because it is less than 500 feet to New Britain, and there is a statute that says that any time there is a zone change that is within 500 feet of the neighboring town, we have to send notice to the RPA not less than thirty days before the meeting, the hearing and because February has only 28 days, your second meeting in March is only some 27 days from now, so it has to wait until the first meeting in April, which I believe is April 9th, so I recommend that the hearing be scheduled for April 9th.

Commissioner Aieta: And you will find out who owns that other piece?

Craig Minor: Yes, it says now or formerly, the formerly would have been some variation of the Hayes group itself.....

Chairman Hall: Or Koczyra because they owned an awful lot of that property down there.

Craig Minor: I'll figure it out.

Commissioner Aieta: Wouldn't it be smart to make that whole from piece the PD Zone instead of having the sliver in the I Zone?

Craig Minor: Exactly, and that's why I'm puzzled.

Commissioner Aieta: I don't understand the rationale.

Craig Minor: Well, they seem.....

Commissioner Aieta: It's only a driveway, at least we would have the zone, the continuous zone, excluding the B zone in the corner. We'd have the frontage as PD and the back part would be I zone.

Craig Minor: I'm not sure this map is correct, so I'll talk to them about it, and our GIS Department also.

Chairman Hall: All right.

X. TOWN PLANNER REPORTS:

A. Town Planner Report for February 26, 2014

Craig Minor: My report is in your packet, it's less and less every week I think, and the only, my report itself, Zoning Enforcement Issues raised last meeting, none. Old Performance Bonds, I have no report today. Newington Junction TOD planning, have nothing new to report because we are still waiting for the consultants to submit their final report, their final plan based on the Committee's work. Revision of the sign regulations, there was a meeting today of the sign committee, they made some progress.....

Commissioner Camillo: Did you get a call from CCROG overseeing the project?

Craig Minor: Yes.

Commissioner Camillo: What was the clarification?

Craig Minor: She wanted to know what the intent of the committee was as far as what they wanted the planning firm to come back with as far as, on the east side of the railroad tracks. The sign committee met, and they will be meeting again, before coming back to the full board.

Modern Tire, let's see what was said back on the 26th, the attorney for Modern Tire submitted a settlement proposal to the Town Attorney as expected, but not in the manner that was expected. Okay, so I spoke to the Town Attorney again today, but that's still basically the upshot. Now, Modern Tire, they have until Friday to appeal the decision that they won. It took a while for me to understand what our attorney was telling us, but I guess from Modern Tire's point of view, they got half the loaf. They didn't get the knock out blow that they would like, so they have the option of appealing the judge's decision which only gave them part of what they wanted. They have until Friday to do that, so we'll wait until Friday, see what they do or don't do, and then based on what they do or don't do on Friday, the Town Attorney will have a recommendation for you, or he will come to you and discuss your options and where you go from there.

Commissioner Anest: I think he should come because I think there is some confusion on what exactly the judge decided, what his decision was.

Craig Minor: I could paraphrase it, but I'll ask him to come to your next meeting because at that point, we will know whether Modern Tire appealed it or not and so there will be plenty to discuss about that, and that will be in executive session of course. So that's it for my regular report.

B. Bond Reduction at 435-485 Willard Avenue ("Fountain Pointe").

Craig Minor: The next item I have under Town Planner Report is this bond reduction for Fountain Pointe. As I said in my memo, we have been holding some \$5,000.00 of their performance bond for landscaping for trees along the western side of the property, and for some arborvitae that can't seem to survive along the north, and I was out on the site with the developer a couple of months ago, and his story is that he has planted those trees and arborvitae but they don't survive. I don't remember if he said how many times he planted, I got the impression that he had done it more than once, and he would like relief from having to plant them a third time because he feels that they just keep dying at that spot. I don't know whether it's true or not, or how much of an effort he made to get hardy specimens that he planted there, but I'm inclined not to make a big deal out of it because it is, it's the back of the property that abuts another industrial property. If the trees in question were along a street, I would tell him, well then just find a way to make it work, because we need trees along the street, but it's along the back of his property, and it's not as if the regulations require it, it's simply on the plan that he submitted and which was approved and therefore he has to do it. If he had come in with a plan that was less ambitious, it probably would have been approved anyway, because it's more than the minimum, so I'll leave it to the Commission to consider whether to grant him relief or not, or table it until spring and go out and take a look for yourselves, however you would like to handle it.

Chairman Hall: Is the purpose of the plantings to soften the look of the industrial look of the building?

Craig Minor: I don't know.

Chairman Hall: Or is it a buffer? Have we considered allowing things like ornamental grasses which grow almost anywhere instead of these types of arborvitae or other bushes, because again, if the whole point is to make less stark, that certainly gets the job done and they are a lot easier to maintain, and they are hardier usually. Have we considered that, I know that every time we get a plan, it's what trees are you going to put, what bushes are you going to put? We don't ever seem to have any alternatives.

Craig Minor: Anything more creative.

Chairman Hall: Right. In situations like this, or in other difficult growing areas we might consider some other types of vegetation.

Craig Minor: All right. Well, he has \$5,000 on the table. I think if I go back and tell him to spend a few dollars to have a landscape architect prepare something that shows something in the way of ornamental grass, or some movement in this direction, and with the idea that if it meets your approval you'll release the \$5,000, and he'll get the net, some of that, it would probably be to his advantage to do that, so if you like, I can do that. I can go back to him and ask him to, or tell him to have a planting plan prepared by a landscape architect.

Commissioner Camillo: The building behind it, Jade Jeans, when it gets up and running, his tenants will be looking at that on the backside of those buildings.

Chairman Hall: And that's my point, are we.....

Commissioner Camillo: You have to have something there.

Chairman Hall: And that's my point, are we insisting on having this done because it softens the look.....

Commissioner Leggo: I kind of like the idea too that was mentioned too, that maybe hopefully in a month or two when the snow is gone, we could get a look at it.

Chairman Hall: Might have to extend that to two.

Commissioner Leggo: If it's gone.

Commissioner Camillo: You have one of (inaudible) that was in here tonight, and they have hemlocks and everything else on the back side, and you can't see the old Fafnir building.

Commissioner Aieta: Normally when you buy shrubs from a reputable landscaping firm that are guaranteed. So I don't know where he's, going to Home Depot and putting them in himself, is he preparing the soil the correct way, is he doing it the correct way? Some of these guys, they just dig a hole and plop the thing in and don't even put the dirt back in, and expect it to grow. There's a way to plant these types of shrubs that they have more of a tendency to survive. Unless there is something drastically wrong with that soil there, well, maybe they should go in with a backhoe and do a trench and do some stone on the bottom and bring in some really good soil and put them in there. There's a way to do it, I mean, it's kind of hard to believe.....

Commissioner Camillo: It should be good soil, it was a hay field before.

Commissioner Sobieski: It was the old farm.

Chairman Hall: Wasn't it Mohawk.....

Commissioner Camillo: And before that it was Holt's.

Commissioner Aieta: Let's wait and see what it looks like.

Chairman Hall: Yes, it's hard to make a decision sitting in this room, so.....

Craig Minor: So we will wait until spring. All right, that's all I have.

XI. COMMUNICATIONS

Craig Minor: None, oh, let's go back to my report, puppy sales

Chairman Hall: What, all I got was the heading Puppy.

Craig Minor: I thought that would get your attention

Chairman Hall: What is this, Sochi?

Craig Minor: Live dogs. Before I encourage her to submit an application for a home business, I wanted to get some guidance from you folks, because the last sentence in the regulations says that home business shall not include the sale of articles not made or assembled on the premises.

Commissioner Anest: Well, they could be made on the premises.

Craig Minor: I know, I thought about that too, but she said she is getting them from the breeder. So, I guess I just wanted to get a ruling from the Commission whether this phrase, "shall not include the sale or articles not made or assembled on the premises" would exclude someone from selling live animals that were bred or born somewhere else.

Commissioner Aieta: Is she going to have a pen in the yard?

Craig Minor: No, she said she won't have more than two, maybe three puppies at most at one time, and that could be a condition of approval that she have no more than one, I mean two, or three, whatever number you are comfortable with.

Commissioner Aieta: Where is this, the location of the property?

Craig Minor: I don't recall if she said what her address is.

Commissioner Anest: I'm concerned about it being a nuisance, because if she has the dogs outside in a pen, and they are barking or yelping, what about the neighbors.

Craig Minor: Well, if you told me tonight that in principle you are automatically opposed to puppies, but during the presentation when it turns out that her house is on a tenth of an acre lot with other houses at arms length away, you might end up telling her, well, based on the detailed information you have given us tonight, we're going to have to say no, that's still your prerogative. Even if you tell me that animal sales are not automatically forbidden. All right, not hearing strong feelings either way, I'll encourage her to apply, but I won't promise her anything. Okay, good.

Chairman Hall: But no promises.

Craig Minor No, unless she promises me a puppy.

Chairman Hall: No. We can get you a dog.

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

None

XIII. **REMARKS BY COMMISSIONERS**

Commissioner Sobieski: I have a question, when a developer comes in and he submits a plot plan or whatever, is there specific types of plantings that we require?

Craig Minor: There's a minimum amount, like they would have to be five feet from center, and so far from the edge of the property, but as far as actual specimens, what species do we require, no. But once they have shown us what they are going to plant then we make them

plant what they said they would, with a little bit of flexibility, but if they said they were going to plant an oak, and they end up planting an arborvitae, that's not going to work.

Commissioner Sobieski: Okay, that's what I wanted.

XIV. CLOSING REMARKS BY THE CHAIRMAN

None

XV. ADJOURN

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Camillo. The meeting was adjourned at 8:37 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary