

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

March 12, 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**

Add Item VII b under New Business

- b. Appointment of TPZ representative to the Capital Regional Council of Governments.

Chairman Hall: We have one addition to the agenda that was mailed the other day. It would be Item seven b under New Business, the appointment of a TPZ rep to the Capital Regional Council of Governments. Anyone have any objection to that? Okay, fine.

**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 26, 2014.**

Craig Minor: The Town Attorney called me this afternoon. He has not had a chance to review the amendment, so he asked that it be kept open for another two weeks.

Chairman Hall: So we will leave this open until March 26<sup>th</sup>, that's our next meeting.

Commissioner Aieta: Madam Chairman, I have a letter, an e-mail from one of the Council people who received an e-mail from a resident who had a comment on the marijuana.

Chairman Hall: Oh, good.

Commissioner Aieta: Can we have the secretary read it into the minutes?

Chairman Hall: Sure, that's what we have been looking for, some public comments.

Commissioner Camillo: This is from Chuck Mailhot to Maureen Klett; "Maureen, while some believe that weed is okay, the Federal Government still says it is illegal, but is turning a blind eye and allowing some states to forge ahead. Please do not lower the buffer zones currently required for private residences, churches, schools, for this new medical marijuana. In fact, I am in favor of banning all medical marijuana facilities from the Town of Newington. I bet there would be great support for this, if the people were asked. No matter how well enforced the new laws may be, the weed will always end up in the wrong hands, sooner or later. Also, if there has to be a dispensary, couldn't Newington impose a minimum age limit and also just have one per town. We wouldn't need them in all of the neighborhoods. Thanks."

Commissioner Aieta: I think there is an address on the next page.

Craig Minor: Right, the address is 76 Brook Street, Newington.

Chairman Hall: Any other comments before we move on to the next?

**B. 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.**

Chairman Hall: Is the petitioner here? Would you come forward to that seat where the microphone is? State your name and address for the record.

Hai Nguyen, 795 North Mountain Road, Newington, CT and I currently reside in Enfield, Connecticut. I have been doing business here in Newington for forty years now.

Chairman Hall: If you can explain to us why you are before us this evening, explain a little bit about the program and what you wish to do at that address.

Hai Nguyen: Well, the explanation on the program, I have the owner and operator of the day care center. I'm presently here as a landlord only, so I have the owner and operator of the day care center here with me, but as the owner of the property, I would like to bring some new life into the industrial park there and the surrounding residences and business because I think it is vital for professionals like myself and others around my area to have a place to bring their kids to if they want to go to work. Some times they get hindered by the fact that, hey, if I go to work, who is going to take care of my kids, and I did some research on the town, and there isn't a place around the area for that need. But as far as the business, I'll let the owner and operator explain how we would run her business at my location. Her name is Irma Martinez.

Irma Martinez: I have been in Hartford for the past ten years. At the present time I have forty kids enrolled in my program. We carry a really good curriculum, it's about reading and writing. We also comply with the (inaudible) requirements and the benchmark that the State is looking for. We also have a staff that has their Associate Degree, Bachelor degree, and Master degrees. I have a Bachelor degree in Accounting and I also have an associate degree in Early Childhood, looking forward to doing a Bachelor Degree in Early Childhood.

Chairman Hall: Okay, thank you. Commissioners, do we have any questions on the material that we have in front of us and what they have just told us before we go to the public. Any clarifications that anybody needs?

Commissioner Aieta: On the site plan, you are showing the square footage of the facility to be almost three thousand square feet. Is there any area for outside activities for the kids?

Hai Nguyen: Yes, on the back of the parking lot, we, if you see, after all of the parking spaces, we will dedicate that back of that lot there to have a playground. It will be fully secured for safety and OSHA compliance, and sand and playground, it is up to the safety of her student and parents handbook, but we will dedicate a playground for the kids. If you look at the side of the building, this is off the topic, but the side of the building, in the front, with the handicapped parking space and such, that will be dedicated for children drop off and pick up for parents, easy access, safe, plenty of space there, and if parents need to park, they can park on the back lot which has more parking spaces that it shows, than is shown there.

Commissioner Leggo: Just to tag off of his question, the play area would be beyond the parking lot?

Craig Minor: I'm sorry, could you say where he is pointing to, for the tape? Can you describe verbally where he is pointing to?

Commissioner Leggo: The far back corner of the parking area.

Hai Nguyen: It will be fenced in by a vinyl fence, because of sharp objects we don't like to recommend that with the kids, so it will be a vinyl fence to fence it in with a gate for the kids to enter and exit and it will be fully monitored for safety purposes.

Commissioner Leggo: My question is getting them from the day care building back to the parking lot.

Hai Nguyen: I'm sorry, there is a back door where you see the CL&P, there is a dash there, there's a back door right there, where it says 242, so the day care center has a kind of a hallway to access to the back, because we have three exits for the day care center for emergency purposes.

Commissioner Leggo: Would there be any kind of walkway, or sidewalk so they are not walking through the parking lot.

Hai Nguyen: There isn't a walkway right now, but along, by the parking spaces, there is a four foot separation there. So that could be paved into a walkway if needed, because I know.

Commissioner Anest: You are saying that the kids would have to go out and then walk through where the cars are parked to get to the playground?

Hai Nguyen: Yes. It's, I would say it's a forty foot walk.

Commissioner Anest: But there are cars that are going to be circulating back there too.

Hai Nguyen: No, it will be fenced in. Where it has a four feet separation, it will be paved and then a fence, there's a guard there, a guard rail, so a car cannot access that area.

Commissioner Anest: Right, but to get, so you're saying, and maybe I'm confused as to where the playground is going to be. Is it going to be in the back corner?

Hai Nguyen: Yes.

Commissioner Anest: But there are going to be cars parked.

Hai Nguyen: There will be cars parked, but there's a four feet paved way right now. Can I show you?

Chairman Hall: Can you get that paper and put it up here. I think these clips probably will work.

Hai Nguyen: Okay, the playground will be this section right here, and there is a four foot separation between the parking lot and the landmark, so we are planning to do a fence right there to block basically any car traffic from the kids walking to this area here.

Chairman Hall: Do you own that property next door?

Hai Nguyen: No, but there is to the landmark, like from here to there is four feet.

Commissioner Anest: Oh, so the spots don't go all the way to the property line.

Hai Nguyen: No.

Commissioner Anest: Okay, so what is shown here is not accurate?

Hai Nguyen: No, it is not, but the playground area could leave for your instruction as to where you want it to be because here is also an open space, here is an open space, but ideally because of the isolation of traffic, because we can just fence this in right here, so there is no traffic here, versus if we do it here, there's always risk of traffic going this way and hit the fence and whatnot.

Commissioner Anest: Is there, on the west side, is that a driveway next to the building, or is that.....

Hai Hguyen: Empty lot.

Commissioner Anest: No, no, on your lot, off of North Mountain Road, can you go around the building both ways with traffic?

Hai Nguyen: No, this is an empty lot, and this is grass right here.

Commissioner Anest: Okay, so they can only enter from the east side.

Hai Nguyen: From this side, correct. There is a retaining wall right here, so traffic can only go in here, and circulate this way. It cannot go this way and this way, because how I want to have the traffic flow is to go this way out, it's a lot easier and safer.

Commissioner Sobieski: I'd like to see some sort of guard rail up there between the parking spaces and where the kids are going to be walking.

Hai Nguyen: There will be. It will be, the contractor is doing the pressure treated wood, it will be painted in a way that there are no splinters, it will be treated in that way, two, one on the top and one on the bottom, and there are posts. That is what he has proposed to do.

Commissioner Sobieski: What would you do with snow removal in the winter?

Hai Nguyen: The snow removal, we have our plow, the snow removal will be piled here, there's a lot of space here, so it will be piled here, or this corner right here.

Commissioner Camillo: Or make that the playground, right off the back of the building.

Hai Nguyen: I was thinking about that.....

Commissioner Camillo: Then change everything, put the day care in the back of the building so it's an exit, right to the playground.

Chairman Hall: In the two story building?

Commissioner Camillo: Yes, put it right on the first floor. It's all one, and it's safer.

Hai Nguyen: That makes a lot of sense, or, I could do this in a way that the, that this front here, from here to here is grass. We just newly did the landscaping last fall, so right now we could fence this here, fence this here and have the kids have direct access to the playground, that way it's a lot safer and it would look a lot nicer too.

Commissioner Anest: And do you have enough room?

Hai Nguyen: A lot of room; from here to here I would say it's fifteen by twenty. There's no worry about traffic because it is all grass here.

Chairman Hall: Isn't there a slope?

Hai Nguyen: There is a slope.

Commissioner Aieta: This is for the Planner, is there, for the uses that are there, for the empty spaces, can we determine if the parking is adequate for what they are trying to do?

Craig Minor: Well, it's not, in fact, you see in my memo, assuming, well not assuming, we know that the second story, which is office space now requires a certain amount of parking, in my memo, and although your regs don't specify how much parking a day care requires, I did some research and came up with a number which I think is reasonable, and we can talk about that, but that then leaves zero or maybe even a negative number for the remaining vacant space, so that is an issue.

Commissioner Aieta: Do we know what the maximum number of children would be here and how many caretakers are required for the student ratio?

Craig Minor: Let's ask the applicant to answer that question.

Irma Martinez: The question is about the outside?

Commissioner Aieta: No, about the ratio of caretakers to children.

Irma Martinez: One to ten, because it is pre-school.

Commissioner Aieta: One to ten?

Irma Martinez: Because they are pre-schoolers, three to five.

Commissioner Aieta: So one to ten, and what is the maximum number of children that you could possibly have?

Irma Martinez: Thirty-five.

Commissioner Aieta: Thirty-five

Irma Martinez: Per child and that is not counting your furniture. When you put their furniture in there it deviates from Hartford inside the building.

Commissioner Aieta: And you think thirty-five is the maximum?

Irma Martinez: I think maybe like forty.

Commissioner Aieta: So then you would need four employees. How many employees do you think you would have besides the caretakers?

Irma Martinez: At the present time I have ten.

Commissioner Aieta: Ten, so that's how you have to figure the parking.

Craig Minor: That's what I did. Did you read the memo?

Commissioner Aieta: No, I didn't read the whole thing. So we are at a deficiency in parking before we start.

Craig Minor: Yes.

Commissioner Aieta: Just trying to get it on the record.

Craig Minor: Good, thank you.

Chairman Hall: My concern is the drop off area. It looks as if there are only about four parking spaces. Usually at day care you have a lot of people coming in at the same time and leaving at the same time with some staggered in-betweens. If it's a bad weather day, and you have fifteen children being dropped off by fifteen cars, and you have four parking spaces, I find that to be.....

Irma Martinez: They all don't come in at the same time. We have some that come in 7:00 o'clock, 7:30, 8:00, 8:30 and 9:00 o'clock.

Chairman Hall: But they're not assigned times.....

Irma Martinez: Yes, we assign times for the kids because we want to be sure that we meet the ratio per child so we have to make sure we don't get more than ten kids between 7:00 and 7:30 because there will be only two staff, and we only count one, because the other one is in case you have an emergency, bathroom, or for any reason, so we only count one, so

there will not be more than ten kids every half hour coming into the center and sometimes not even ten.

Chairman Hall: Okay, but you understand my concern with only four spaces even if it's five people.

Irma Martinez: Yes.

Chairman Hall: I saw another hand. Stan, did you have.....

Commissioner Sobieski: I had a question about the guard rail.

Chairman Hall: Okay, so everybody is good at this time?

Commissioner Aieta: You understand that if this is approved, you are not going to have parking for the remainder, you don't have enough parking for the remainder of the building. You are taking spaces from the parking area to make a playground area.

Hai Nguyen: I understand.

Commissioner Aieta: You might have space there that you can't use because of uses that you are trying to put into the building.

Hai Nguyen: Right. So, that's why, one of the Commissioners advised, put the playground here, or up here. That would be more sufficient for the parking space. As you can see, there is a lot of space here and like when I talked to Craig before I came here, there's a lot of math involving to create more parking spots, but certainly we do have the space enough to create at least five to eight more parking spaces in the back. So, unfortunately it is such an older lot and it has been vacant for the past four years so a lot of wear, paint has been washed off, so the surveyor can only do what he sees, he cannot do what he didn't see, so there are some more parking spaces that are not listed on there.

Commissioner Aieta: We need to have a complete site plan that reflects what it is going to be when it's done, so if there is additional parking that you can get on it, you should show it on the site plan so we can determine whether we are going to have a problem in the future when you come back, or someone comes in to rent the remainder of the property.

Hai Nguyen: Right, and Craig did advise me of that, and we are only two weeks away, and the surveyor is in Colchester, really we didn't think we would have enough time for him to finish it, and come back here, so yes, I will have a more reflective site plan.

Commissioner Leggo: That kind of answered the question. I'm looking at the front of the building, it's looks like there are seven parking spots and a handicapped spot. Is that pretty factual there?

Hai Nguyen: The handicapped spot is actually composed of two spots there because at that time there was snow there so the surveyor couldn't put it there, so that is why he marked it like that, but actually this handicapped space is actually divided into two. As you see, that is double the space there.

Commissioner Leggo: Okay, and then there is like another seven going out towards the road?

Hai Nguyen: Well, we can't count that, it belongs to the town.

Commissioner Sobieski: I'd be a little concerned if you were to put the play area on the side of the building because I just realized there is overhead electrical service coming in there. See it on the side, it goes to CL&P pole 242, comes back off of Hartford Avenue. I'd be concerned about having kids playing underneath there, anywhere near those poles.

Hai Nguyen: That is very true.

Commissioner Camillo: Having that playground attached to the building for security, making sure that the kids are safe, you're in a busy area, you're in an industrial area, a lot of traffic, you're adjacent to Stevens Street and Abottsford Street which is Hartford, high crime area, and I'd be worried about the kids being there.

Hai Nguyen: At the back of the.....

Commissioner Camillo: Yeah, where your property lets up, that's the Hartford line, and that's a tough section of town.

Hai Nguyen: Yeah, a tree fell on my side of the fence and I called the town, and the town said, hey, you have to go to Hartford, because that belongs to Hartford. So, you recommend it being next to the building for security purposes?

Commissioner Camillo: Yes, you'd walk out of the building, you're in a fenced in area, and that's where the kids are and they can only come back through the building unless there is an emergency and one of your people unlocked the gate.

Hai Nguyen: Right, we, the whole building is under video surveillance. As far as the CL&P service line, my brother works at Northeast Utility and he looked at, that was my first concern when I bought the building, was, this line looks kind of old and scary, so I asked him about it and he said you can certainly call CL&P and they can, number one do it underground, or they can extent it out, over the line right here, so it would go in straight that way, and attach to the building here, so that could be done by the CL&P people.

Commissioner Sobieski: Somebody else's property?

Hai Nguyen: No, no, right on the property line.

Chairman Hall: Any other Commissioner comments or questions at this time? All right, this is a public hearing, so if there is anyone wishing to speak in favor of this petition, come forward now. Anyone wishing to speak in opposition to the petition? Anyone just wishing to speak in general to the petition? Seeing none, Craig, I think at this point, I think we need to go over with Mr. Nguyen the parking requirements for the entire building, not just for the day care, but any potential tenant he might have, including his own right now. Figure out how more parking can be added and where, the revamp of the playground area with very specific location, safety features, guard rails, whatever it is he is going to be putting in, fences, so we need a lot more information the next time. I assume at this point that we all agree that this will be kept open, and then on the 26th, hope to have more information for this particular petition. Thank you Mr. Nguyen.

Hai Nguyen: Thank you.

**C. 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.**

Chairman Hall: Is the petitioner present? Come forward please, state your name and address for the record.

Kyle Niles, Sign Pro Incorporated from 168 Stanley Street, New Britain: I'm project manager and we are here to get the Commission's permission to do a monument sign on 72-82 Pane Road. Does everybody have a drawing? I made copies if you wish to see it.

Chairman Hall: Would it be this one? It's in our packet.

Commissioner Aieta: Do you have a colored one?

Kyle Niles: I do. So basically what we are talking about is a free standing monument ground sign. It conforms to all of your regulations and code, as far as height and requirements. We are doing the sign panels only, the sign panels are made out of (inaudible) board, we have, when I went over all of the figures with Planning and Zoning we come up with sixty square feet of signage for, that includes both sides of the sign. We're within the regulations as to what is allowed for size. The signs are made out of HDU high density eutherane foam, they're carved, and painted, not illuminated. You can see that they are mounted to this stone monument.

Commissioner Aieta: Is it cut out? Is this cut out, you put that in the middle and then you put your sign so you can see it from both sides?

Kyle Niles: Yes.

Commissioner Aieta: Do you have enough room? I see that you have a spot for another tenant.

Kyle Niles: There is a spot for another tenant, yes. And there is space between each line.

Commissioner Aieta: Did you check the sight line for your location as far as traffic and visibility?

Kyle Niles: We did.

Commissioner Aieta: Visibility, exiting and entering the site?

Kyle Niles: Yes, there is supposed to be ten feet of set back, we've got it at eleven feet according to the site plan. The building inspector, Art Hanke, I've been in contact with him, about this project and he said that when he comes out for the placement of the sign and everything, we will definitely check the lines of sight up and down the road in both directions, but it should be fine. There is a tree line there, and it is actually set back from that.

Commissioner Aieta: Nice looking sign.

Chairman Hall: Any other Commissioner questions or comments. Craig, we had somebody look at the stonework too, to make sure that that is in compliance. That's a solid base.

Craig Minor: Well, they will certainly need to get a building permit, so it will be reviewed by the Building Department and possibly even the Town Engineer to be sure that it is safe.

Kyle Niles: I believe Mr. Ingells has engineered drawings for that. I don't know how they are actually building the stone structure on top, because it is not our scope of work, but we supplied him the engineered drawings, they are standard scale drawings for that foundation, so the way that you see this drawing here as far as depth and width, and it's 3000 psi concrete, with those number eight rebars in the bottom and everything, that was all per by stamped by engineer on those drawings, so Mr. Ingalls has those. I don't know if he has applied yet for the monument part of it himself.

Commissioner Aieta: I think on the site there is a similar structure that they put the mailboxes in, I think that is made out of the same material. They must have put a footing in that one too.

Kyle Niles: I would imagine so. They've been doing construction to re-vamp the whole look of this property, so I also have gone through the allowable square footages for additional signage for the building signage and everything with Mr. Hanke and we came up with, the whole site is allowed 147 square feet of signage, and this is sixty square feet, so if you subtract that sixty square feet from the 147 we have 87 square feet left for across the building signs and the building façade above the windows to the soffit is only fifteen inches high, so we, when they are ready to do it, we are going to propose fifteen inch high by eight foot long signs and with the amount of leased spaces they have there, the signage will still be under what is left over for the surplus, so we should be good to go with all of those figures.

Chairman Hall: My only concern is these trees. They seem to be right in line with the sign. Wouldn't they block it? Especially the one to the west of the sign.

Commissioner Aieta: These are the old crab apple trees that the town planted maybe thirty years ago. They are not a real.....

Kyle Niles: I think April is here from Newington Electric. I believe that tree has been removed. There is a big lawn space there. When I posted that public hearing sign, there was a big space along there, I don't recall a tree there. I'm not sure.

Chairman Hall: Would the town make them put trees there?

Craig Minor: Well, if trees, if landscaping was a requirement when the building got site plan approval back in the day whenever that was, then yes, they are required to maintain whatever landscaping they were required to plant at the time, so technically, yeah.

Kyle Niles: And I don't know the answer to that, there was no where to put the sign actually, I had to put it in a snow bank.

Chairman Hall: Right, there's not that much room there, so if you had to add the trees, is there anyway we could waive that, using our common sense?

Craig Minor: Well, it's really more of a zoning enforcement issue, the site is either required to maintain whatever trees the site was required to have when this site plan was approved. Those trees, that number of trees need to be maintained by whoever the owner is, and if they are not, then that is something that the ZEO would add to his list of things to do. Does he have the time to go around town making sure that every thirty or forty year old building still has the required maples and dogwoods and such, I don't know if that is a priority that we

want to make for the ZEO but to answer the question, if planting were required when this building got approved, then plantings are still required, trees are still required.

Commissioner Aieta: That's not a waivable requirement, I don't think we can waive that.

Commissioner Anest: Can the trees be in a different location, can they be closer to each other, or does it have to be as exactly as shown on the site plan where they need to be.

Craig Minor: Good question, I'd have to go back and see what the regulations were.

Chairman Hall: See what we can do on that, otherwise if you have those trees there, you are not going to be able to see the sign. Any other questions before we go to the public? Thank you for your presentation. This is a public hearing, we will get public opinion. Anyone from the public wishing to speak in favor of the petition? Anyone wishing to speak against it? Anyone wishing to speak on the petition. Seeing none, we will have to leave this open again to get those answers on the trees, and the sign was not up for the amount of time I believe, so we have to keep it for that as well. Is it up there now? I didn't drive by.

Commissioner Aieta: The sign is up. It went up on the 5<sup>th</sup>, I believe, and it's still up.

Craig Minor: Yes.

Kyle Niles: Do you want me to keep that sign there until the next meeting?

Craig Minor: Yes.

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

Chairman Hall: I will have to recuse myself from this, Carol will be taking over, I have a conflict with the properties.

Vice-Chairman Anest: Would the applicant come forward, state your name and address for the record?

Attorney Malicki: Good evening, I'm Attorney Brad Malicki from Halloran & Sage, 213 Court Street, Middletown, CT 06457. We're here this evening for a special exception as stated for Section 6.13, Accessory Apartment. By the way of a little background on this property, my client is in the process of selling the property, it's under contract, the closing is supposed to occur within a week or two, and upon a title search by the prospective buyers, they found out that in 1995 I believe, there was a special exception that was granted but not recorded on the land records and so we are here before you this evening to get a re-approval of that accessory apartment from 1995 so my client can sell his property.

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

Craig Minor: No, actually other than I reviewed the floor plan that they submitted, I compared it with the town records for the size of the building, and it meets the requirement that it is in the Goldilocks zone, it is not too big, it's not too small. It has interior access from the house, but it also has it's own unique exterior access, front and back, and as everyone knows from application and my memo, this was approved back in 1995, but the then owner failed to file it, and actually, I was just reading a minute ago, even if they had filed it, it expires in three

years, so they would have had to come back anyway at some point to get it renewed, and I have no objections to the application.

Vice-Chairman Anest: Before we go to the public, are there any questions from the Commissioners?

Commissioner Aieta: Give us something for the record so we have some understanding how this happened, okay? The original owner that applied never exercised completing the paper work, is that correct?

Attorney Malicki: As best as we can tell.

Commissioner Aieta: It was the original owner of the property?

Attorney Malicki: It was a prior owner, I don't know if it was the original owner.

Commissioner Aieta: Did he ever use it as an accessory apartment?

Attorney Malicki: I believe so, but I can't.....

Commissioner Aieta: Is this the second owner, or are there other owners between the one the applied for it and this owner? Maybe the owner can tell us.

Attorney Malicki: Perhaps, but he is the next owner after the original applicant for this accessory apartment.

Commissioner Aieta: Okay, and has it been used it as an accessory apartment?

Attorney Malicki: He has in the past. Correct.

Commissioner Aieta: I'm trying to build a record that it has been a continuous use, it's just a, that it was a failure to supply some paper work. I'm trying to make the record correct so that if there is an appeal or something, that we have something on the record that shows that we did our due diligence, trying to figure out how this progressed from not getting signed and how it progressed to this state, so the property is sold to another owner who wants to use it as an accessory apartment.

Attorney Malicki: That's correct.

Commissioner Aieta: It's a family member that is moving in?

Attorney Malicki: To the best of my knowledge, yes.

Commissioner Aieta: You realize that we can put time limits on these accessory, special exceptions.

Attorney Malicki: Yes.

Commissioner Aieta: I'm just trying to get the record strait, so we know how it came about, because the first time that I looked at this, it didn't sound kosher. You know, it wasn't filed, different owners, there's a sale, but now that I understand it, it makes sense. Thank you.

Vice-Chairman Anest: Any other Commission members? If not, it is a public hearing, are there any members of the public who would like to speak in opposition to this petition? In favor of this petition? Would just like to comment on this petition? Seeing none, what is the pleasure of the Commission?

Commissioner Leggo: It was approved in 1995, and there are no problems, so I think we should close it and move it to Old Business and vote on it tonight.

Vice-Chairman Anest; Is that the consensus of the Commission? We're going to move this to Old Business for this evening, and we will vote on it tonight for you.

Attorney Malicki: Fantastic, thank you. I appreciate that.

Chairman Hall: Thank you Carol.

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

None

V. **REMARKS BY COMMISSIONERS**

None

VI. **MINUTES**

A. February 26, 2014

Commissioner Sobieski moved to accept the minutes of the February 26, 2014 meeting. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion with six voting YES.

VII. **NEW BUSINESS**

A. **Petition 11-14: Site Plan Approval (Fueling Station) at 16 Fenn Road, Fenn Road Associates LLC, owner; The Stop & Shop Supermarket LLC, applicant, Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington CT, contact.**

Craig Minor: Let me just start with the context and then we can talk about the substance. This is an application for site plan approval for a thing that requires a special exception and later on in the agenda tonight is the special exception application which needs to be scheduled for a public hearing, and I'm recommending that the hearing on the special exception be April 9<sup>th</sup>, which is the same date as the zone change, makes sense to have both hearings on the same night. So there is really nothing you can do with this application tonight, but by statute, you have sixty-five days to act on something, or begin the hearing, so there is plenty of time, you have time to do some thinking about it, talking about it if you have some concerns about the substance of it, this would be the time to maybe talk to the Town Attorney about the application, or even with the applicant himself. I kind of hoped he would be here tonight so we could just, let's talk about the elephant in the room, but he's not. There is nothing to prevent you from directing me to put it on the agenda again next meeting, under New Business, knowing that there will be a hearing on April 9<sup>th</sup>, but in the meantime, discuss the issue of the access road. Thank you.

Commissioner Aieta: Procedurally, how can we look at a site plan when we haven't changed the zone. The zone change would come first, then the site plan application, I mean, there are three or four things going on here, a change in the regulations, a change from the industrial zone to PD Zone, which has not been before this Commission, and now they're they are looking at a site plan when the zone hasn't been changed, if it's going to be.

(Tape failure, operator error)

Discussion centered on the submitted site plan, and whether the road for the CTfastrack which would eventually become a town road with the completion of the busway caused a problem since the fueling station was presented as only being accessible from the parking lot of the shopping center and not a main road.

This application will be on the agenda under New Business at the March 26, 2014 agenda for further discussion.

**b. Appointment of TPZ representative to the Capital Regional Council of Governments**

Commissioner Anest volunteered to serve as the representative to the Capital Regional Council of Governments.

Commissioner Leggo moved to accept the offer from Commissioner Anest and the motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion with five voting YES.

**VIII. OLD BUSINESS**

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

Commissioner Anest moved to approve, with modifications, Petition 02-14: Zoning Regulations Text Amendment (Sections 5.3, 6.1, 6.10, New 6.16, 7.4 and 9.2) for Low Impact Development, Town Plan and Zoning Commission, applicant. Effective upon publication.

**Findings:**

1. "Low Impact Development" is a new approach to development that mimics the way stormwater is processed by nature. It emphasizes using "pervious cover to let rain and melting snow soak into the soil where it falls, rather than conveying stormwater via pipes and catch basins to rivers and streams that might be many yards away.
2. The advantages of LID over conventional development include:
  - a. Groundwater is recharged naturally, benefiting local flora and fauna.
  - b. It reduces the amount of stormwater introduced directly into the rivers and streams which reduces downstream flooding and the heating of rivers and streams in summer months.
  - c. It reduces the amount of stormwater infiltration into the MDC sanitary sewer system which is currently a major problem.
3. This amendment is consistent with the Plan of Conservation and Development.

4. This amendment was referred to the Capital Regional Council of Governments and the Central Connecticut Regional Planning Agency, and found to be "not in conflict" with either regional plan.

**Modifications:**

1. Section 6.15.2 and 6.15.3: Raise the LID threshold for residential and change of use projects by changing "300 square feet or more to "600 square feet or more" This will result in fewer homeowners and small businesses from having to add LID techniques to their minor projects.
2. Section 6.1.1.C: Revise the table by deleting the column entitled "Parking Threshold". This will give parking lot designers access to a wider array of LID techniques and not limit them to just using pervious paving materials.

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

**B. 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.**

Commissioner Camillo "moved to approve 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. Effective upon publication."

**Findings:**

1. Low impact Development is a new approach to development that mimics the way stormwater is processed by nature. It emphasizes using "pervious cover" to let rain and melting snow soak into the soil where it falls, rather than conveying stormwater via pipes and catch basins to rivers and streams that might be many yards away.
2. The advantages of LID over conventional development include:
  - a. Groundwater is recharged naturally, benefiting local flora and fauna.
  - b. It reduces the amount of stormwater introduced directly to the rivers and streams, which reduces downstream flooding and the heating of rivers and streams in the summer months.
  - c. It reduces the amount of stormwater infiltration into the MDC sanitary sewer system, which is currently a major problem.

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

**Petition 09-14**

**Special Exception (Section 6.13: Accessory Apartment)**

**71 Eddy Lane**

**Frank and Sally Cefaratti, owners, Attorney Bradlwy N. Malicki, applicant, contact.**

Commissioner Sobieski moved to approve 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.

**FINDINGS:**

1. The proposed apartment complies with all of the requirements of Section 6.13.
2. This was previously approved by the Planning and Zoning Commission on March 21, 1995, but the Certificate of Action was never filed by the applicant.

(Tape Resumed)

Commissioner Aieta: We want to make sure that they still comply after that initial time period, I don't think that is unreasonable.

Commissioner Camillo: In three years, they come back, and you're not happy, what would you be happy with in three years.

Commissioner Aieta: There could be complaints from neighbors, there could be where they moved in people that the regulation doesn't allow for the occupancy, there could be changes that they made to the exterior of the building, there could be problems with parking. We should give the opportunity for the neighbors to have the opportunity, if something is not going right, that they have the opportunity to come in and make a grievance as far as, that it is disruptive to the neighborhood. It's not a traditional thing to have an in-law apartment attached to a house. I hate to see a town where this became the norm, where every house had an in-law apartment. That will lend itself to, most of these houses becoming two family houses without proper supervision, and the only recourse that we have is to put a time period on it so that we can look at it in a couple of years. I don't really believe that that is unreasonable.

Commissioner Leggo: Craig, in the case of a three year re-visit, or whatever the official term is, at that point, is it looked at and then extended for another three years or is it, a decision made that it's good, or.....

Craig Minor: Well, what would happen is there would be a public hearing where the public, the neighbors would have a chance to express a preference as to whether the permit is extended or not, and if you find out that there have been abuses in the past and then you could take that into consideration, if there have not been problems, if there has been no change, then you would be very hard pressed not to extend it. There would have to be a good reason not to renew it, but it's things like, in-law apartments, home occupations, it's not unreasonable to ask the applicant to come back after a few years to have it renewed.

Commissioner Leggo: My question really was, at that point, does it get extended again for another period of time.....

Craig Minor: At that time you could decide, you might decide that there have been no problems the first three years and then re-new it in perpetuity, or you might decide, well, let's give you another three years and see you again in three years. It's at your discretion at that point.

Commissioner Leggo: Thank you.

Craig Minor: In your agenda package is a copy of the 1995 letter and condition number two says, "Pursuant to Section 3.13.7 and that's, well, 6.13 is the new one, a three year time limit, is attached to this exception. It shall be the property owners responsibility to request an extension of this exception if they so desire," and you should go on to say, at a public hearing because you want to give the neighborhood the chance to express themselves, share information with you about it.

Vice-Chairman Anest: I'm going to ask one other question. Under the permit in 1995 it did require landscape planting beds. From the picture, it doesn't look like they are there. Do we include that, or.....

Commissioner Aieta: I think that they wanted the planting beds because there was a garage door there. I believe that they eliminated the garage door, there is no garage door on the front of that house. I think that they wanted the beds if they were going to keep the garage door, so that you couldn't use the garage door. That's what I believe the planting bed was there for, because I've driven by the property. I know the property, and the way it looks now, it looks, it's a very attractive house.

Craig Minor: Okay, I think we can disregard that.

Vice-Chairman Anest: Okay, we have a motion with amendments indicating that the apartment was approved back in 1995,

Craig Minor: Right, that would be finding number two.

Vice-Chairman Anest: Condition number one will be that it will be up to the applicant, the property owner to come back in three years to request an extension of the special exception at a public hearing.

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

#### **IX. PETITIONS FOR PUBLIC HEARING SCHEDULING**

- A. Petition 12-14: Special Exception (Section 3.19.4; Fueling Station) at 16 Fenn Road, Fenn Road Associates LLC, owner, The Stop & Shop Supermarket LLC, applicant, Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington CT, contact.

Chairman Hall: Petition 12-14 is the special exception on the fueling station.

Craig Minor: Right, and I recommend that this be scheduled for April 9<sup>th</sup>, following the zone change public hearing, and that's my recommendation, but it's up to the Commission.

Chairman Hall: What's your pleasure? That would be the same night, we start with the zone change and then we will consider the special exception, same night.

Craig Minor: Well, you'll conduct the public hearing on it the same night.

Chairman Hall: That's what I mean, the same night.

Commissioner Aieta: And then the site plan comes when?

Chairman Hall: The following meeting. Not the same night.

- B. Petition 13-14: Special Exception (Section 3.2.1: Church) at 37 Ann Street, 37 Ann Street LLC, owner, Cedar Mountain Church, applicant, Stephen Cianci, 199 Back Lane, Newington, CT, contact.

Chairman Hall: Petition 13-14, a church at 37 Ann Street.

Craig Minor: Okay, there is the site plan in front of you. They want to occupy part of the building. The site plan came in just the other day, and I haven't, I'm not completely certain as to how much of the building, or how many seats they are going to have, and the letter may be in there and I haven't read it yet, but to make sure that there is enough parking for the church, but also for some commercial use for the rest of the building. I'll make sure that is clear before the hearing. This is sufficient information to schedule the hearing. I suggest that you schedule it for the next meeting, March 26<sup>th</sup>.

Chairman Hall: March 26<sup>th</sup> for the Ann Street church.

Commissioner Aieta: It looks like they drew a line on the plan that separates the existing from the Cedar Mountain Church. They also said in part of their correspondence that they, their hours were different than the rest of the building, and it was going to be shared parking. We should know the seating capacity to make sure there is enough parking.

Craig Minor: Right.

Chairman Hall: I would like something more than just a little handwritten penciled line.

Commissioner Aieta: There's no dimensions on there.

Chairman Hall: There's nothing. I'd like something a little bit more technical than this, please.

Craig Minor: Okay.

Commissioner Aieta: At least dimensions, so we have an idea of the square footage.

Chairman Hall: Any other comments on that? We will schedule that for the 26<sup>th</sup> of March.

#### **X. TOWN PLANNER REPORTS:**

- A. Town Planner Report for March 12, 2014.

Craig Minor: Zoning Enforcement Issues raised at the previous meeting, none. Old Performance Bonds, held by the town, no report due to the winter. Newington Junction TOD planning: nothing new to report, we are still waiting for the consultant to submit their final report. Revisions to sign regulations, it was a very productive meeting last week, and some significant changes were suggested. I will have the revised draft for the next meeting, which I have not done yet. I was very ambitious when I typed that, and I haven't gotten to it yet. When, while we are all here, when would the committee like to have their next meeting? Or did we talk about it at the last meeting? I haven't looked at my notes since then. Okay, we didn't say.

Commissioner Aieta: We made some drastic changes on the Berlin Turnpike.

Commissioner Anest: I think we should look at them and see what the revisions say.

Craig Minor: The 26<sup>th</sup>? Okay, at 3:45? Good

Status of Modern Tire appeal: The attorney for Modern Tire has applied to the court for permission to appeal the decision of the zoning regulation. Apparently Judge Mottolese did not strike down as much of the regulation as Modern Tire et al, wanted him to. We will wait to see if his request is granted, and as of today a decision has not been made yet whether their appeal has been certified, I think that is the term. So we don't know yet, there's a lot we don't know, so we're still waiting and until that is resolved, we can't do anything with the regulation.

Commissioner Aieta: Did we get an idea from the Town Attorney as to when he is going to comment on the medical marijuana? We've been asking for over a month, it's been quite some time because every meeting we can't close it. It's not that complicated, I don't see it as that complicated to take that time to review. I don't know if we are doing this the right way because this thing has been open for, so long.....

Craig Minor: Since November, I think.

Commissioner Aieta: Yeah, I mean, aren't we supposed to, after a certain time, aren't we supposed to say something, that it's on the record that says that hey, we are beyond the time period, but it is our own regulation so we're extending it.....

Craig Minor: Right, actually I think that was a month ago, and at that time I told you, well, it's all right, it's our regulation so it doesn't matter, but now I'm starting to get a little bit nervous that it has been a long time since we first opened the public hearing.

Commissioner Aieta: I don't know if you can just let these things linger on for months and months and years, and whatever, but it's lingering on pretty good. We should come to some conclusion as to what we are doing with it.

Chairman Hall: Maybe you could express to the Town Attorney that at this point we would like to make a decision and we cannot make our decision until we hear from him, and that we would like to hear from him sooner rather than later. Do I speak for you?

Commission: Yes.

Craig Minor: I will do that. That's all I have.

#### XI. COMMUNICATIONS

None

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

Tom Trumbull: Hi, I'm at 1515 Willard Avenue. I was here basically to listen to the talk about the site plan for the gas station at Stop and Shop. Obviously there is nothing to be said about it anyway. My question to the board is, shouldn't I be getting notifications about these petitions coming to this board. I don't get anything in my mail box.

Craig Minor: Well, because this parcel is separate from the parcel where the Stop and Shop is, and you're on the other side of that, you aren't an abutting property owner and that's why you aren't going to get notice of the public hearing because it only goes to abutters, and you're not an abutter. But, all you have to do is let me know that you would like to get them and I'll make sure that you do.

Tom Trumbull: That's basically what I want. That will be fine.

Commissioner Aieta: You heard tonight what our agenda is, for this, so it's the next couple of meetings that we are going to be discussing the whole thing and hopefully we get some more information, overall site plan, and get some more information so we can make a decision based on what is really out there.

Tom Trumbull: Yeah, there are some issues that I want to talk about. Thank you.

Chairman Hall: Thank you. Any other members of the public wishing to speak?

**XIII. REMARKS BY COMMISSIONERS**

Commissioner Leggo: I just want to extend a thank you to Carol for volunteering to be on the Capital Regional Council of Governments.

Commissioner Anest: Thank you.

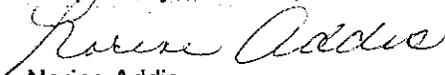
**XIV. CLOSING REMARKS BY THE CHAIRMAN**

Chairman Hall: Again, good meeting, I appreciate all of the conversation, it really helps, and again, getting it on the record, not just that it helps us all in our thought process, but getting it on the record. We need to have our discussion, our thoughts recorded. It's very important, and I thought this was a very productive meeting. See you in two weeks.

**X. ADJOURN**

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:27 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary