

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

March 9, 2016

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

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL AND SEATING OF ALTERNATES**

Commissioners Present

Chairman Frank Aieta  
Commissioner Chris Miner  
Commissioner Domenic Pane  
Commissioner Robert Serra  
Commissioner Stanley Sobieski  
Commissioner Judy Strong  
Commissioner John Bottalico-A  
Commissioner Michael Camillo-A

Commissioners Absent

Commissioner Brian Andrzejewski  
Commissioner Paul Giangrave-A

Staff Present

Town Planner Craig Minor  
ZEO/Assistant Town Planner Michael D'Amato

Commissioner Camillo was seated for Commissioner Andrzejewski.

**III. APPROVAL OF AGENDA**

No Changes

**IV. ZONING ENFORCEMENT OFFICER REPORT**

Mike D'Amato: You have my report in front of you. It's a little larger than last month. Does anyone have any questions or things that they see and want to go over?

Chairman Aieta: Do any of the Commissioners have any comments on the report in front of you? Anything that you want to add, or anything that you want to bring up?

Commissioner Serra: Nothing on the report, however, going around town today I noticed several of the lawn-style signs for the high school musical. They are all over the place. I know it is the high school and it is a town event, but the corner of Reservoir and Fenn at West Hill, they are everywhere. I don't know what they are and what they are for, I really didn't get a good chance to look at them, as I say, I was going by, but you might want to look into that.

Mike D'Amato: I think it is appropriate to talk about that now. They did something similar last year and it came up and we decided to let it lie, so before I start doing something with these, I

wanted to talk about it. They are for the school play. I don't know the name of the play, but it's the theater/drama department so however you want to proceed with those....

Chairman Aieta: We had talked about it before and you had suggestions for civic events. Do you have any thoughts about it?

Mike D'Amato: We have that temp sign amendment that I drafted several months ago that would allow for signs like this, but we didn't do anything with it, and there is no provision to allow them. It is a town event and the town technically is not obligated to meet the zoning regulations. If they are in the town right of way, they're on town property. The event is, I believe the 17<sup>th</sup> and 18<sup>th</sup>, so we're looking at roughly ten more days that they would be up. If you feel that they are an obstruction and want to have them removed, then we can take care of them. I could contact the Board of Ed and let them know that we are going to take them down. If you want to leave them, because of the type of event.....

Commissioner Serra: It's for the high school. I don't want to hurt them in any way, my only concern is that on that particular corner, Reservoir and Fenn, because I live over in that area, each corner has two signs, so you have six or seven in that one cluster. I mean, a couple of signs here and there, but that is just a cluster of them. Maybe they need to spread them out more.

Commissioner Pane: I'm wondering if the school is using their directory sign on Willard for this.

Mike D'Amato: I haven't seen any advertising on that. I go by it to and from work and I haven't seen anything.

Commissioner Pane: That was one of the reasons why they wanted it out there, to use for advertising their events, so maybe they should be reminded to use that.

Mike D'Amato: I can try to touch base with someone in that department or group and maybe come to a one sign per intersection type of agreement, because there are a lot of them.

Chairman Aieta: When we discuss the sign regulations, we will have to bring this up again and get involved.

Commissioner Serra: The only other thing I wanted to mention is that the time is coming up again for graduation signs being hung all over town, on the park fences, on the bridges. I don't know if we want to schedule that for another time to discuss that, or how we want to handle that just so we get it on the agenda somewhere.

Craig Minor: I can handle that by contacting the Superintendent as I did last time and ask him to put out the word to parents. I'll go back and look at the letter that I sent him last year. I'll bring it to you first to see if the conditions that I put in there are still the conditions that you want them to follow. I'll do that for the next meeting.

Commissioner Sobieski: Mike, did you look at that sign that I mentioned on Main Street?

Mike D'Amato: Yes, I talked to the owner of the property. She said she was not aware that the sign would be that large, and she indicated that she is not physically able to remove it, so she called the company and they are going to come back and get it. I told her if they are not responsive to let me know and we would have the highway department take care of it. I haven't been by there, I was out of the office today at a meeting.

Commissioner Bottalico: I notice an awful lot of junk car ordinance violations. Are people removing the motor vehicles, or do you have to send out two or three notices? The bottom line, if they don't do it, what's the penalty?

Mike D'Amato: If you are seeing it on the report then we are dealing with it via the zoning regulations. If it is an unregistered vehicle then it must move from the site under its own power within thirty days. If that doesn't happen then we send them a notice, just as we would with any other violation as outlined in the regs. It's a Notice of Violation, and then we can go to a citation, then a cease and desist order if they choose not to move the vehicle. In some cases they call and say, "I've got a part ordered", so depending on the situation we will give them a deadline. In some cases they just don't pick up the certified mail letter and we have to go through the procedures. There is a property in particular that has shown up here a couple of times, I don't want to name it directly, but we haven't had any luck. We've sent them citations, sent them a fines, discussed what needs to be remedied; they said it was going to be remedied, and that they were working with the DMV to get it registered, it's an antique, and it didn't pass emissions and all that, and they just didn't do it. It's just taken a long time.

Commissioner Bottalico: Let me ask you another question then. What's the difference between an unregistered vehicle and a junk car?

Mike D'Amato: There is no distinction between the two. If the vehicle is inoperable and not registered, it doesn't matter the condition. The physical condition of the car doesn't come into play. We look at the Tax Assessor's grand list to determine if it is being taxed, we verify the registration with motor vehicle to determine if it is registered. Sometimes it's a matter of, the registration lapsed in February and they just haven't done it yet and they provided us with that.

Commissioner Bottalico: If I recall, when I was on the Council, the whole idea of the junk car ordinance was to get these vehicles off the property, and apparently that is not happening. Do you feel that we should have a stronger ordinance?

Mike D'Amato: We have some overlap of the zoning regulations and the blight code in the way that we address vehicles. In the zoning regulations it is stated as "unregistered and inoperable". In the blight code, it states "abandoned". There is a real disconnect because "abandoned" relies on the intent of the owner. So if you have a vehicle that is sitting in your yard that you always thought you were going to fix and you just haven't gotten around to it, you have not intentionally abandoned that car. But it's still junk, even though most people don't want to use that word, so we have had a lot of trouble with the language of the two codes in dealing with vehicles that are unregistered but are not "abandoned". So I guess this is a good segue to bring up that the Council has decided to appoint a subcommittee to reexamine the blight ordinance in town. I will be at least peripherally involved or more so depending on what the Acting Town Manager decides. I had proposed changes to the previous Town Attorney to tighten it up, because the way in which certain things are written leaves this gap that can be argued by someone who doesn't want to remove the car from the property. The changes that I proposed might tighten that up and change some of the language so that we don't have that loophole and gray area.

Commissioner Bottalico: Is it in our purview to have the Town Attorney come in and discuss this, or is that a Town Council...

Chairman Aieta: The junk car, it's an ordinance from the Town Council, it did not originate from this Commission.

Commissioner Bottalico: Maybe we should go back to the Council and have the Town Attorney take a look at the ordinance and make it a little stricter.

Mike D'Amato: I can keep you posted on the Council with what they intend to do.

Chairman Aieta: Did they appoint the subcommittee?

Mike D'Amato: I believe they have. I can't tell you who is on it.

Commissioner Bottalico: Carol says yes.

Mike D'Amato: I believe there is a meeting coming up the end of March. I don't know what their plans are, but there are some things that staff has come up with to make it more effective, but keep the intent of what was written the same. As that progresses, and if things change in relation to the junk car ordinance I can let you know.

Commissioner Bottalico: I just think they have to put a little more teeth in it for you. So you can do your job.

Mike D'Amato: We've had this new code for a couple of years now, we've gone through everything from notices of violations, citations, to hearings, appeals, so we have some experience, so I think we're at a good spot to look at it and figure out how to make it stronger. I think there is a good chance that we will tighten it up and we will be able to address that.

Commissioner Bottalico: Thank you.

Chairman Aieta: Any other comments or remarks for the Zoning Enforcement Officer?

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

None

**VI. REMARKS BY COMMISSIONERS**

Commissioner Sobieski: I came up with an idea for the Maple Hill Avenue area. Domenic and I looked at it, and I believe the Town Council is going to put it on their agenda. We need to get it done for safety reasons. It is imperative that we get moving on this for two reasons, number one...

Chairman Aieta: I think some of the Commissioners don't know exactly what you are talking about.

Commissioner Sobieski: Okay. What happened was, I think it was fifteen, twenty years ago DOT came up with a plan to realign Maple Hill Avenue to be directly across from Alumni Road. They were going to take a couple of houses on Alumni Road, there was some opposition to it so it stopped. Then last October there was a meeting because they were going to try to put a third light in on Cedar Street which was ludicrous because it would stack traffic so the traffic flow would be even worse. I sat down and came up with a couple of ideas, one of which would realign Maple across from Alumni. There are 34,100 vehicles per day over there. You are not magically going to have them disappear, it's impossible. You're not going to be able to determine, or dissuade people from using that road because it is a state road. So I took some of the state plan, I took from the consultant that was here, and I think, I know that it is a workable plan. I would like to make a strong suggestion that this TPZ

create a committee for it and appoint two members and recommend to the Town Council that they appoint two members to get this forward as soon as possible.

Commissioner Pane: I did meet with Stanley, we did have an informal meeting and I think it was very productive and I was very impressed with Stanley's recommendations over there. I think the Alumni Road intersection is an extremely dangerous situation and needs to be addressed in a manner that does not impact residents' land in that area that improves the safety and the quality of life and corrects the intersection before someone is killed in the nightmare of trying to exit from Alumni Road. Safety is my only concern. I know we have a lot of our plate, Mr. Chairman, but maybe you could advise us on how this board could present something to the Council.

Chairman Aieta: What is the time period for the bridge widening?

Commissioner Sobieski: I'd have to check with the DOT. My other concern here is I don't want to see the residents in that area disrupted any more than necessary. We know that there is going to be a widening of the bridge deck over Amtrak which is going to widen a portion of that road which is already state property so is not going to take any private property. At this point it would be nice if we could tack that onto this project and not give these residents any more aggravation than is necessary. It would have to be approved by you, by this body here, and by the Town Council. I think we need to get feedback from the residents and go from there. But this has to be fixed because of the safety issue. Somebody is going to get killed out there. We have already had the Police Chief get whacked there, the side of his car. We've just been very lucky that no one has been seriously hurt or killed there. As I remember that was an 80/20 project - 80% federal, 20% state; it costs town residents zero as far as that is concerned. We also looked at the relocation of Alumni Road down around where the football field is, that would have to be a separate issue, but you know, we would make the traffic flow easier and the residents would be safer. I think it is something that needs to be looked at as soon as possible. I will try to find out when the bridge project is scheduled.

Commissioner Pane: I would like to work on it with Stanley and present something to this Commission. Then maybe hold a public hearing, and when we have a viable plan, then it could be brought up to the Council and they could hold their own public hearing. They could look at it, and when they are pleased with it, send it down for an 8-24 so that we could make sure that all the t's are crossed, and all the i's are dotted.

Chairman Aieta: That seems very reasonable. I'm concerned about the time factor because we have already done most of the work on the plan, you have a starting point. You met with some of the residents this week.

Commissioner Pane: Yes, we met with Tom (unknown) and a few other residents. We have a couple other meetings that we'd like to schedule on this. We'd like to work with the Town Engineer and the Police Department and I think that Stanley and I are pretty confident that we could have something to this body within two or three weeks.

Commissioner Sobieski: The one other thing that I would like to add is that, when I design something, I like to have lots eyes look at it to make sure that I don't miss anything. I'm not infallible. It might be a good idea to try, you know, some residents have questions, to contact the Planner, or they can contact me or Domenic. Let's figure out if there is something that we missed, or I missed rather. That's my big concern.

Chairman Aieta: We will put together a subcommittee of Town Plan and Zoning, both you and Domenic to serve, and get back to this Commission with a report. I would be proactive

and reach out to the residents that are mostly affected by these changes. That is an aggressive schedule, two or three weeks. That is something that the Council is going to have to meet with the State on to see if they would go along with an add-on to the bridge project.

Commissioner Sobieski: It was my understanding that the State wouldn't do anything unless the residents and the Town Council were on board. What happened was, the one prior to that, there was so much dissention that the State just backed away from it. It's not a question of anything else, it's a question of safety for the people who live in that area. Like I said, with the traffic you have on Cedar Street, 34,100 cars a day, you are not just going to make them disappear. These residents are already impacted enough with the high volume of traffic. It might be a good idea to try to get this done, at least make their quality of life a little better, and the safety issue before somebody really gets hurt.

Commissioner Pane: I was just going to say that we had very positive results from the residents that we talked to and they really thought that the plan was very good. They also gave us some additional ideas for safety items, so I think additional meetings are necessary. Naturally we would mail out letters to every resident in the area, for a public hearing after this body looked at the plan and thought that it was a good plan.

Chairman Aieta: Okay, we'll go ahead with the subcommittee. Both of you will be on it, and you get back to us as soon as possible. If you could do it for, not the next meeting, but the meeting after that, then that is enough time and we will make a decision whether we want to put it on for public hearing.

Commissioner Sobieski: Would you also suggest that the Town Council appoint two people to it also?

Chairman Aieta: Well, I don't have the control over, if they would like to initiate something. I would like the subcommittee to start right away because I'm afraid if we get too far down the road, without this thing going forward, that we miss the curve.

Commissioner Pane: After this body looks at it, we'll have, if we have a good plan, they will have the opportunity to look at the entire plan, hold their own public hearing, it's not like they're not going to have, it's all up to them after the plan is presented. They are the deciding factor.

Commissioner Bottalico: I just have a question for you Stanley, I haven't seen the plan, but in your plan, are you looking to open up Alumni Road.

Commissioner Sobieski: That would be the bottom line. The state will not allow Alumni Road being open unless it's realigned. If you put another signal up, all you are going to do is to add queue times in both directions.

Commissioner Bottalico: I know that was in the original plan, if they aligned it, they would open up Alumni Road.

Commissioner Sobieski: You would basically remove the signal from Maple Hill and Old Farms and move it.

Chairman Aieta: Mr. Planner, if you would put this on the agenda as an item of discussion until we get the information back from the subcommittee.

Craig Minor: Certainly.

**VII. PUBLIC HEARING****A. Petition 05-16: Zoning Map Amendment and Zoning Text Amendment (New Section 3.19A: TPD Overlay District.) TPZ applicant/contact.**

Craig Minor: Before I begin, there are copies of the proposed regulation outside the door, in the hallway next to the agendas. If the Chairman doesn't mind, I will just to read the memo that I sent to the Committee so the audience at home can follow the process.

**Background:**

This proposed "TOD Overlay District Regulation" was created to promote desirable transit-oriented development (TOD) within walking distance of the CTfastrak station on Myra Cohen Way. It is an "overlay" zoning district because the underlying zones (Industrial and Planned Development) are unchanged - property owners who want to develop their land in accordance with the current zoning regulations still can; but property owners who want mixed use, pedestrian-friendly projects that take advantage of the proximity to the CTfastrak station can do so. It also provides incentives for TOD projects that promote the goals of the district.

**Summary:**

The purpose of the TOD Overlay District is "to promote high quality development within walking distance of the CTfastrak station on Myra Cohen Way which will grow Newington's grand list, create employment, and provide Newington residents with additional retail, commercial, residential and entertainment opportunities." To achieve this, the regulation calls for three general types of new construction: mixed-use development; dining and entertainment clusters; and advanced technologies. All of these activities are currently allowed in the PD zone. So to encourage them, the regulation offers incentives that result in greater density (that is, more usable floor area). To be eligible for these incentives the project must possess certain characteristics: amenities that are available to the general public; improved pedestrian access in and around the District; functional compatibility with existing buildings; etc.

The boundaries are defined as roughly ½ mile from the CTfastrak Station on Myra Cohen Way. ½ mile has been well-established as the maximum distance that people will readily walk on a regular basis.

All TOD projects will be subject to the Special Permit approval process, which involves input from the neighbors and the general public in a public hearing environment.

**Comments:**

The TOD Overlay District regulation acknowledges the fact that the real estate development sector will react to the influx of CTfastrak riders by wanting to build TOD projects. Newington needs to be "ahead of the curve" on this, or risk getting the wrong kind of development. The TOD Overlay Zone regulation establishes a system of rules and incentives that will ensure Newington gets the kind of TOD that Newington wants.

The regulation also strikes a balance between allowing property owners to "keep what they have" in terms of permitted uses and giving them the ability to create transit-oriented development if they wish to.

The TOD Overlay District regulation and map were posted on the Town Planner website and filed with the Town Clerk and with CRCOG, and have been mailed to all property owners in the district

and immediately adjacent to the district. As of this writing I have not received any written comments on the proposal.

TPZ members will recall seeing a map prepared by Town staff showing vacant and under-utilized parcels, and inland wetlands and watercourses within ½ mile of the CTfastrak station. I have asked the GIS department to revise that map to coincide with the proposed boundaries of the TOD Overlay District. I hope to have that map available at the public hearing.”

I received a report from CRCOG on the proposed regulation. The report actually came in a week or so ago but it was temporarily misfiled so I didn't realize that we had it until a couple of days ago. I will address CRCOG's comments after we have the public hearing.

Commissioner Sobieski: Mr. Planner, will the GIS map show the wetlands, what is buildable and what is not buildable out there?

Craig Minor: It will be the map that we had before showing the square boundary instead of the ½ mile radius. The wetlands and flood plain information will be in the box, rather than with a circle around it.

Commissioner Sobieski: What I was looking for is a clearly-delineated area of wetlands that can't be built in.

Craig Minor: Once again I have to say, it will show wetlands and flood plain.

Commissioner Sobieski: That is what I was looking for.

Craig Minor: I'm stopping short of saying that that means that they are "unbuildable".

Commissioner Sobieski: I fully understand that. I just want to make sure that is clearly delineated on the maps we get.

Craig Minor: Yes, it will be.

Commissioner Sobieski: Thank you.

Chairman Aieta: Any other Commissioner remarks or comments? We will move on to the public portion. Anyone from the public wishing to speak in favor of this application? Anyone in opposition to this change in the regulations?

John Bachand, 56 Maple Hill Avenue: Good evening. I have a couple of questions. I think we need one simple correction. On the first page, third paragraph down, it says "on the west side", I think that is supposed to be "on the east side". Then, on the boundary, and I don't know if this is a benefit or a detriment, but making the Amtrak line the east boundary, I'm concerned about two large parcels that are just beyond that, Atlantic Machine and the old Crest Pontiac, which are two industrial sites. I live not far from the old Atlantic Machine, so I'm curious if that is better or worse; I wanted to know why you drew the line there and not include those two pretty large sites that are going to be redeveloped at some point. That's all I have right now.

Chairman Aieta: Do you think you could answer that right now?

Craig Minor: Yes. TOD by definition takes place near transit, and the maximum distance that people are willing to walk on a regular basis is assumed to be half a mile. I don't think

anybody would ever walk from the Cedar Street station to the Crest Pontiac site, so it's really beyond the distance for TOD.

Chairman Aieta: We also tried to keep the boundaries away from residents, which you are one of, John. As for encroaching into the Old Farms Drive area, we tried to keep it closer to Fenn Road and the areas that are vacant or possibly need to be redeveloped. Anybody else from the public wish to speak on this?

Commissioner Pane: Mr. Chairman, are we going to keep this open?

Chairman Aieta: Yes, we will keep the hearing open until we get the maps at the next meeting, and we will address some of the other concerns that we have, CRCOG and other items that we might look at.

Commissioner Pane: Do you think that maybe we could have the Town Planner reach out to some of the different newspapers and maybe present some information and a story to get some publicity just to make sure that we cover all our bases, that the public knows what is going on?

Chairman Aieta: We'll try that. The Town sent out notices to all of the property owners that are affected, and also the abutting property owners that are not in this zone but might be affected by this. I only know of one neighbor from the area that is here on another issue tonight. I don't see anybody else, any of the property owners, and they got the notice. That is usually a good sign that they are not concerned.

Craig Minor: Two property owners did call me, and when I explained to them that it was the Zoning Commission's strong intent that the underlying zoning remains in effect and that anybody would be able to do tomorrow what they could do yesterday, in both cases the individuals were happy to hear that and said, in that case they had no objection. So that may be why there aren't a lot of people here.

Chairman Aieta: So we will leave it on the agenda, keep the public hearing open.

**B. Petition 09-16: Special Exception (Section 3.2.8 Charitable and Civic Event) for the annual "Farmers Market" at the Municipal Parking Lot. Town of Newington, owner, Val Ginn, 56 Farmingdale Road, Wethersfield CT, applicant/contact.**

Val Ginn, 56 Farmingdale Road, Wethersfield: I'm here again. I can't believe it has been three years. We have a couple of changes for the Farmers Market. Instead of having it two days during the week on Thursdays and Saturdays we changed it to Saturday from 9:00 to 1:00 p.m. All I'm asking is permission to continue the market, it will be eight years this year. I can't believe it has been that long. I'm also asking that instead of having it every three years to renew the contract with the Town, I would like to have it extended to five years. Do you have any questions for me?

Chairman Aieta: Do the Commissioners have any questions? This is something that we have been doing for the last eight years. We've never had any complaints from the Police Department, or the Town. Any questions, any comments? We'll ask for comments from the public, and we will take it under consideration your request for a five year renewal.

Val Ginn: Thank you.

Chairman Aieta: This is a public hearing, anyone in favor of this applicant? Come forward and state your name. Anyone in opposition? Thank you.

Val Ginn: Goodnight all.

Chairman Aieta: We'll move this to the next meeting under Old Business for comments and possible action.

**C. Petition 12-16: Special Exception (Section 3.2.8: Charitable and Civic Event) for the Charter Oak Firebirds' "Classic Car" event at 3120 Berlin Turnpike (Panera Bread.) Charter Oak Firebirds, applicant; Newington VF LLC, owner; John Lyon, 174 Coe Avenue, East Haven CT, contact.**

John Lyon, 174 Coe Avenue, East Haven: I'm a member of the Charter Oak Firebirds and I'm seeking a special exception to hold car shows in 2016 and 2017 at the Panera Bread location, 3120 Berlin Turnpike in Newington. This event has been going on for nine years. Shows are the first and third Saturdays of each month from May to October. Time is from approximately 3:00 to 8:30 p.m. We appreciate your consideration of our application.

Chairman Aieta: Any Commissioner remarks?

Commissioner Serra: I just want to say I have been at this event in the past. It is a well-run event. I have not seen any issues there so I would be in favor of this event.

Chairman Aieta: You have been there for...

John Lyon: Nine years.

Chairman Aieta: Yes, you have been there for some time, and you have eliminated the problem of having people and cars right on the Berlin Turnpike.

John Lyon: Right, we moved everything back.

Chairman Aieta: I think that is working out very well, particularly for the safety of the people who are going to the event. I see no other deficiencies. Mr. Planner?

Craig Minor: Nothing.

Chairman Aieta: This is a public hearing. Anyone in favor of this applicant please come forward. Anyone in opposition? We'll move this to the next meeting under Old Business for comments and action.

**VIII. APPROVAL OF MINUTES**

A. Regular Meeting February 10, 2016

B. Regular Meeting February 24, 2016

Chairman Aieta: We just received one of them.

Craig Minor: You received the February 10<sup>th</sup> minutes by e-mail a couple of days ago, and in hard copy just now. The February 24<sup>th</sup> minutes I have not finished editing.

Commissioner Sobieski moved to approve the minutes of the February 10, 2016 regular meeting. The motion was seconded by Commissioner Serra. The vote was unanimously in favor of the motion, with six voting YEA.

**IX. NEW BUSINESS**

**A. Petition 08-16: Site Plan Approval at 712 Cedar Street ("Starbucks"). Fenn Road Associates LLC, owner/applicant, Attorney Mark Shipman, 433 S. Main Street Suite 319, West Hartford CT, contact.**

Attorney Shipman: Good evening. We will put some things up on the board.

Patrick O'Leary: I'm a principle with VHB, 100 Great Meadow Road in Wethersfield, CT and I'm here on behalf of the application. If I may approach to hand out graphics to the Commissioners?

Commissioner Sobieski: Chairman Aieta, can we have the display put up front so the general public can see it please?

Chairman Aieta: Why don't you put it over here so the cameras can scan it for people in the audience to see, and then you can come up and make your presentation at the easel?

Attorney Shipman: My name is Mark Shipman and I represent the applicant, Fenn Road Associates LLC. I'm not going to take a lot of your time because some of you have seen this before. There was a previous site plan approval and approval for special exception for a larger development on this site. One of the buildings that was included in the prior development was a combination building which contained a restaurant with a drive through, and a bank. The situation on Fenn Road as you are aware has changed substantially. There is a new road which didn't exist before, there is a traffic light that didn't exist before, and we are moving the restaurant closer to the new road. The use of the site was approved.

The applicant has worked with the State and the Town to create the roadway and drainage pattern and the widening of Fenn Road that exists there now. The State has put in a low impact development-compliant drainage system. The Town Engineer's comments which sought information with respect to that was before we delivered to him the entire package from the State with (inaudible) calculations, with water quality calculations and frankly the standards are designed to prevent set-ups where developable land is used to detain and retain runoff on the property that is being developed. This is not the case here. There is a detention basin that is designed to service our parcel, full developed, not just for this, but also for the Town's parcel, at full development, and the busway station. So the Town Engineer's comments with respect to that have been addressed.

I think we have elevations which Mr. O'Leary will show you shortly, and you will see with all of the elevations and designs it is still going to look like a Starbucks, which is what it is going to be. As I pointed out, there is an existing special permit on the premises.

The Planner had asked for evidence that we have the right to access the road and the drainage system so I brought the two deeds; one from us to the State and one from the State to us, both of which reference our ability to access and drain and cross and re-cross the State's road. I have those and I can give them to the Planner when I'm done. We hope to develop the rest of the parcel, this is a very small development. When we come back we're hoping that your TOD regulations are in place, and we'll be able to act pursuant to it. We believe we are in sync what you are proposing. We do request one thing however: we're complying with the existing landscape requirements which would be substantially reduced in

the event your TOD zone passes, and if it does, we would like to be able to come back and perhaps re-design the landscaping. Mr. O'Leary, do you want to take them through...

Patrick O'Leary, VHB: I think it was about nine years ago that I appeared before this Commission with this project, plus or minus a year or so. Obviously a lot has changed out there since that time. Access to the busway was proposed somewhere over in this area, and there was no traffic signal associated with it. The developer worked very diligently with the DOT and the busway program to create a new access going down, servicing the busway, signalized here as part of the agreement with the DOT, and the land swap associated with it. DOT was obligated, when they designed the signal system up here, to account for all traffic coming off of the site here. They did numerous studies, assumed high intensity commercial uses for here, as well as the two lots over here, designed the signal, the approaches on Fenn Road, and the access into the busway to accommodate the site traffic as well as the general traffic in the community.

From a drainage standpoint, when this site was originally approved there was a detention pond over here. We're providing low impact design for our overall site before going down into the pond. As part of the obligation with the DOT, the DOT developed a low impact design for their detention facility here to provide appropriate water treatment, and our site is to drain down into there. The reports associated with that have been provided to the Town Engineer; I believe they were provided some years ago when the agreements were put in place because if I remember correctly the Town, as potential owner of this site here, also has rights to drain directly into that detention basin once this is developed over here.

The development that we are talking about this evening is a proposed Starbucks facility to be located here at the intersection of Fenn Road and the busway drive. In order to develop this and interest a client, Starbucks, in it, we have to provide an access drive out to Cedar Street. You will see this is limited to right in, right out. We have three lane cross section in the westbound direction here, so "left out" simply would not be permissible by the DOT. It has been restricted so that you cannot get left in or left out of the site. It certainly has to go through DOT for final approvals and to receive an encroachment permit. We cannot go to DOT for our encroachment permit and approval from them until we have local approvals here. We would more than happy to provide a copy of the encroachment permit once it is issued by the DOT.

In turning to the site here, for the Starbucks, it does have a drive through window. There is a special permit that is in place as part of the original approvals for the site allowing that use there. We believe, to the best of our knowledge that we are fully compliant with zoning. 21 parking spaces are required, we are providing 23. We have adequate safe maneuvering in and around the Starbucks Restaurant. We've designed the site with future development over here in line. It will be developed. We have tried to arrange driveways so that it will be continuous and seamless when this other development takes place over here without adversely impacting the Starbucks.

One note relative to landscaping: the Planner questioned whether we have the required ten percent interior landscaping; we will provide an overlay showing how we have calculated our ten percent. If it's not in compliance, we could add one more parking space here, for example and one green island there, which I think would bring it into compliance if we're not compliance with that. As noted by Attorney Shipman, the developer would like to reserve the right should the TOD be approved for this area to meet the landscaping provisions associated with the TOD as opposed to the underlying PDD landscape regulations.

I think all other comments from the Town Engineer or Town Planner we were fully able to comply with. I would note one exception to that. We were requested to provide an anti-

tracking pad in this area for construction vehicles. It is the developer's intent not to allow construction vehicles to access or egress onto Cedar Street. We've addressed the comments on access and egress for construction purposes will be prohibited. The developer has agreed to place barriers over here to absolutely prohibit any activity from that standpoint. Operationally, I think there is a Starbucks right up the road, there is nothing new on the operational side and associated with it. It's a great location, proximity to the University, the Stop and Shop Plaza over here, and I think it's a nice mix. Fits well with the busway over here and hopefully it will spur future development on the remainder of the pad sites here of the side of the access road going in there.

From an architectural standpoint, it looks like a Starbucks, no great surprise here. Lots of glazing along the front side. If you look at the site plan, they have an outdoor area here that could possibly be used for seating, very nice, you can see the landscaping in and around that area, so if someone, on a day like today, chooses to take their coffee outside and sit down, the facility and the amenities are there to accommodate it. The drive-through is on the northerly side, the entrance on the southerly side. This is the side that will be facing the future retail development so obviously they focused the architectural elements, the awnings for example over the doors, over the windows, and additional glazing, on that side. The left side elevation, once again we've incorporated glazing along here. We are fairly limited on what I would call the busway drive side. This is an operational side of a Starbucks. This is where they have their sinks and storage and all those other elements that are not particularly suited to providing any glazing elements over there. Things that are up against the wall, you can't put them up against windows. That's why you don't see a great deal of glazing in this area.

With that Mr. Chairman I leave it to you. I have copies of the comments we would like to submit for the record, with responses. If you would like me to go through them individually, I'll be more than happy to do that, or if it suffices we agree to meet the demands of all the comments excepting of course the right in, right out and additionally reserving the right to meet the landscape requirement of the TOD should it be adopted.

Attorney Shipman: The Planner has provided a list of comments and we have a document which basically accepts all of those comments and agrees that they will be done and be put on the final plans. The only exception is as Patrick pointed out, the right in and right out and the construction vehicles. Other than that, we are prepared to have all of those added.

We do ask one unusual favor, it's not unusual, I always ask every time I'm here. We have a very tight schedule with the tenant, and if the Commission sees fit we would appreciate it if you would act on this tonight. I know that is not your usual practice, but if it is possible, we would appreciate it.

Craig Minor: We don't have comments from the Town Engineer yet.

Attorney Shipman: Well, we did have comments, and we addressed those comments.

Craig Minor: Yes, I understand you have responded to his comments, but he hasn't seen them yet, and I don't know if he plans to respond...

Attorney Shipman: But he did see all of the, when he sent us comments back in February, we immediately provided all of the information that he asked for, and he did not send anything after that. If you go through his comments, and I will, "Please review the town's LID and storm water drainage manuals" which we have, but the State has provided a LID system. "Provide a storm water analysis/pipe sizing (DOT format) for Myra Cohen Way." That has been provided. "Provide outlet protection calculations for the outfall at the northeasterly

corner of the site" was provided. "Flow calculations at points of analysis located at the south end of the detention pond, namely, the north end of the 36" RCP and the north end of the 18" RCP." That has been provided. We've provided the treatment train to achieve the 80% TSS removal prior to storm water, that's in the State plans also; and the catch basins, the inspection of the deep sump catch basins be inspected 4 times a year, we have agreed to. We provided lengths and slopes for all storm pipes, and we're happy to submit a storm water agreement prior to being able to hook into the Town's storm water system, but it is not the Town's storm water system yet, it's the State's. We have permission to hook into that. Those were his drainage comments. His planning comments were to provide additional existing spot grades in the vicinity. I don't know if we have done that, or if we are prepared to do that.

Patrick O'Leary: We are prepared to do that.

Attorney Shipman: We indicated the right turn only sign; we're prepared to demonstrate a typical delivery/service vehicle turning path on the plans; we agreed to do that. All of these items will be provided on the final plans and we obviously can't get a permit until we do. So I would hate to think that we would have to wait until the Town Engineer comes back when we have already made the presentation.

Craig Minor: We could certainly allow you to respond here to his comments, but as of now, I have had no response from the Town Engineer. I would strongly recommend that you not take any action until your Engineer has reviewed their responses to his comments. I spoke with him today, and as of this afternoon, he was not aware of the applicant's response. It might be that his assistant is aware of the response, but he is not.

Attorney Shipman: Well, we assumed that by providing him with all of the calculations that he requested and the State plans.....

Craig Minor: But you haven't. You haven't given them to him, you have just referenced the State's plans.

Attorney Shipman: Well, that is the drainage plan. I mean, because the Town helped to develop this under the prior Town Engineer, we, the Town and the State developed those plans for this site, for your site and for their site. We can't change their drainage plans.

Craig Minor: My understanding is that he doesn't have that information. You haven't provided that information, unless you are now, but he hasn't seen it yet.

Attorney Shipman: We provided it a month ago.

Craig Minor: Well, as I say, the Town Engineer has not reviewed this yet, so I recommend that you not take any action until your engineer has reviewed their response to his comments.

Attorney Shipman: As I said, he's had our plans for a month.

Commissioner Sobieski: Attorney Shipman, the runoff that you say now meets the standard, with the additional building that is going to be put in there, will it still meet the standard, or will it have to be modified?

Attorney Shipman: It should still meet the standards because the system which the State devised was to deal with all of our property as developed on the prior site plan, and the State's, the Town's potential development of their parcel. It's a very large, oversized drainage system and it's not on our site, nor is it on the Town's site - it's on the State's site

and it contains, and as I said, we provided all of the calculations. The DEEP has approved it, and it is the State's system. I don't know what changes we could possibly make to the State's system.

Commissioner Sobieski: What I was questioning was, as you put more pavement in place there the runoff increases. The second issue I had was, we all know that signs don't mean anything to people. I would like to see some type of signage directing all heavy trucks to use Myra Cohen Way, and not go out onto Cedar Street, once this is in operation. Myra Cohen Way would be a lot safer to get in and out of than Cedar Street, where you have 34,100 vehicles per day there. So my thought was to direct as much traffic as possible out Myra Cohen Way since that will become a Town road.

Attorney Shipman: Well, we are starting with the idea that we don't want any construction vehicles going out there because that would not be suitable. As far as the Starbucks itself, I'm not sure that there is going to be anything substantial that goes in and out of there. Their deliveries would not necessarily deal with heavy trucks or big trucks. For the remainder of the site, I don't know. If a hotel is developed, that may change the pattern. We could certainly look into that.

Patrick O'Leary: I think we could address that. In this area we have a stop sign along with a stop bar. We could add, underneath the stop sign, a left arrow saying "truck egress only" and point them specifically in this direction so that they do not go. You can't geometrically constrain them, but we can provide a sign there that says, "Truck exit to Fenn Road", or an appropriate sign of that nature. I'm not sure what we would say, but it would obviously contain an arrow, trucks only, in this direction.

Commissioner Sobieski: Most truckers and a lot of general public now rely on GPS, and GPS doesn't take into account that you can't take a left or a right turn. I'm just concerned about the traffic flow there. I want to make sure it's safe, and not to throw in a roadblock, but I'm concerned when you get delivery trucks, 18 wheelers, something like that, and if these guys try to pull out, it's going to be a nightmare.

Patrick O'Leary: We will go with the sign for this one, and as the development expands, and additional cuts are made into the access road, we would do our best to attempt to remember to add signs at those pertinent stop bars and of course we would be back before this Commission should we forget, to be reminded of that.

Chairman Aieta: Any other questions, comments?

Commissioner Serra: Yes. My concern, and I know that the Planner addressed this and that the applicant rejected it, is the exit onto Cedar Street. We've all driven there, we know what it's like over there, and it's just going to be a nightmare. I suggest that we send a strong recommendation to the State that they not allow that exit on Cedar Street. We have a right turn only sign coming out of the Mercury gas station onto Fenn Road - stand there and watch how many cars turn left anyway. It's unbelievable. We're going to have the same issue here, we're going to have accidents here. This is going to be a safety issue for the public.

Attorney Shipman: You shouldn't have the same issue as Mercury, because they do have an exit where they can make a left and a right on Fenn Road. The right turn only is actually a positive for your traffic, on that street, the right in, and anybody that wants to get over to Route 9, if they wanted to take that exit, would have a much better time on Fenn Road.

Commissioner Serra: I'm not here to argue with you, but I've driven that road, I live in that area. People will try to get into the left lane to try to take that exit, there is no question. That

is my only concern; I have no problem with the right in because that is going to be a smooth flow, that's fine; coming out is going to be a safety issue.

Commissioner Pane: I think the Commissioners have covered the points of the right in and the right out onto Cedar. What I would advise the applicant to do is to design that island in the middle in a fashion so that it is almost impossible to take a left hand turn. There are methods that can be done so that it is so pronounced that somebody can't take a left hand turn. I like the idea of the signage added to traffic to be directed over to Myra Cohen Way. I think this is a nice proposal. As far as the comments from the Town Planner, I understand his comments about the Town Engineer and I understand the developer wanting to move ahead so that he doesn't lose the development. Maybe it's possible that we put conditions on the approval that it has to be approved by the Town Engineer before any mylars are signed. That would be enough protection for this Commission so that we don't harm the developer and we don't harm ourselves.

Attorney Shipman: We would accept that.

Patrick O'Leary: Regarding the right out over here, of course we need to go through DOT for the encroachment permit. With respect to that, they have jurisdiction over that. We will work with DOT to see if we can further geometrically constrain that area. The reason we can't geometrically constrain it right now is because of the radius here. We need DOT to say, "Okay, we understand, we'll allow you to either extend the radius beyond", because what they do is to project the property line and we can't have our radius extend beyond there. If we want to angle this out more to make it more restrictive we would need their permission to have our radius extend beyond the projection of the property line. We're certainly willing to ask DOT if they will permit that, and we would be happy to accommodate it. The island itself, we would create a raised island here, geometrically constructed and it's not a smooth level surface it hopes of preventing normal passenger vehicles from going across it. We certainly understand your concerns, and we will pursue that with DOT.

Craig Minor: Mr. O'Leary, could you go back to what you were saying about the landscaping regulations? It sounded like you were saying you would like to be held to the TOD regs today, but there are no TOD regs today.

Attorney Shipman: We're going to develop the rest of the tract in the future, and if you approve the TOD within a reasonable period of time, before we landscape, we would like to come back and modify our plans to meet the TOD requirements.

Craig Minor: Oh, okay. That's fine.

Patrick O'Leary: Let me add to that point. We will provide you with the overlay as we identify our ten percent, but if it's not sufficient for you, we will add a parking space here and add another landscaped island there. I'm sure that would be consistent with your expectations, but we can work out one landscaped island I think very easily.

Craig Minor: Okay thank you. I'm all set.

Commissioner Sobieski: Attorney Shipman, would it matter that much, waiting two weeks until the next meeting?

Attorney Shipman: We're already past when we were supposed to have our approvals for this site. Whenever you have an agreement with a national tenant, when you don't meet the letter of the thing, they can change their mind. Whether they are going to change their mind, we don't know. It's a risk for us.

Commissioner Serra: I'm going to sound like the bad guy here tonight, but I think we should take the Planner's advice on this, wait the two weeks, and we can act on it then. Let's hear from the Town Engineer. Let's make sure everything is all right on his end, and do it that night. We've rushed things before and I just don't think it's the right way for us to do business. We need to take our time and make sure it is done right. I would like to wait.

Attorney Shipman: We say we will take care of it, whatever the Engineer requests.

Commissioner Serra: I just think that is leaving it too open. I would like to wait for the Engineer.

Commissioner Miner: Without being able to sign off mylars the developer is not able to proceed, so I don't see any harm in a written agreement that says, pending the Engineer's issues be resolved.

Craig Minor: I was with the Town Engineer today and he didn't sound like he had received anything recently from the applicant on this project.

Attorney Shipman: He received them February 15<sup>th</sup> or 16<sup>th</sup>. The entire set of calculations and the design, from the State.

Craig Minor: Okay, but is that what he asked you for?

Attorney Shipman: Well, all of the questions that he asked, all of the comments he had, they all relate to that.

Craig Minor: But he is asking for information, and you are saying it is all on the State's plan.

Attorney Shipman: We gave him the information is what I said.

Craig Minor: But that's what you are saying...

Richard Hayes: For the record, my name is Richard Hayes and I have done business in this town for the last 25 years. I'm not going to run away Mr. Serra, and I want you to understand that we own a significant amount of real estate in town obviously. I was the one that sent the information to Chris after I got his memorandum on a Friday afternoon. I spoke to him at 5:35 that Friday evening. He was still in the building, and I subsequently sent Brian Cunningham at the Department of Transportation an e-mail with Chris's request to please provide the information to him. I wanted to give him the information. I have the information, I can give it to you this evening. Chris wanted to receive it from Brian Cunningham because it was Cunningham's information that we were relying on here. Just for everybody's edification, because this is an important piece of this puzzle and I'm not certain that everybody completely understands it, when I was here nine years ago, when Patrick, Mark and I got this approval, I was given instructions by the Commission members at that time to please go and see what you can do to reconcile the access issue on Fenn Road. We spent, the three of us, 43 meetings and four years with the Department of Transportation negotiating the access and giving them certain rights to certain lands and getting certain rights to certain lands back from them. Believe me, we gave them more than we took. That's for sure. The fact of the matter is, I gave this information to Chris through Brian because I sent Brian an e-mail that night. That Monday was the President's Day holiday. At 7:27, because I just looked it up on my cell phone, Brian sent the information to Chris that Tuesday morning, so the fact is, he has that information. I have had more than one conversation with Chris in the last month about this information because there are certain aspects of this that are going to have to be discussed in the future when other projects come forward. We are here for the long haul. I'm not

asking for any special treatment. I do have some constraints with the tenant, I won't tell you that I don't. They want to be in there by November. It's an aggressive schedule for us, but we think we can meet it, but every day counts, so when it's 83 degrees on March 9<sup>th</sup>, everybody is itching to get in the ground, but those are my only comments and thank you for your patience.

Attorney Shipman: I don't want to minimize the comments, and you have a copy of it, if you look at the requirements of the Town Engineer, he's looking for sizes and calculations for a system that is already in that we didn't build. It's not like we are designing a system that is going to have to be approved and meet the Town's standards - we have no control over what is in the ground. It's in the ground. As far as the rest of the comments, providing corner radii for emergency vehicles, providing a permit from DOT to perform the work, we couldn't do that beforehand anyway and we can't change where the sidewalk that the State has already installed on Myra Cohen Way is. The Planner has asked for a crosswalk which we have agreed to provide, and all of the property lines will be on the drawings. I don't think there is anything on here that we will have a problem agreeing to. It's just that we can't control it. "A CT licensed land surveyor shall certify all the E & S measures have been installed according to the plans prior to the start of the work", of course. As the gentleman up there said, until we get signed mylars, we can't do a damn thing.

Craig Minor: I don't think this Commission would let any other developer say, "I can't control a resource that I'm taking advantage of, off site, because it is not mine. I'm using it, but I'm not responsible for it."

Attorney Shipman: I didn't say we weren't responsible, I said we can't change it.

Craig Minor: Well, you might have to.

Attorney Shipman: We can't.

Craig Minor: That burden is on the applicant.

Attorney Shipman: But you the Town, you approved it originally.

Craig Minor: This is a new plan.

Attorney Shipman: The Town approved, not this plan, the Town approved it when we granted the Town permission to use the road. We were having a lot of problems with the Town. They didn't want to do anything for (inaudible) or anything else, so when we conveyed to the State we said that this would be exclusively for our use. It would not be a public road. Then when we negotiated the low price and when your Engineer got involved in all of the plans, we assigned our access rights to the Town. Are you going to say that the Town has to redesign this to use it? Because it is going to use it too.

Craig Minor: Yes, we would. We hold ourselves to the same standards as everyone else and our new LID zoning regulations require a higher degree of treatment of storm water. But if that is all that the Town Engineer is asking for, and you verify that this 2016 design complies with our 2016 LID regulations, then...

Attorney Shipman: I'm saying, we agree to verify that. What I'm saying is that we can't do anything until we do, because we are agreeing to do that. If you think we can go in and change the State's drainage system, please tell me how?

Craig Minor: What I'm saying is, if your project requires something different from what that detention pond provides, then it's an issue which we need to deal with. That is why I would like the Town Engineer to verify that they have provided the information to show us that this project complies with your regulations.

Richard Hayes: So in fairness to the applicant and in consideration of Mr. Minor and Mr. Greenlaw, I want to explain that at those 43 meetings that we attended with DOT, there were a few other people there other than Mark, Patrick and I. The first meeting we went to, there were 24 people from DOT there, along with the Town Manger at the time of the Town of Newington, and the Town Planner at the time of the Town of Newington, Ed Meehan and of course the Town Engineer, Tony Ferrero at the time. Now the Town Manager didn't attend every meeting thereafter, but certainly Ed did and Tony probably ninety percent of them. During that time, we were all bargaining for the same things, so we had, I don't know how many different renditions. But if you went into your file of the MOU, the memorandum of understanding of things that I would do, of things that the Town would do, and things that the State would do so that we could all share in this process as it relates to this detention pond and access and overall development of the parcel down there. This is the report from Hindfelt with all the drainage calculations that I supplied and that was completed twice for the State of Connecticut for that detention basin. This is signed off by DEEP who reviewed every single piece of this information, and approved the permit for the busway, for this detention basin. This is just for the detention basin, just at that site, so it completely complies with their LID standards. It certainly meets all of their requirements or they would never have signed off on the permit to begin with. I know this is an unusual set of circumstances and it's more unusual for me because there is not a single member in Town any longer who participated in this process, and that makes it a little hard for us. I have copious notes, and I have a lot of witnesses and obviously we are just looking for what we bargained for. We gave an awful lot. We don't want anything more than what we bargained for, but we do want what we bargained for, and that detention basin is part of what we bargained for. It meets all of the standards that are currently required at this time. So thank you again.

Chairman Aieta: And they took into consideration for the design of the detention basin the development of all of your parcels plus the National Welding site, and the property that the State of Connecticut owns?

Attorney Shipman: I have an e-mail exchange that I had with Brian Cunningham who is the transportation supervising engineer where he originally sent a letter to the Town talking about it, this is in January 2012, concerning the Town and the detention basin, and I wrote back on January 24, 2012: "Brian, the language in the letter concerning the detention pond is unclear. Please confirm that the detention pond is intended to serve the Fenn Road Associates LLC parcel and well as the State's parcel. Originally it was to serve our parcel, your parcel and the Town's parcel. I am only concerned about us." He wrote back, "Sorry about that. As an engineer I understand more than I write sometimes, just by looking at plans. Yes, the detention pond has been sized to accommodate flow from your client's property, the town property as well as the Department's station site." I can give you that, along with the lease.

Craig Minor: There is no question that the pond is big enough. That's not what the Town Engineer is concerned about. The Town Engineer's concern is that the runoff coming from their site will be treated in accordance with our new LID regulations. Not the quantity, the quality. You see Comment Number 5 talks about the quality of that storm water runoff that the Town Engineer wants to make sure complies with our 2016 regulations.

Commissioner Pane: And he will have an opportunity to do that if we put in the condition that it is going to have to meet the standards as they are now. I think we have plenty of protection. I know this is unusual, but I think that we're not hindering ourselves because we

are going to make this conditional, and we're not going to sign the mylars until the Town Planner and the Town Engineer and this Commission are satisfied.

Commissioner Serra: I'm not going to repeat myself, I stated how I feel and that has not changed.

Chairman Aieta: I need a consensus from the Commission as to how you want to proceed. I can just tell you that they gave this property to the State of Connecticut to build a detention pond, and them not having the ability to change the size of the detention pond is probably correct. But, the water that is coming off your site, is it piped right directly into this system without any baffling, without any sedimentation tanks or anything? It's going right from the catch basin right into the system?

Richard Hayes: When they built the road, the road that is existing there now, each of those catch basins, which are right next to the two curb cuts that enter the property, if you pulled the grate off and stuck you head down there, you would see a pipe coming in from each property. They put those pipes in for our benefit. Now there is some - Patrick, what is the word, "velocity"? - water traveling down the hill. There are provisions in place in that pond to slow that water down and to take out the suspended solids. It meets all of the standards, and I have a letter from Kleinfleder, who was the State's expert in storm water that attests to that. I didn't expect this to become such an issue this evening to be honest with you, because this has been in place since 2013 or so, and we've worked hard to be sure that we crossed all the t's and dotted all the i's. It's unfortunate that we are standing here talking about this at this juncture, and I apologize for that but there is the problem. And in fairness to Mr. Minor, he wasn't here then, and in fairness to Mr. Greenlaw, he wasn't here either, and John is no longer here, and that only compounds the problem. But everybody was in agreement and we all moved forward with this memorandum.

Attorney Shipman: And my reading of the Standards, all 213 pages of them, is not (inaudible.) They talk about the purpose to reflect, not have a detention pond on the site, then metering out, using developable land in a short space to take care of the water, and not having any distance to drain. We have no detention or retention on our site, nothing. That's different from what they talk about, the standards, because the standards are really not talking about an off site drainage pond, or detention pond. I'm always scared to say these things, but Patrick, is it possible, as Mr. Greenlaw asked, to put in a couple of sumps to intercept the flow?

Patrick O'Leary: I believe we do have, all our catch basins are standard with sumps, (inaudible) storm water maintenance plans require annual cleaning of the sumps. Other than that, the drainage for the site was designed to go through this pipe network and discharge directly into the basin which was designed with a number of treatment facilities internally through to the detention basin or a water quality (inaudible) and a lot of plantings in the basin as well. We do have the deep sumps on our basins that DOT had us tie in and then the water goes directly down into the basin.

Attorney Shipman: I don't want to take any more of your time. It's at your discretion. We've asked, and I understand everyone's concerns. You will do what you will do.

Commissioner Serra: Just one more thing, I want to clarify just for the record. Wasn't this on the agenda for two weeks ago and it was cancelled and moved to this week?

Attorney Shipman: That was my fault.

Commissioner Serra: Well, I just wanted that for the record, because had this taken place two weeks ago we would have had the resolution tonight, but they postponed it, moved it to tonight, and now they want us to jump to push this through tonight, when they are the ones who postponed this. I'm sorry, I still feel that we need to hear from the Town Engineer, and in the future I feel that the Town Engineer should be at our meetings.

Chairman Aieta: We asked for that at the first meeting that I was Chairman, and unfortunately the Town Manager is no longer here who we made the request to.

Attorney Shipman: I'm sorry that we couldn't fulfill this on the 20<sup>th</sup>, or whatever date that was, but our Engineer wouldn't have been there then. I don't mean to have an argument, I don't want to offend anybody, but I have made the request and you will deal with it as you collectively choose to. I appreciate you listening.

Commissioner Camillo: I think we should do something tonight.

Commissioner Strong: I wish you had been here two weeks ago to be honest. I guess we can go forward, but I don't want this to become a habit.

Attorney Shipman: I've never asked before and I've been coming here for over fifty years.

Chairman Aieta: You ask every time.

Attorney Shipman: No I don't.

Commissioner Strong: You ask every time, you said that.

Chairman Aieta: Let me just weigh in on this. The problem is this has been a long on-going project. Unfortunately a lot of the players that were involved in the original negotiations for the drainage system are no longer here. I know the developer is under constraints, it's a national firm and they want what they want when they want it. They have their choice of properties anywhere around. This is a great location for a Starbucks, so I don't see it going out because of that. This is something that has been kicking around for quite some time, and I would like to move this and let them go forward with it. I know that they still have to go to the Department of Transportation and that is not going to be an easy road for them. I don't know their position on it, but the Cedar Street exit I think would be a hard sell for them. As far as sending recommendations to the Department of Transportation, Commissioner Serra, we did not do it for Amara, I don't believe.

Commissioner Serra: I thought we did.

Commissioner Sobieski: I thought we did also. I know it was suggested that the driveways go in a certain area, with turn signals added and stuff like that.

Craig Minor: You send a very clear recommendation by what you approve and what you deny. That says it all. If you deny them the right turn out, that's sending a message that Newington does not want a right turn out onto Cedar Street.

Commissioner Camillo: For Amara, one of the conditions with the curb cut was that they were going to get DOT approval. That hasn't gone to DOT yet.

Commissioner Sobieski: My concern again, no offense to Attorney Shipman...

Attorney Shipman: None Taken.

Commissioner Sobieski: ...is with the water flow going down. Unless you have some baffles and fuses, it's going to fly down there. You need to slow it down. If this does get passed, one of the things that I definitely want to see is that nothing gets done until the Town Engineer reviews it. His comments should have to be strictly adhered to. So there will not be any changes.

Attorney Shipman: I think we have agreed to that.

Commissioner Sobieski: Just to use an example, I know it's not true, but if he said "I want a 24" RCP instead of an 18", you would have to change it. I'm just using that as an example.

Attorney Shipman: The only thing I can say is that we can change what we do on our property. We can't necessarily change what we do on theirs.

Commissioner Sobieski: I'm just saying, on your property, whatever he recommends on your property you would have to do. A deep sump would work in some areas, unfortunately depending on how heavy the runoff is, you would have to baffle it to slow it down so it doesn't keep flowing off through the pipe.

Attorney Shipman: The comments, if you read them, were questions not comments. He wants to know how we are going to do something rather than "you do this", so we don't have any problems with conditions like that.

Commissioner Pane: I think this is a very unusual site, because the drainage is not on their own property. There really are special circumstances here. I'm sure the State and the Town and the private developer designed this so it will work for full development. I think that this Commission needs protection so I feel comfortable moving this to Old Business and acting on this tonight with the condition that the Town Engineer reviews all of the plans and signs off on it before the Chairman signs off on it. Thank you.

Commissioner Miner moved to move Petition 08-16 to Old Business. The motion was seconded by Commissioner Pane. The vote was in favor of the motion, with five voting YEA and two Nay (Serra, Sobieski).

#### **B. Discuss Rear Lot regulations.**

Craig Minor: I'm still gathering information from other towns and going back into the history of rear lots in Newington.

Chairman Aieta: Leave this on the agenda for the next meeting. Chris Miner is going to get the standards on the firefighting requirements.

Craig Minor: Driveway lengths?

Chairman Aieta: We can incorporate that into the regulations.

Craig Minor: Several meetings ago the Chairman asked me to try to find out how many interior lots there currently are in Newington, so I will have those figures for you also.

#### **C. Discuss Food Truck approval process.**

Craig Minor: There is a rather detailed memo in the Commissioner's agenda package, which I won't read, but the Commission may want to start discussing. Actually I will say just one quick thing. As I said in the opening paragraph, you need to make a distinction between the

two different kinds of food vehicles. There are the food trucks that are regulated by the Town on certain streets, and these don't get TPZ approval although in the past some of them have come before you informally. There are those kind of food trucks, and then there are what I call the "hot dog carts" on private property, such as the hot dog cart that you approved last year at the package store on the Berlin Turnpike. That type of use many towns regulate through the zoning process, because they are on private property, as opposed to the food trucks in Newington which are on Town roads.

Chairman Aieta: Any remarks from the Commissioners?

Commissioner Miner: The memo made reference to Lowe's. Many, many years ago, both Lowe's and Home Depot let their contractors get sausages, hot dogs, you know, at twelve to eighteen foot trailers that were parked right up to the store. I just wasn't sure if that was something that came before this Commission or if it was never identified because it was so close to Lowe's.

Chairman Aieta: I remember those, particularly at Lowe's. They did have it, and then there was a corporate decision to eliminate them. They also eliminated them at Home Depot. I don't remember that coming in.

Commissioner Pane: I do remember it coming in, but I don't remember the details.

Chairman Aieta: When talking about food vendors, the only thing that is different between a hot dog cart and a food truck is the size. Everything else is basically the same. If we were to consider regulating hot dog carts on private property, then I would suggest that we take that into consideration, but I'm suggesting that we treat both the food trucks and the hot dog carts the same. There are several locations where they can be in the public roadway. I know that we approved the hot dog cart for the package store, but that was only for a couple of months. These would be permanent installations.

Commissioner Miner: Mr. Chairman, are they considered permanent if they are registered and moved on a daily basis versus standing in one place the whole time?

Craig Minor: That is why we need to make a distinction, because the Town has rules for food trucks on Town roads, such as they have to move. That is the Town's or the police department's rule. That process is already existing and I guess it works fairly well. What is different, what is new to Newington, is the idea of having food trucks or hot dog carts on private property. That is what we don't have any regulations for. I'm suggesting that we need them.

Commissioner Pane: Just looking at some of the information that you provided us, there is a memorandum from back on November 2, 1983 and it talks about roadside vending and it says, "Anyone issued a license to impress upon the applicants that the receipt of the license to peddle is not an exemption from zoning regulations. The zoning regulations of the Town of Newington shall apply to the zoning regulations making it illegal to do any roadside selling along the Berlin Turnpike or set up temporary sales facilities such as trailers, carts, wagons, cars, trucks, vans, on private property." So, they declared back in '83 that they didn't want them on private property, and it is nowhere in our zoning regulations, so I gather from this information that was provided to us, along with the fact that it isn't in our regulations, as of right now it is not allowed, as of right, to have it on private property.

I think that the seven locations that are provided right now provide plenty of areas for roadside vending. If somebody felt that there was a new location, provided that it met the traffic safety concerns of the police department, that we could support maybe additional spots

on the roadside. I think that it would be safer if these spots were marked, and we had somebody from the Town mark the areas so that they knew exactly where to park on the road, to provide that safe area. I think we should continue having these vendors go to the locations that are stated right now. There was a recommendation from one of the Commissioners to have a check-off list. I think that would be very important for this Commission to institute with the Police Department and ourselves, and the Fire Department. It would be a check-off list. One of the Commissioners provided us a sample of the one that Berlin uses. I think that this Commission should have the Planner work on that. I think it would be an excellent tool to catch any problems. I think we provide plenty of areas for food trucks to go; we have seven locations, and a matter of fact, if this Commission wanted to look at other locations, or if the Planner thought that there were another couple of locations that he thought were be safe, and it was reviewed by the Fire and Police Departments, then we could provide a couple alternatives for vendors on the roadside. Thank you.

Commissioner Miner: Are there any suburban towns in the area that allow it on private property? Because I just can't think of any.

Craig Minor: Cromwell has a hot dog cart regulation, and they are typically on a corner gas station, in the parking lot, and sometimes they were in a shopping center parking lot. That regulation was also used for carpet dealers sometimes, art dealers. I haven't seen one in Newington, but it's typically on a corner lot.

Commissioner Miner: Are there any exceptions or exemptions that you can remember or recall?

Craig Minor: There are restrictions such as it couldn't be within so many feet of a restaurant, and it had to be signed off by the police department to be sure it was safe, getting in and out. I don't remember if they expired automatically after a year or so; they tended not to last very long. It's not a very permanent type of thing.

Commissioner Pane: I was just going to mention that the Planner touched upon an important point. They aren't necessarily always food vendors. They could be selling carpets, they could be selling stuffed animals, they could be selling all kinds of things, so I really think that it gets a lot bigger than what we intended. I've seen that in some areas, and it gets kind of crazy. The carpet sales and all kinds of sales. I think that the vending that we have provided here in town is sufficient. Thank you.

Chairman Aieta: Just a little history on this. This became an issue because the owner of the taco truck on the Berlin Turnpike came in and got some mis-information from Town Hall, and they allowed him to open up at the package store. It's not an allowed use in the zoning regulations, it's not a stated use, but we wanted to give him the opportunity to come in so that we could vent the whole issue out, and we determined that the Commission doesn't want those types of uses on the Berlin Turnpike. It's not like we don't have areas where they can be put on the street. We can't do zoning where people come in and ask for things that are not in the regulations, we can't create zoning regulations so that they can do what they want to do. I mean, the zoning regulations are specific, and when they don't mention something, it's prohibited.

Commissioner Sobieski: I mentioned to the Planner, in New Haven on Long Wharf, they have an extensive amount of food trucks there, food vendors, truck with flags. I don't know how New Haven operates that, but those vendors are there every day. It's an assigned area. We might want to look at that to see how that is handled, maybe try to put something in our regulations patterned after that.

Chairman Aieta: That's on public property?

Commissioner Sobieski: I'm referring to the Town roads. I'm saying, let's get back to where we have them regulated on town roads.

Craig Minor: It seems to be working all right in Newington. If someone wants to open up a food truck they go to the Police Department, they go to the Health Department, they get permission to set up shop at one of those seven designated locations. That seems to be working okay. It's the different thing that we are talking about tonight, the hot dog cart on private property. It sounds like the Commission doesn't have any interest in allowing that, doesn't feel that it is appropriate for Newington.

Chairman Aieta: If you go back into the history of it, in '83 and then '92 there was some more discussion on it. The history of it is that we didn't want them on the Berlin Turnpike, because we are looking for a different type of development there. We're looking to upgrade our development along the Berlin Turnpike. They even mentioned in their comments that they didn't want it on the Berlin Turnpike. That is our commercial district in the Town of Newington. Where would you put them?

Craig Minor: Well, on New Britain Avenue, in the Town Center; but I'm visualizing a hot dog cart, not a food truck. On any corner in any business district in Newington. But I agree with you, not on the Berlin Turnpike, absolutely.

Chairman Aieta: Most of the areas that you just mentioned have several restaurants in the area. The center of town has restaurants. You know my feelings about people that come into town, buy or rent property, bring in staff, pay taxes, and are part of the community; they are at a disadvantage to a hot dog cart or a food truck. Any other comments?

Commissioner Pane: In April 1992, one of the requirements was "vendors shall not locate within a thousand foot radius of the front door of a restaurant or other establishment where prepared food is provided", so that was covered back in '92. I think we just need to honor some of this information that was previous covered.

Commissioner Serra: I agree with what has been said by the Commissioners so far. I would like to see the application form that Berlin uses put into use. It has a check and balance. It would seem like a very good system and I think we need that. I agree with Commissioner Pane.

Chairman Aieta: The consensus is that they are not in the regulations, so they are prohibited. A good point that Commissioner Pane brought up is that if there are other areas in town that vendors want us to review as possible additional locations for on-street vending, that we would consider that.

Craig Minor: As in, we would consider asking the Town Council to expand the list.

Chairman Aieta: We would make a recommendation to the Council to expand the list. Another point that Commissioner Pane brought up is that, for the locations that we have, we should probably mark the area of the street where they are approved for.

Craig Minor: Yes, a hundred foot stretch, or whatever.

Chairman Aieta: Or even designate certain parking spots where we don't want them, because, I'm thinking of Constance Leigh, if you are too close to the Cedar Street intersection or too close to the exit and entrance of the town parking lot, it could be a safety hazard. I

don't know how we would do this, but we could go out and physically determine where we would want them, and then get the Town to stripe the two spots. We could send somebody to Holmes Road and say, "just look at the pavement, you will see where you are supposed to be because it will be stripped out for vendors".

Commissioner Serra: I would like to say one more thing as far as the applicant is concerned. I just want you to know, I have heard great things about your food, about your operation. This is not anything against you; it is the regulations that we have to follow. Wherever you go I'm sure you are going to do well. I've seen the feed back, I've seen the social media, everybody is raving about your food, so please don't think this is something personal against you. It absolutely is not, but it is something that we have to follow through on, so I just want to wish you good luck and hope you find a good spot.

Chairman Aieta: He is on the agenda for further action.

Chairman Aieta: On the rear lots: keep this on the agenda, and proceed with updates with the application form from Berlin. Let's follow that through until we get it done.

## **X. OLD BUSINESS**

### **A. Petition 03-16: TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks Tent Sale at 56 Costello Road (T-Bowl Lanes) Keystone Novelties Distributors LLC, applicant; CMB inc. owner, Chris Cook, 201 Seymour Street, Lancaster PA contact.**

Commissioner Sobieski moved to approve, with conditions, Petition 03-16: TPZ Approval (Section 3.23.1: Accessory Outside Use) for Fireworks Tent sale at 56 Costello Road (T-Bowl Lanes) Keystone Novelties Distributors LLC, applicant, CMB inc., owner, Chris Cook, 201 Seymour Street, Lancaster PA, contact."

#### Conditions:

1. Prior to use of the tent, the applicant shall obtain approvals from the Newington Fire Marshal and Building Department.
2. The applicant shall not place any temporary signs on the ground anywhere in the Town of Newington.

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

### **B. Petition #11-16: TPZ Approval (Section 3.23.1: Outside Use) for Food Truck at 2199 Berlin Turnpike (S&N Discount Liquors). Ferida Mohammed, owner; Luis Vallejo, 26 Monte Vista Avenue, Newington CT, applicant/contact.**

Chairman Aieta: Before you read the motion, the applicant is here. Is there any other location that you could possibly go on a public road?

Luis Vallejo: No, on Market Square, that is the only one. I checked the other locations and there is no traffic at all. Maybe because of the weather, maybe it is seasonal, but I want to make a few points based on the private property. The only town that does not allow this on private property is Newington. You can go to New Britain, you can go to Berlin, you can go to Rocky Hill, you can go to Hartford and everybody allows this on private property. You can't

be within 500 feet on whatever property you have. The other thing is, the difference besides a food cart, a sandwich cart, a hot dog cart, is the food safety for customers, because a cart doesn't have a freezing compartment, you don't have hot water for hand washing. When the person gets a hot dog and gives you the money, the food regulations say you need to wash your hands, every time when you change your gloves. How are people going to handle that in a hot dog cart? It's not about the size of the truck, it's about the safety of the customers because that is what we are looking for. The other thing is, you ask me why Newington? One, I'm a resident here. I don't want to bring my business to Hartford, or New Britain, because I have lived here for twelve years. I pay taxes on my truck, I built this truck, it's a \$35,000 truck. I pay taxes on everything that I buy for the truck. I pay taxes every two months. The average ticket for my business is \$2.50. It's the average for a customer compared with a restaurant, they have \$12, \$13 per ticket. We sell it cheaper. I'm basically fast food. I don't compete, like they said the last time, with Puerto Vallarta. We don't have the same menu. I make payroll, I pay myself, I pay my employees, I pay for the place that I park, and I pay taxes. Every time I go out to buy food, I pay taxes on the food that I buy.

Chairman Aieta: The Commission's point is that if we allow this on private property we would get a glut. We would have them up and down the Berlin Turnpike, we would have them in neighborhoods, and we would have them in places where we don't want them to be. I hear you that other towns might allow them, but that's the way that they interpret their zoning. We do it differently here in Newington and going back in history, we prohibit them, and they are not in the regulations.

Luis Vallejo: Now, I have another question. You gave a hot dog cart, the previous owner, I have a copy of the permit for six months for a hot dog cart. But you say the sign on the truck is too big, so we cannot give you a permit. The hot dog cart is smaller, the taco truck is bigger. My question is, if I bring a small cart, can I have a permit?

Chairman Aieta: This is not a public hearing. I asked you to come up for a specific reason, to ask if you found another area that you would like to be in. As for the size of the cart, we don't allow them; it doesn't make any difference as to the size. As for the permission that they granted to the package store, he came in and said his son was going to do it for two months, and we allowed it on a temporary basis. You are looking for a permanent operation there.

Luis Vallejo: I stay until 10:00 p.m., and you told me, we cannot give you (inaudible) or summertime, we cannot give you this time, it's up to you. I submitted an application and I am here to see, what is the difference, maybe you can say, "You cannot be there until 10:00 at night, maybe until 6:00." Okay.

Chairman Aieta: We have taken that into consideration and the only reason we even allowed you to come in is because of the mis-information that you got from the Town Hall. We thought it was fair to you to be able to state your case. We didn't even have to do that, because the regulations are clear that they are not an allowable use because they are not mentioned. They are not mentioned in there. That's where it is.

Commissioner Serra moved to deny Petition 11-16: TPZ approval (Section 3.23.1: Outside Use) for Food Truck at 2199 Berlin Turnpike (S & N Discount Liquors.) Ferida Mohammed, owner, Luis Vallejo, 26 Monte Vista Avenue, Newington, CT applicant/contact.

The motion was seconded by Commissioner Pane. The vote was unanimously in favor of the motion to deny.

**C. Petition #08-16: Site Plan Approval at 712 Cedar Street ("Starbucks").  
Fenn Road Associates LLC, owner/applicant; Attorney Mark Shipman, 433  
S. Main Street Suite 319, West Hartford CT, contact.**

Commissioner Pane moved Petition 08-16 Site Plan Approval for 712 Cedar Street, Starbucks, Fenn Road Associates LLC owner/applicant; Attorney Mark Shipman, 433 S. Main Street Suite 319 West Hartford Connecticut, contact, be approved upon the condition that the Town Engineer, Chris Greenlaw sign off on all of the drainage and the Town Planner sign off on any other requirements.

Craig Minor: Can we make that, "sign off on the letter of February 12, 2016".

Commissioner Pane: ...sign off on the letter of February 12, 2016 and it meets any other requirements of the Town Planner before the Chairman signs the mylars.

Craig Minor: Can we also reference my letter of February 19?

Commissioner Pane: And the Town Planner's letter of February 19<sup>th</sup>, 2016.

Commissioner Sobieski: I would just like to make sure it is clear that any recommendations of the Town Engineer have to be followed by the applicant. I want to make sure that is clear because as I stated the water is a concern.

Commissioner Pane: He has to sign off, he has to be totally in agreement.

Commissioner Serra: I just want to re-state for the record that I am not in favor of this, that I think we should wait for the Town Engineer's report and that I think we are doing ourselves and the Town a disservice.

The motion was seconded by Commissioner Miner. The roll call vote was in favor of the motion, with five voting YES and two NAY (Serra, Sobieski).

**XI. PETITIONS FOR PUBLIC HEARING SCHEDULING**

**A. Petition 06-16: Zoning Text Amendment (Sections 2-4.) TPZ applicant/contact.**

Craig Minor: This is the regulation that the Commission has been working on for the past year or more. I'm suggesting we have a public hearing on Sections 2-4. They are fifty-five pages which are fairly typical of the amount of changes that are involved, so I think that is a doable amount in one night. These changes need to be sent to CRCOG thirty days before the hearing, so I recommend that we schedule the hearing for April 13<sup>th</sup>.

Chairman Aieta: Any questions from the Commissioners?

Commissioner Pane: Will the Planner be sending CRCOG the whole change or just a portion of it?

Craig Minor: I was just going to send Sections 2-4, because that is all that we are hearing at the moment

Chairman Aieta: Why don't you send the whole thing so we can move right into it?

Craig Minor: Not the same night?

Chairman Aieta: No, that way you don't have to keep waiting 30 days.

Craig Minor: Okay.

## **XII. TOWN PLANNER REPORT**

### **A. Town Planner Report for March 9, 2016.**

#### **1. Zoning Enforcement Issues Raised at Previous TPZ Meetings;**

At the last meeting a citizen asked if the contamination of soil at 475 Willard Avenue had been brought to the attention of the Central Connecticut Health District which was a condition of approval. The answer is yes. It was mentioned verbally to a CCHD staff person a few days after the special permit was approved, and again by email about a week later. I do not know what the outcome was. Commission members who were here last year might recall, there was a fair amount of discussion about the contaminated soil issue, and whether the Commission should wait until we heard back from the Health District before approving the permit. But the Commission's decision was to approve the permit with the condition that the issue be brought to CCHD's attention, to make them aware of it. It clearly was the Commission's intent not to hold up operation of the event pending whatever CCHD chose to do or not do about it. So the application was approved that night. Nancy Brault of the CCHD was in the office a couple of days later, so I mentioned it to her, and then I followed up with an e-mail a few days later. I don't remember what her reaction was when I told her about it, so I looked back through my emails but I did not get a written response from the health District to it. But the condition of approval was that the matter be brought to the Health District's attention. That was done.

Commissioner Sobieski: Mr. Planner, was it the soil or the water that is constantly being pumped out of there?

Craig Minor: The ground water.

Commissioner Sobieski: Apparently there is some chemical in there, and that has been going on for a number of years, and I think at this point may go on for another ten or fifteen years until it meets the criteria. If I remember correctly the MDC was complaining about having that water dumped into their system, so they apparently have it cleaned up enough that DEEP allows them to dump directly into the brook. I don't know what if anything the Central Connecticut Health District can do on that. I think somebody needs to monitor it, I don't know who.

Chairman Aieta: It is being monitored, the water is being treated.

Commissioner Sobieski: What I'm saying is that it needs to be watched and we should get some type of report from somebody as to what is going on out there.

Commissioner Serra: Part of that approval was that there was to be no outside activity. With everybody being inside the building, we didn't feel it would be a major issue. The applicants did state that there would be no outside activity at that location.

Chairman Aieta: I remember the meeting well, and I know that they brought that up. I think we made that part of the motion.

Commissioner Serra: We did.

Craig Minor: I can ask the ZEO to contact Fun Quest and confirm that they are not doing anything outside.

Commissioner Serra: Maybe I'm a little naïve in this area, but I don't see an issue as long as they are inside that building. They are not playing in the area where the decontamination is happening.

Chairman Aieta: This is not on top of the ground, it's ground water they are treating on site to the point where they can dump it into Piper Brook, so apparently the treatment method is pretty good. They got it cleaned up to where DEEP allows it to be dumped into the watercourse. To monitor it, I don't know how you would do that.

Craig Minor: I don't know that we need to. It's not our department.

Commissioner Sobieski: Mr. Planner, is that water being piped into Piper Brook, or dumped into an open field? Do you know for sure?

Craig Minor: I think it's being returned into the ground, but very close to the brook, which is why they needed to get Wetland...

Commissioner Sobieski: Is there some kind of piping system from where this is being treated to Piper Brook? Is that my understanding?

Craig Minor: Yes.

Commissioner Sobieski: I just want to make sure that it is not being spilled onto the sedimentation or holding (inaudible) and dumped into there. I don't know, I'm asking the question here. I'm a little concerned with this, I mean, granted you can keep the kids where you want to keep them, but kids are kids, and they are going to go out, and I don't want them falling into that.

Commissioner Serra: Just a question. Isn't this something that falls under Wetlands for their purview? Maybe we should have them monitor and look at, if it even needs to be monitored.

Commissioner Pane: I was just going to state, I think they reviewed this, and I'm sure DEEP is watching it closely.

Chairman Aieta: It was brought up at a TPZ meeting by an alternate on the Wetlands Commission, and he is here tonight, so when he comes up for public comment, we'll ask him to check with his Commission to see what they are going to do as far as monitoring.

## 2. Streetscape Program Phase VI:

Craig Minor: The project committee has finalized, reached a consensus on the final design of the project. There will be, the consulting engineer will now prepare plans and when they finalize their design I'm going to be sending a memo to the Town Manager asking her to put it on the agenda for the Town Council, and to be referred to TPZ for an 8-24.

## 3. LID Moratorium:

Craig Minor: I will read this one, from my memo:

“Last year, the TPZ voted to temporarily exempt homeowners who want to build a garage or remodel their homes from the LID (Low Impact Development) zoning regulations.

The TPZ had found that the LID regulation increases the cost of such projects by up to \$3,400 and puts a paperwork burden on home-owners. Also, it is debatable whether the benefits of LID justify the burdens. TPZ therefore put a freeze on the regulations to give the staff time to get familiar with them and to figure out exactly how they should be changed to give homeowners permanent relief. The moratorium expires on March 1, 2016.

The LID zoning regulation itself is fairly simple, because all of the complicated design details (rain gardens, dry wells, infiltration trenches, etc.) are not in the regulations: they are contained in the “Low Impact Development and Stormwater Manual for the Town of Newington”. So to make this moratorium permanent, we need to amend the Manual. The Manual, however, is used by several land use boards and Town departments, so any change that TPZ wants to make to it should be referred to each of them first, and then approved by the Town Manager. I will have a draft of the necessary changes for your review at the TPZ meeting on March 9, 2016.”

As usual, I was overly ambitious when I wrote this memo. I have talked to the Town Engineer several times about this, he has some very strong ideas for corrections, because we found a few errors in the manual.

Commissioner Pane: Could the Town Planner ask the Town Engineer to come in and present his information directly to us about the residential changes that he would like to make? Also I'd like to talk to him about low impact development as it relates to commercial development. I talked to him briefly and he expressed some concerns about the impact that it has on commercial development, especially for the Town of Newington, since the ground in the Town of Newington is mostly clay. LID is extremely hard to do here. It's also been very burdensome on him and the staff. As a matter of fact, I think it even affected the budget where he might want to be hiring somebody else.

Craig Minor: Okay, I'll ask him.

Commissioner Pane: While we're on that, Mr. Chairman, could we have the Town Planner send another request to the Acting Town Manager for staff to attend our meetings?

Chairman Aieta: Are we still in agreement that we want the staff here at our meetings?

Commissioner Miner: That was brought up at our December 9<sup>th</sup> meeting.

Craig Minor: Okay, I'll do that. That's all I have.

### **XIII. COMMUNICATIONS**

None

### **XIV. PUBLIC PARTICIPATION (for items not listed on the Agenda; speakers limited to two minutes.)**

John Bachand, 56 Maple Hill Avenue: Yes, I'm an alternate on the Conservation Commission, but some of what I learned happened before I was on that commission. I just want to say, as Commissioner Sobieski said, that it is important to understand that the contamination is supposedly in the water, so we don't know how much of the site is actually impacted, but it originated inside the building. When the two consultants were at the Conservation, that is when I was not on the Commission, they kind of went above and

beyond, because they were asked a lot of questions, and some of it they didn't have the exact answer to, but they offered some insight into what happened there. What happened is that Barisol which is an industrial degreaser was dumped into pits inside the building, into sump holes in the building, and soaked into the ground under the building, through pipes and also that is how it migrated to the ground water table, because the ground water is probably only seven feet down there. So the idea of keeping the kids from outside, if they were outside, the air would probably be fresher, they are not going to come into contact with it on the ground, on the surface of the ground, or anything like that. The big question, and this was from one of the consultants, was the potential, she didn't say it was happening, that it could vaporize inside the building. I suspect, people aren't getting sick there, people have been working there for year, but I think when children are involved, the Commission was pretty wise to be critically concerned about it. I think the Planner did what he was supposed to do. I just wonder if it is worth maybe a follow-up with the Health Department just to see.... I don't think they are in the business of giving their stamp of approval on industrial sites and that's another thing. Industrial properties are kind of immune from disclosure. There is no disclosure on industrial properties. So it's kind of buyer beware. I think it is something that may come up in the future too, so maybe we should pursue this a little further. I will convey the message to the Chairman. I'm not sure exactly what you think he should be doing with it, but I'll follow it up and see, and I just wanted to ask the Planner if maybe it was worth contacting them again and see, one way or the other, either they are going to have an opinion, or they are going to say, no, we can't do that.

Commissioner Sobieski brought up the traffic on Cedar and Alumni. I think that is a great idea, and if you recall, there is a very comprehensive plan out there somewhere, I don't know if you still have it in the building, but it was a huge plan. They had a mylar that was eight feet by five feet at one time when they were going to do that whole realignment, so that may be around somewhere. I think it may be similar to what you are recommending now, so you may work off of that. I think it's a good idea that you spoke with the gentleman, I believe that you mentioned his name, that lives up in that neighborhood, because he really rallied those people and those are the ones that pretty much shut it down, I'm not saying it was him, but that neighborhood shut it down, the original plan because two houses had to be bought at that time. Those people are long gone now, I don't know if the new plan requires any homes to be taken, or any new streets to come out into Alumni Road, but again, there is a very comprehensive plan out there. Actually, right across the street from my house the lots are designated, in other words, the road, I'm not sure if your plan is that comprehensive, but to take Maple Hill and align it with Alumni, you would have to go behind houses that are on Maple Hill and that is still designated, the property is laid out like that, so the owner there still hopes that that could happen someday. He has some other lots, that might open up some commercial property in the back there, so he probably would be receptive to that. It's a pretty big, I would live right across the street from it. I don't think I'm against it, but anything that would help the safety along that road I am for. How it affects me, and my front door, I can live with.

One more thing. Amara, which was mentioned for a second, I wonder if the Planner has any update on that? Have you heard anything?

Craig Minor: The short answer is no.

John Bachand: As you are considering the regs, I just wonder if the Commission could ask the Planner to research what other towns are doing about backyard chickens. I remember that there was a pretty high profile case in West Hartford, a guy had some chickens, was popular with the neighbors, but supposedly it was against the regs and I don't know how they settled that, and how other towns are treating it. You mentioned the last time, the way the regs are, you have to have five acres for a farm, and you need a farm to have a chicken - but

you only need one acre for a horse, so I'd like you to revisit that too. I'll revisit that at another time, try to put a plan together. Thank you.

Chairman Aieta: Any other public participation?

**XV. REMARKS BY COMMISSIONERS**

Commissioner Sobieski: Just to let you know, the Alumni Road traffic signal plan that I came up with will take zero property, no private property is involved, no houses, no other property at all. I don't want it to get out, to have anyone get the idea that this would involve taking any houses or property.

**XVI. CLOSING REMARKS BY THE CHAIRMAN**

None

**XVII. ADJOURN**

Commissioner Miner moved to adjourn the meeting. The motion was seconded by Commissioner Pane. The meeting was adjourned at 9:30 p.m.

Respectfully submitted,



Norine Addis,  
Recording Secretary