

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

May 13, 2015

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

**I. PLEDGE OF ALLEGIANCE**

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

Commissioners Present

Commissioner Frank Aieta  
Commissioner Carol Anest  
Commissioner Michael Camillo  
Chairman Cathleen Hall  
Commissioner Kenneth Leggo  
Commissioner Robert Serra Sr.  
Commissioner Stanley Sobieski  
Commissioner Brian Andrzejewski-A  
Commissioner Anthony Claffey-A

Commissioners Absent

Staff Present

Craig Minor, Town Planner

**III. APPROVAL OF AGENDA**

Chairman Hall: Does everybody have a copy of the revised agenda. That is the one that we will be working off of tonight. There are no changes, is that correct?

Craig Minor: Correct.

**IV. ZONING ENFORCEMENT OFFICER REPORT**

Mike D'Amato: Pretty much the same as last month. There are a couple that took a while to take care of, and I have been spending a lot of my time on blight, which is somewhat related.

Chairman Hall: Does any one have any questions for Mr. D'Amato?

Commissioner Aieta: Did you check the item I asked you about?

Mike D'Amato: Yes, I looked at it yesterday and I'll probably get something out to them tomorrow. I just haven't had a chance to do it.

Commissioner Aieta: That's okay, as long as you're aware of it. The items I'm referring to is on Pane Road, where there is a limousine parked on the front lawn and the limousine company is across the street, it's not even on their property, so I asked the Zoning Enforcement Officer to send them a notice.

Commissioner Sobieski: Mike, are there any repeat violations that, say, you clear up today and then in four or five months it starts all over again?

Mike D'Amato: There may not be any on this particular report. If I do, it's mostly signage. When I was here last I said I was developing handouts to give to people, because I will always assume at first that they don't know, so I may send them a notice of violation so that they know what we allow and what we don't allow. I have had some sign violations where they come down, and then go back up on the weekend, they get a notice, we're playing cat and mouse tag. Those signs that you see that wave back and forth, there is a base in the ground that is there all the time, so when they buy the sign, the base goes into the ground. So when they pull the flag down, the base stays in the ground. Now I do cite them for the base as well, but a lot of these people just leap frog, I've dealt with that, but it's the type of thing where I will never give them a citation because it is so easy to correct. It's not a vehicle, it's not a shed, it's not something like that, you're on the Berlin Turnpike and ten thousand cars drive by, if it's up for six or seven hours, that's a lot of people looking at your sign. So I think there is a little bit of, they're willing to take a chance, but I haven't had anything else yet.

Chairman Hall: At 512 Cedar Street: I'm wondering if the sign there is the one that used to be on the Berlin Turnpike. There is now a 4 x 8 sign in the parking lot as you come in.

Mike D'Amato: 512 Cedar Street, yes, the sign that was on the Berlin Turnpike. I got an e-mail from the DOT, and it ended up coming down, but it was advertising 512. Is that the one that you are talking about?

Chairman Hall: It's been the last two or three days. It's on a board, painted letters with a little symbol on it.

Mike D'Amato: They just probably just put it up. Like I said, a lot of this is education and I assume that they don't know that we don't allow certain things in certain places. It could very well be the same sign. It was about 4 x 8, so maybe they just moved it. That's the thing, if they have the sign, what are they going to do with it? They'll put it up, and if they get a couple of days out of it.

Chairman Hall: It's the last sentence that says, free standing signs must be approved by TPZ. Thank you for your time.

Mike D'Amato: The other thing I wanted to mention, you likely will see a tent going up at the Gospel Hall. It's not a special event that we tried to circumvent you, they are just starting to hold some meetings outside, nothing out of the ordinary. I wanted to bring some things to you other than the report where the addresses just change. There is a lot more that we do, we are involved in different things. 345 East Cedar, they have characteristically for a long time had their services outside to take advantage of the weather. They are not planning to have any special events, they aren't attracting any people that normally wouldn't come, and they are not providing any additional services. It's like an elementary school recess.

Commissioner Aieta: In their location it won't be a problem, but I wouldn't want to see this in the churches that are in residential areas.

Mike D'Amato: We haven't been approached by anybody else. We certainly would look at all the other things that would go into it. A lot of the reason we went this route and decided it was allowable, about ten years ago they, Ed brought this to the TPZ and then brought it up and explained what was going on, and staff imposed certain conditions and it was not voted on because it was an approved use and didn't fall under the purview of the TPZ, but in keeping the same procedures, as a courtesy notification, that's why I'm bringing it to you.

Commissioner Aieta: You say it's an approved use, it's not an approved use.

Mike D'Amato: The church?

Commissioner Aieta: No, the setting up of tents. It's not in the zoning regulations, so it's not an approved use.

Chairman Hall: Thank you for coming and we will see you next month.

**V. OLD BUSINESS**

**A. Petition 09-15: Site Plan Approval (Continuing Care Retirement Community at 751 Russell Road, HDC ONE LLC, owner, Amara Community Living LLC, applicant, Kari Olson, Esq. City Place I, 185 Asylum Street, Hartford, CT, contact.**

Craig Minor: We received a few items since the last meeting that I have placed in front of you. The first item is from the applicant's attorney stating that Hunter Development Company joins in the application for the site plan approval. They were the original applicants for the Wetlands permit, so just to dot all the i's and cross all the t's, the original wetland permittee is now officially a co-applicant. The second document is a letter from Attorney Paul Baccari, on behalf of Michael Frisbie to Attorney John Harvey, who is the Jensen Machine attorney, and this letter spells out the attorney's position regarding the Jensen Machine property. If anyone has any questions they can ask me and I'll attempt to answer them. The next item is a letter from John Bachand who questions some of the things that were said previously about the wetlands permit. I told Mr. Bachand that I would relay his letter to the Commission, and here it is. The next item is a memo from the Town Manager regarding the town's position on a traffic light on East Cedar Street. We can discuss this in more detail later if it is relevant. The last item is a draft motion which the Commission can take up whenever they are ready.

Commissioner Anest moved to approve, with conditions, Petition 09-15: Site Plan Approval (Continuing Care Retirement Community) at 751 Russell Road, HDC, ONE LLC, owner, Amara Community Living LLC, applicant, Kari Olson, Esq. City Place I, 185 Asylum Street, Hartford, CT contact.

**Findings:**

1. The Commission has compared these plans with the plans that were approved by the Conservation Commission per COA #2006-26. The Commission finds that the amount of wetlands and upland review area disturbed by these plans is the same as the amount disturbed by the 2006 plans. Therefore, the applicant has complied with CGS Sec. 8-30 (g)
2. The Commission acknowledges that East Cedar Street and Russell Road are both state roads. Therefore, any site plan approval granted by the Commission shall be subject to approval and possible revisions by the State of Connecticut Office of State Traffic Administration, formerly known as the STC.

**Conditions:**

1. This approval is for the site plans prepared on March 4, 2015 revised April 7, 2015 and as further amended below.

2. Grading and drainage plan (Sheet C-2) The plans shall be amended to comply with the LID requirements of Newington Zoning Regulations Section 6.15.3 to the Town Engineer's satisfaction.
3. Grading and Drainage Plan (Sheet C-2); the plans shall be amended to revise the shared driveway to Jensen Machinery as discussed during the TPZ meeting on April 22, 2015. The applicants may use either Option One, Two or three, whichever is their preference. This revision shall be reflected in an easement in favor of Jensen Machinery to be recorded by the applicants on the land records.

Commissioner Anest: Shall I read Condition #4?

Craig Minor: We can come back to it.

Commissioner Anest: Five. "The applicant shall submit design calculations for the retaining walls in accordance with Section 7.4.8.B prior to plan endorsement."

The motion was seconded by Commissioner Aieta.

Chairman Hall: We will now go into the discussion. Now, the items that we did not read - make sure that you read these because they will fit into our discussion at some point; make sure that you are familiar with A, B, and C.

Commissioner Aieta: I would like to start with condition three, which is the grading and drainage plan for Jensen Machine. I'm not comfortable with having three options. I think we should clarify exactly what we want. It should be where Jensen Machine is coming out of this thing whole. They now have entry from Russell Road onto the property, so when we finish they should have at least that, or something better, in my opinion, and we should clarify or the applicant should at least come up with an agreement that is acceptable to Jensen Machine.

Commissioner Anest: I concur with Frank. I do not like that the applicant has the ability to decide what options Jensen has. I do understand that DOT has to make a decision, but I think it should be in conjunction with Jensen Machine. That they should have at least the same entry that they have now and it should be their preference, and not the applicant's. I also want to know, and I know that you can't answer this, but the easement, the special easement, I wonder if there is an easement right now for Jensen Machine?

Kari Olson: May I respond?

Chairman Hall: Would the other Commissioners like to know if there is an easement?

Commissioners: Yes.

Kari Olson: Currently there is no easement. Jensen's rights to use that access would not stand up in a court of law. That being stated, we do remain committed to providing them with access to their property. If you would prefer to condition this on Option One, which is the driveway, but wider, that would be giving them what they have but a little wider. We were actually trying to leave the door open for other options that we could pursue with the DOT depending on what they decided. Clearly we are committed to giving them no less than what they already have, even though their rights have not been established. We have already committed to that. You have seen the letter from Attorney Baccari and we have no problem with this as a condition of approval. We stand by Attorney Baccari's letter.

Commissioner Sobieski: I still have a problem with an eighteen wheeler backing down that driveway to Russell Road. I'm sorry, I have a big problem with that.

Kari Olson: I'm going to say first of all, those are existing conditions, but I suspect that the DOT or OSTA will be concerned and it will be addressed. Again, we have put forth three different options to pursue. I understand your concern and I'm sure they will have the same concerns, and we really have to put our faith in the agency to do their job.

Commissioner Aieta: Does the Commission show any sense of the three options?

Craig Minor: I have an e-mail from Jack Jensen to Mike Frisbie dated April 22<sup>nd</sup>, and I'll read it:

Dear Mike,

Thank you for your email of today's date. Obviously Option 1 is in both parties best interest and I would request that the same be made a condition of your site plan approval with the understanding that the only reason it would not be pursued if for some reason the DOT refused the road cut onto Russell Road.

Craig Minor: Option one is to go north.

Kari Olson: Option three is the closest to what they have now.

Craig Minor: Option one is like the mirror image of what they have now. It would go north, and maybe even nick the corner of the Humane Society property. Reading Mr. Jensen's response to Mike's letter, and reading from Mike's letter:

Option 1: Construct an entirely new driveway, approximately 24-ft in width, from Russell Road within the roadway right-of-way. The new driveway would originate north of the Jensen property and connect to the north side of the existing Jensen parking lot.

Craig Minor: Is everyone visualizing that?

Option 2: Improve the currently proposed common drive concept by orientating the proposed Amara two-way drive at as close to a 90 degree angle with Russell Road as possible. Access to the Jensen property would be via a north/south connection, approximately 24-ft wide, that intersects the Amara drive at 90 degrees. This configuration would allow trucks to access the Jensen drive via right turn off of the Amara drive. The trucks would exit by backing down the drive to the Amara property, then making a right turn while moving forward to exit facing forward on to Russell Road. Currently many trucks exiting the Jensen facility back out on to Russell Road.

Craig Minor: So I guess that is like a K turn. Then, option three:

Option 3: Improve the currently proposed common drive concept by establishing a stop sign and stop bar within the proposed Amara driveway that would have drivers exiting the Amara driveway stop prior to reaching the intersection with the proposed Jensen Machine driveway. The intent of the proposed stop sign and stop bar is to reduce the possibility of conflict between a vehicle exiting the Amara facility and a backing truck exiting Jensen Machine.

Craig Minor: So, can you visualize those three options? So, let me go back to Mr. Jensen's e-mail.

Dear Mike,

Thank you for your email of today's date. Obviously Option 1 is in both parties best interest and I would request that the same be made a condition of your site plan approval with the understanding that the only reason it would not be pursued if for some reason the DOT refused the road cut onto Russell Road. I would request assurances that the new driveway will be constructed to support delivery vehicles which can weigh up to 60,000 pounds. It is my understanding that typically paving is done in two stages with a so called 'rough coat' followed by a top coat and both the paving and the load bearing of the driveway would be based upon recognized and generally accepted construction standards. In addition, any drainage issues would be resolved at your expense during the construction process.

Should you have to proceed to Option 2, any new construction of the driveway would meet the criteria referenced hereinbefore in Option 1.

Should you have to proceed to Option 3, the same construction standards would apply as to any new work on the driveway and the proposed grading as shown on the plan of April 8, 2015 prepared by Benesch Engineers.

I would also appreciate confirmation that there will be an access easement running along your northerly property line adjacent to my southerly property line to allow access to the rear of our building. You will fill and grade the easement area to match the existing grade of our southerly property line which I understand is what your plans may already call for.

Be assured I am most anxious to work this matter out for our mutual benefit and appreciate your cooperation.

Very truly yours

Jack Jensen

Kari Olson: As I reiterated, there really isn't a condition of approval on our application on the acceptance of an abutting property owner. I mean, that is pretty well established under the law, but other than that, to pick one of those conditions when we don't know what the DOT is going to require really kind of hamstring us. You pick one option, the DOT says no, we don't have a permit. The third thing, his requirement to the access to the back of the building goes far beyond anything that my client should ever be obligated to do. He does not have access to that now, he doesn't have rights of access, and it's totally on his own property. If he wants to create access to the back of his property, it's really unfair to burden my client with that.

Chairman Hall: Anyone else on Three?

Commissioner Anest: I understand this is up to DOT, but if DOT says we could do Option One or Two, could we put in there that it would be mutually agreeable to both parties rather than the applicant?

Craig Minor: I agree with Attorney Olsen. It's not good to put an applicant at the mercy of a third party.

Chairman Hall: So Three is the option that they have currently, with an improvement, with the stop sign.

Craig Minor: Correct.

Commissioner Aieta: That's not the ideal situation either. Backing down that driveway with an 18 wheeler, that might suffice now when there is nothing on the street, but you are going to have an entrance for employees and a loading dock there, for this facility going in the same entrance.

Chairman Hall: There again, there is nothing we can decide at this point. We have to wait for DOT. I think maybe we could eliminate One, I think just by the look on everyone's face, we felt that one of them was not a very good option.

Craig Minor: Option Three is the least desirable. Option One is the one going to the north; Option Two is.....

Chairman Hall: The ninety degree angle, and still backing down.

Commissioner Aieta: You can't do a ninety degree angle off of Russell Road onto that property. The grade change from Russell Road and the parking lot of Jensen Machine is too severe. That's why they're driving, the driveway they have now is diagonally across the front of their property, and that is why they are trying to alleviate the high grade there. They are trying to make it a less than ten percent grade for trucks to go up and down. A ninety degree entrance on there is almost humanly impossible. The grade is too high, and the distance is shorter. So that one probably wouldn't work.

Craig Minor: Option Three continues the situation of a Jensen truck backing into Russell Road. Let me read this again: "Improve the currently proposed common driveway concept by establishing a stop sign and stop bar within the Amara driveway", which would be over here, "which would have cars exiting the Amara driveway stop before entering the intersection..."

Chairman Hall: Stop bar, so that when a truck was exiting the cars are stopped, coming down. The trucks currently come down like this, then down like this, but then the trucks will still have to make a ninety degree turn.....

Commissioner Leggo: They are backing down, and would have to come over.

Craig Minor: That's our understanding of Option Three. I don't think that's so great either. But any one of these is better than what is there now. Anyone of these is an improvement. I think if the Commission chooses one that the Commission thinks is best, and that is what the applicant goes to the DOT for permission to do, unless it's really unsafe the DOT will approve it. They don't like to deny people. The DOT will work with an applicant, but if the DOT says no, then the applicant will come back to you, and I'm sure you will be willing to work with them at that point.

Chairman Hall: Can they come back, though?

Craig Minor: Come back to TPZ for a second modification? Sure. They would have to pay for fee, but they could come back. Or you could state now that the fee would be waived.

Commissioner Serra: With the discussion, going through all these options, it appears to me that the safest, the best option is option One. It's the safest for people going through there, it's the safest for people coming out of Amara, it's the safest for the truck driver, for Jensen Machine, I see that as the only viable option, so I'm recommending that we go with that.

Commissioner Leggo: I agree with Commissioner Serra. I think option one is the best for all concerned.

Chairman Hall: Any other comments?

Commissioner Camillo: I've been up there, there is no room for the trailer trucks to turn around, that's why they back down, and DOT may not give you a curb cut there. They are going to have to come back, why don't we leave all three on the table and let DOT decide, just as Craig said. We don't want to have them keep coming back here. There is really no good solution here. I think we should keep all, and let DOT decide.

Commissioner Aieta: I was just, just to make a clarification, I was trying to come up with a way to have Jensen Machine and this applicant come to an agreement that they both could live with, and I didn't want, I was trying to clarify and not have all these different options out there, but after the discussion and then hearing what the attorney had to say, I think the only way to do this is to have the three options now, and it's cloudy, it's not the best decision, and with both Cedar Street and Russell Road, being state highways, the ultimate decision is going to be with the DOT, so we might as well send it to them, with the three options and hopefully Jensen comes out of this with a driveway they can.....

Chairman Hall: They will have a driveway, in each case. In each case, it isn't as if there is one that would preclude them from having access to their property.

Commissioner Aieta: And in listening to the applicant, it's almost as if, they have a right to go through there, because they have been doing it for so many years, but there is really nothing on the land records right of way, that should be cleared up also, that it is a permanent right of way, and that should be cleared up with one of these options. My recommendation would be to leave it, we've discussed it, and to pick one of the three is not going to be fair to the applicant, and I don't know if it would be fair to Jensen Machine either.

Commissioner Sobieski: I agree, I definitely don't want to see Jensen hurt, and none of these are really fantastic ideas. Let the STC come up with the solution, I'm sure they are going to ask the same questions that we did about the tractor trailers backing down, but I don't want to see Jensen Machine blocked too.

Chairman Hall: And none of these three do.

Commissioner Sobieski: Right, but I want to make sure that is clear, crystal clear.

Chairman Hall: All right, the petition has been moved and seconded. I would like to take each of these sections that we have discussed and approve them as we go along, so when we get to the end we will have a full product instead of waiting for the end. So, can we make a motion within a motion?

Craig Minor: You could, but why not just go through each of them and get a consensus of each point? You don't have to actually vote, but just get a consensus.

Chairman Hall: I just want to be sure that by the end we haven't forgotten what we did at the beginning. My preference is to take each section, discuss it, vote yea or nay, and then move on, but it's up to you folks.

Commissioner Aieta: I don't know if procedurally you can do that, have a motion within a motion on conditions. I think we would be better served to stay with the procedure that we always do, and not try to create something different. I think for this application, if you have a consensus that one is not a problem, two is not a problem, three is, basically we agree that

we go with the three different options, making sure that Jensen has entrance and egress from his property, and maybe there is some different language to put in there, but then at the end, you have a complete motion, and you will be able to come up with that motion.

Craig Minor: Do you want to start with the Findings?

Chairman Hall: Yes, let's start with number one. "The Commission has compared these plans with the plans that were approved by the Conservation Commission per COA 2006-26."

Commissioner Anest: Is there a way to put on the record the minutes from the Wetlands, i.e. I know we have the 2006 approval, can we add that to the record?

Craig Minor: Yes, but I don't know what help that would be because we never looked at it.

Commissioner Anest: Well maybe we should have looked at it. I know it's too late now, but I mean, we never officially asked for a report from the Wetlands showing the 2006 approval.

Craig Minor: The permit is the report.

Commissioner Anest: I think to make a full report you need to have more.

Craig Minor: By law, the permit is the report.

Commissioner Anest: So you are saying that under 8-3 (g) all we need is the permit?

Craig Minor: You can always ask for more, but by law that is the "report" they are required to provide to you. If you want more, you can ask for more.

Commissioner Aieta: Carol, I think we were concerned and we asked the Town Attorney for his opinion, and we have some documentation from him that he saw no problem with using the 2006 permit, because basically there is no change in the wetlands. I feel comfortable with this. We asked him for an opinion, he gave it to us, and there is a record here of why we are going with the 2006 approval.

Chairman Hall: Any other discussion on that?

Commissioner Serra: I want to state, that at the last meeting I questioned Attorney Boorman, and in light of his answers this past Monday I e-mailed the Planner and asked him if we could have the Chair of Inland Wetlands here, to give us a report, answer some questions, give us something. I'm not looking for a major discussion, or an argument, I just want to have this on the record, Mr. Minor got back to me, and he cut-and-pasted Attorney Boorman's response which I knew. I asked to have him here, and my reason for that is part of my question to Mr. Boorman because he had brought it up, that we are independent Commissions but we could use them as a tool, and since this is in their purview, shouldn't we be allowed to use them? He said yes, and then went on with further explanations, why we shouldn't, so that is why I asked if we could have that report to help us tonight. Mr. Minor got back to me with what I believe, I'd have to look at the text, but "I'm just doing what I was told" was his response, I believe. I'm not one hundred percent sure.

Craig Minor: I said that I was just quoting the Town Attorney's letter. The Town Attorney's letter said that if you want more information from the Wetlands Commission then you would have to deny this application and have them start over again. And that is your option; you could do that.

Commissioner Serra: Right, and my response to that was, they would rather have us deny this application and kick it back to get a few questions answered that might make us all feel more comfortable, and that's where it ended. I just want it on the record that I did ask for Chairman Zelek to give us a report, to give us the Inland Wetlands opinion on this. That was denied based on Attorney Boorman's answer when I brought that up, so again, just wanted that on the record that I did ask for a report from Inland Wetlands.

Chairman Hall: Duly noted.

Commissioner Camillo: If it has already been approved by the Wetlands Commission, then all we need to do is see the permit. If you had any questions, you should have been there at their hearings.

Chairman Hall: Anyone else on this? For number one, do we feel comfortable with this, as it is? All right, I'll put a check next to this. Number two: "The Commission acknowledges that East Cedar Street and Russell Road are both state roads. Therefore, any site plan approval granted by the Commission shall be subject to approval and possible revisions by the State of Connecticut Office of State Traffic Administration, formerly known as the STC." We have discussed this at several meetings and I think we all understand that we are not the final verdict. Any question or comment on that, or can we put a checkmark on that too? All right, checked. We are not going to do number three at the moment, because it makes no sense without going through number four.

On to the conditions. Number one: "This approval is for the site plans prepared on March 4, 2015 revised April 7, 2015 and as further amended below."

Commissioner Anest: You have given the date, April 7<sup>th</sup> and April 8<sup>th</sup>. Could you just confirm what date it is?

Craig Minor: Sure. The original plan that first came in was dated March 4, 2015. Then in response to my letter outlining some deficiencies, they submitted a revised plan dated April 7<sup>th</sup>.

Commissioner Anest: Because you said April 8<sup>th</sup>, too, so I just wanted to make sure.....

Craig Minor: If I said April 8<sup>th</sup>, I misspoke, it was April 7<sup>th</sup>. Now, the revised plan still shows the full four way intersection, so we don't at the moment have anything on record showing the right in, right out.

Chairman Hall: So we can put a check next to number one. Number two: "Grading and Drainage Plan (Sheet C-2); the plans shall be amended to comply with the LID requirements of Newington Zoning Regulations Section 6.15.3 to the Town Engineer's satisfaction." Again, if I don't see a hand go up, I'm just going to give it a check, all right?

Commissioner Sobieski: Excuse me Chairman Hall, have these plans been approved by the Town Engineer?

Craig Minor: No.

Chairman Hall: "Grading and Drainage Plan (Sheet C-2); the plans shall be amended to revise the shared driveway to Jensen Machinery as discussed during the TPZ meeting on April 22, 2015. The applicants may use either Option One, Two, or Three whichever is their preference. The revision shall be reflected in an easement in favor of Jensen Machinery to be recorded by the applicant on the land records."

Craig Minor: Can I just modify that last sentence? "As necessary". Because not all options require an easement.

Chairman Hall: At the end.

Craig Minor: Yes.

Commissioner Leggo: After the discussion that we had earlier, is there anyway that we can leave that with three options, but say that the Commission would like to see the first option.

Chairman Hall: Or prefers, or endorses.

Craig Minor: Yes.

Commissioner Aieta: I think you would be better served by putting in here, leaving the three options and going back to the premise that the State of Connecticut has the final decision. I think you would be better served.

Commissioner Leggo: Well, we're just saying which one we endorse. They are going to decide, but if there are two or three of them, that are acceptable, I mean, we could say that we feel that the first one is the best one.

Commissioner Aieta: If you are going to do that, you should put in there that it's, that the final decision is up to the State of Connecticut, not only in the findings but also the conditions.

Commissioner Anest: And that we endorse option one, but we understand that the STC has the final decision.

Commissioner Leggo: The three options are there, we are endorsing one but we understand there are three.

Craig Minor: It would have to be re-written.

Chairman Hall: It would have to be re-written, but you are going to include everything that is there, and you are going to add. You are not going to change anything that is there already, except that you are going to add "as necessary" at the end.

Craig Minor: And, the applicant may use option one, two or three, that has to be changed.

Commissioner Anest: No, we're just endorsing.....

Craig Minor: Oh, you would prefer number one, you're not.....

Commissioner Aieta: Right.

Chairman Hall: We're not requiring it.

Commissioner Anest: We're just endorsing it.

Chairman Hall: And that is the pleasure of the Commission? Everybody wants that? Can you read that back to us?

Craig Minor: "The TPZ prefers Option One, but understands that the final decision lies with OSTA."

Chairman Hall: And that is after "as necessary".

Craig Minor: I'm also going to reference Mr. Frisbee's Wednesday, April 22<sup>nd</sup> 9:08 e-mail when I talk about options one, two and three.

Chairman Hall: Four, we have A, B, and C. I'm going to read them all first, and then we will go back and take each individually, so we will have the global and then we will be specific. Option 4A: Site Plan (Sheet C-1): The plans shall be revised to show the right in, right out entrance onto East Cedar Street proposed by the applicants during the TPZ meeting on April 8, 2015. Option 4B: Site Plan (Sheet C-1): The plans shall be revised to show the primary entrance onto Russell Road instead of East Cedar Street. Option 4C: Site Plan (Sheet C-1): This approval is for the full access entrance onto East Cedar Street shown on the original plans Dated March 4, 2015 with the addition of a traffic signal light at the entrance.

So those are the three. 4A, right in, right out...

Commissioner Aieta: I'll cut right to the chase. I think that we should go with 4C with a full entrance access onto East Cedar Street, and that we should refer back to the approval that was applied to the original applicant just like we did with the Wetlands Commission, that they should provide the traffic light and road improvements that were approved in 2006, and you eliminate everything else. That also should be noted that that is at the pleasure of the State.

Chairman Hall: Correct.

Commissioner Aieta: And that should be part of the fourth condition.

Commissioner Leggo: I strongly agree with Commissioner Aieta.

Commissioner Camillo: I agree, but again, it's not our decision, so.....

Chairman Hall: Oh right, subject to the approval by the OSTA.

Kari Olson: May I address the Commission? Just very briefly, I completely agree, and I understand that traffic is the major concern for all of you, so please, just understand, my concern is that we end up with an invalid permit. If we condition this on 4C alone, and require a traffic light for this site plan, all the warrants that we have reviewed (and our traffic engineer is here) indicate that under the current standards, the traffic light is not likely to be approved for this use because of the fact that it is a low traffic generator. I go back to the fact that there is a law that says that you can't condition approval based on third party or agency review when the likelihood of them approving is, you know, not substantial. We can provide you with the documentation showing why we understand that it will not be for warrants, the current warrants justifying a traffic light for this use and we can put it into the record for you. My concern is, if you stick with just the one option, we're going to be stuck with the situation where we have an invalid permit and one where we can't move forward with the project. I want to be clear. We want to do this project. We're excited about it, we're happy to be here, we think it's great for Newington and we want to co-operate, but we can't agree to conditions that are going to tie our hands. Alternatives are a possibility under this section as well, but everything that we have points to the fact that a traffic light, under current circumstances, is not likely to be approved.

Commissioner Aieta: Do you have the current application with approval for the traffic light and road improvements from the 2006 presentation, plans?

Kari Olson: That's correct, but that is under a different use. That's the problem. This is the lowest traffic generator that you could possibly have in this zone.

Commissioner Aieta: Do you think that DOT would say, we don't want a traffic light there? What do you think they are going to say that they want there? Nothing?

Kari Olson: The experts have told me that you do not, under current standards, meet the state's lowest requirement for a traffic light. I see Commissioner Sobieski is shaking his head yes, he understands that.

Commissioner Sobieski: I'd like to read into the record please the ADT's going up that mountain. This is the ADT from the Connecticut Department of Transportation ADT, Town of Wethersfield, considering the interchange is located in the Town of Wethersfield in 2012. 28,300 coming up to the intersection; between, on-ramp, 1,074 going off, 2,300 going off to Route 150 going southbound, Route 15 northbound coming off of the Callahan bridge has 250, going underneath the highway between that ramp and the on ramp to Route 15, northbound, 19,600 cars. Russell road off ramp, which is ramp number 170, 6,800 cars, between the Russell road off ramp and the junction of Route 175, 8,300 cars. It's an awfully big intersection, a lot of traffic involved in there, and I also did get a copy of the 2009 approval of the STC and there was a lot of information in here. I did send this to the Town Planner when I did get a copy of it and asked him to distribute it to everybody that was involved. I don't know if you have done that or not.

Craig Minor: By involved, do you mean the Commissioners?

Commissioner Sobieski: The Commissioners, yes. Okay. I was on the Commission when this was approved and in reading through this and found some high lights, I'm sure Ms. Olson has this.

Kari Olson: The 2006 approval from the STC? Yes, I don't have it with me though.

Commissioner Sobieski: I'm just going to go through a couple of them, site drive off of 175 constructed, Route 175 off ramp constructed be widened in accordance with the referenced plan; Route 175 off ramp be widened, and substantial performance with the referenced plans; all roadway and drainage improvements to the state highway right of way subject to review by the Department of Transportation; and the requirements including those pertaining to maintenance protection of traffic, satisfied prior to the issuance of the permit, work within the highway right of way. Route 175 be overlaid within the limits of the widening. It goes on, but I'm just going to go over to the traffic signal. This is, the traffic signal was approved for the site. The traffic signal will be installed on Route 175 on the westerly side of the driveway. Upon completion of this signal the Department of Transportation review, the installation and acceptance assume ownership and primary maintenance such as cleaning and minor electrical repairs. Major components replaced from an accident, vandalism, or nature or replacement due to normal wear and tear shall be the responsibility of the Shoppes at East Cedar Street, property owners. With the maintenance repair costs exceeding \$500.00, the Department of Transportation shall perform the work on this and bill the Shoppes at East Cedar Street, the property owner. It also says that the property owner will be paying for the electrical consumption of the signal. I just want that read into the record.

Commissioner Leggo: I have a little confusion here in that for some aspects of this plan. We're saying, okay, let's go back to 2006, 2009, whatever it was, but when the current plan benefits from changing, let's come up with something new, that's what we are doing. We're going with, well, he read it, there should be a traffic light, and it's been approved.

Commissioner Sobieski: Yes, and that was approved with the warrants of 483 trips a day. So, you know, we were talking a substantial generation at that time. Just to be fair and above board with everybody. That was one of the conditions. I do know that the warrants are, have to be a sufficient amount to warrant a signal.

Craig Minor: So you are agreeing that this project doesn't warrant a traffic light? Is that what you are saying?

Commissioner Sobieski: No, I was just reading what this says.

Craig Minor: I know, but it was the phrase.....

Commissioner Sobieski: I don't know what the warrants are at this time. They could have changed since I retired eight years ago. The STC or OSDA could have changed the warrant level, I'm not sure. I'm just reading what I read here. What I was nodding to in agreement with Attorney Olson was that there are certain levels of warrants that are required to put a light in. I just can't put a light in because I have \$100,000 that I don't know what to do with, I'll put a light in here. It doesn't work that way.

Craig Minor: Well, except it has in the past. I believe there are a couple of places in Newington where there are traffic lights which were not "warranted" but were installed because the Town asked for them. I think the one on Cedar Street, at that factory. So, it's not unheard of, if the town has requested it.

Commissioner Sobieski: There are several things that do generate warrants, or rather signals. Accidents are one of them, where it is necessary to have some kind of signal to avoid accidents. Not rear-end collisions, obviously, as would be in this case, but side swipes or head on collisions, or something like that. That would require a light.

Kari Olson: That is one of the warrants, accident history and other daily trips at peak, you know, off peak, you have nine of them. If you might recall, Mr. Ullman our traffic engineer expert, indicated that this project did not meet any of the warrants under the current standards, so my fear and maybe you could cajole OSDA into agreeing but my fear is if the permit is conditioned on absolutely having a light when we have an expert opinion that OSDA is not going to give us one, where does that leave us? That is my concern. So, I would ask that maybe you consider some alternatives, similar to the way that you went with the Jensen problem.

Commissioner Camillo: In '09, as Commissioner Sobieski said, with a gas station, a hotel, a strip mall. This is going to be something totally different, 40 cars a day maybe, coming and going. So we have three options for Jensen, we have three options for Cedar Street, and we should leave those up to the DOT to decide. We may prefer the light, and we can say that, we also have a letter here from our Town Manager, we can put that with the information stuff and that is the way it should go. Yes, we prefer the light, but we can't put the condition of the light when you compare it to the gas station. I think we should go the same as we did with Jensen, it should be the three options, we prefer the light, and DOT decides.

Commissioner Aieta: To move this along, I would suggest we take 4 A, which is the plan for the right in, right out, entrance on Cedar Street; eliminate 4B which is where we revised to show the primary entrance on Russell road instead of Cedar Street, that would require a whole redesign of the property putting that main entrance on Russell road, so you give them an option if they don't go with 4C which is the light and the road improvements, that they, if the state doesn't want to put in the light and the road improvements because of the low amount of entrance and exits onto this property, then we should give them the option of having the right in, right out which we discussed that night, the design of it and everything else, so those should be the two options that we give them.

Commissioner Anest: I agree with Commissioner Aieta. We should have those two, again with a preference that we would like the light, or the road improvements that need to be done. I was a little miffed that we didn't have the police report study. I think that would shed a bit

more light and it doesn't matter if it was just right in and right out, or even the near misses of the accidents that are happening up there, and traffic has significantly increased since 2009. You are talking six years, and you are talking dramatically a lot more traffic. So, seeing that, I think the DOT is going to ask for a more appropriate (inaudible). I know that we talked about right in and right out. My concern is, I think it's a good idea, but people don't obey that. I am also concerned that people are going to come down Cedar Mountain to go east, they don't see traffic coming, and they will try a U-turn on Cedar Mountain, and that might cause accidents as well. So, I'm concerned both ways, but I'm really concerned about safety, our residents, the people who are driving up and down Cedar Street, and the residents of the future Amara project. I just wanted to get that on the record.

Commissioner Serra: A couple of points I want to make. If we are going to leave these in, I say we leave all three of them in, we don't take anything out. However, I am more in favor of C, with the signal light. We had an accident there, an unfortunate accident about a week and a half ago, it was a fatality, and I know that there were extenuating circumstances, but it was still an accident. It shut Cedar down, all the traffic tried to go through East Robbins, it shut East Robbins down, a lot of people were tied up in that traffic, it took people hours to get home, it backed up the Berlin Turnpike, it was a total, total mess. We have to make sure we are doing the right thing for, as other Commissioners have said, for our residents, the residents of other towns that are passing through, going down to Route 9, trying to get home, going into New Britain, it totally tied this town up, it was just a big mess, and if we don't do this right, and there is another accident because of this, that's on us. We have to make sure we are doing this right and in my opinion the traffic light, we can leave them all in, but I strongly suggest that option for our residents because the people, and I don't mean this is a negative way, but let's face it, Amara, they come in, they work, there will be some residents there, but some non-residents, they're going to leave, who is stuck with all this is us, right here at this table right now, what we decide. We need to make sure that we are doing the right thing for the residents, for the town, and for their employees, but let's not just, and I'm not saying we are turning a blind eye, but I feel that we need to stand up for the town, and we need to do what is right. I'm with Option C.

Commissioner Sobieski: I'd like to see all three options left in also. I don't know what the STC is going to ask, or whatever, or are going to want, let's leave all three options in, but again, we also have to realize that we have a problem westbound on 175 in the afternoon. The sun is very bright, and a signal up there is going to be washed right out.

Chairman Hall: Eastbound you will have that in the morning.

Commissioner Sobieski: Yes, eastbound in the morning.

Commissioner Leggo: With all due respect to the professionals, the numbers and everything else, I understand and I respect them, but, I consider myself an expert that travels that at a minimum three times a day, and there is no way a right turn, right in, right out is going to do any good, but possibly cause more problems. It's got to be a light. No options, just C, C is the only one.

Chairman Hall: All right, I think our choices now are all three; eliminate one and give two. The problem is, I haven't heard any elimination of one in particular. Remember, one in particular I said. I've heard eliminate A, I've heard eliminate B, I have not heard eliminate C. I think we are all in agreement C we agree to, but if we were to do two, which one do we get rid of? So, I think we have to keep them all in, in order to, I tend to agree that the right in, right out is simply not going to make it. I've been all over town, and it doesn't work anywhere in town. It's not going to work on the mountain.

Commissioner Aieta: So if it's not a light, do you think the main entrance should be on Russell Road?

Chairman Hall: Those would be the two options. That's why we have to leave all three in and then have them decide what they are going to do. We really have to emphasize C because that's what we truly believe is the answer. We're not the final decision makers, we can express our opinion, but it is not going to be up to us ultimately. So, I think if we just have one or the other with the light.....

Commissioner Aieta: If you leave 4B in with the entrance on Russell Road, you require a redesign of the site plan.

Chairman Hall: Yeah, it's major. I'm hoping that that is not something they would choose.

Commissioner Aieta: I wouldn't give them the option.

Chairman Hall: But again, if they don't go with what we want, and we end up with a right in, right out, I think that's a worse decision.

Commissioner Leggo: Absolutely.

Commissioner Aieta: Just by process of elimination it's obvious that the only thing that really works here is a light. That's the best case scenario.

Chairman Hall: And that is what we are hoping they choose.

Commissioner Aieta: And even that is not a perfect situation.

Chairman Hall: No it's not, nothing is because of the nature of the topography, the east/west orientation with sun, I mean there is a lot of different reasons why it is difficult, however we don't want to squash the project, because of this situation. We believe in the project, I think we all said that, that we support the project, it's just getting in and out. And, we have to make sure that we do that right.

Commissioner Serra: I agree with Commissioner Leggo. I think 4C is the only way to go. I want that on the record.

Commissioner Aieta: That is going to be the main emphasis of our condition, is that we all are, our preference is to have the, 4C which is the traffic light and I would say, we want the approval that was approved in 2006, road improvements and light as the basis of the design. Absolutely. Then say that is our preference, and the other two are there if they don't want to put the light in.

Commissioner Camillo: We have to go with what is in front of us. We can go back and forth, even though it's not our decision. Here are your options. If DOT decides we prefer C, and hopefully.....

Chairman Hall: Hopefully there will be mechanisms to expedite that.

Craig Minor: Yes, and actually that is a good thing. The applicants, when they leave here tonight, need to know what their draftsman should do to come up with the approved plan, and get it back to you within 90 days, because by statute, the plan that you approve tonight, with lots of conditions, has to be put on mylar within 90 days. We can give them another 90 days, but at the end of that time period there has to be an actual piece of plastic that has been signed by the Chairman, and I doubt very much the STC is going to act on it that quickly. So,

and I've been saying this for months now, to me it seems obvious or extremely likely, that whatever decision you come to tonight, the applicant is very, very possibly going to have to come back to you in a year or less and ask for a modification because the OSTA has denied what you tonight said you want. That's going to happen. I'm not saying that to tell you that it doesn't matter what you do tonight, because it does matter what you do tonight - you should approve what you want them to do. But I think it's very likely that they are going to be coming back to you at some point because the OSTA has denied what you said you want to happen, tonight. Anyway, my point is, you need to decide which one of those three options you want because they need to tell their draftsman what to do tomorrow morning as far as putting pen to paper.

Chairman Hall: It appears to be C.

Commissioner Serra: Just one more thing. I know that Vice Chair Anest mentioned it briefly, but I know that she did request a report from Newington PD.

Chairman Hall: I think they are working on it, aren't they?

Commissioner Serra: We have not received that as of this meeting. I understand they are working on that, I just wanted that on the record that it was asked for, and it has not yet been provided.

Craig Minor: Correct.

Chairman Hall: Okay, are we finished with 4. Let's go on to 5. Applicant shall submit design calculations for the retaining walls in accordance with Section 7.4.8.B prior to plan endorsement.

Craig Minor: Just housekeeping. But important housekeeping, which is why I wanted it as a condition.

Chairman Hall: Should we read this over to be sure that we have everything? We don't have to do one or two, or conditions one and two, but we need to read three and four.

Craig Minor: I suggest we take a five minute recess so I can type this up, because this is not good for the record.

Commissioner Leggo: I have a question. If that goes through the way we are talking, and the State comes back and says, okay, well, we're okay with A, B, and C, then which one gets done?

Chairman Hall: It would be their approved plan, I don't think they are in the business of options.

Craig Minor: I don't like the idea of TPZ saying what its preference is. I think you should tell them to do 4C.

Commissioner Leggo: I don't want to say, you can have a light, or you can have right in, right out, and then they decide right in, right out.

Craig Minor: But that's not what you are saying. What you are saying is that the applicant shall do 4C, but if it gets denied by the OSTA, then the applicant can fall back on either 4A or...

Chairman Hall: The state could come up with a totally different plan.

Commissioner Anest: So if we go with 4C, and they come back with something different, we have to go with what the state proposes anyhow.

Craig Minor: Right.

Commissioner Anest: So just say 4C, so they do the plans with 4C, and then the state may ask them, we think it should be another way.

Craig Minor: They are going to have to come back to you for site plan modification anyway.

Commissioner Anest: Right.

Commissioner Leggo: Oh, so if it's not 4C, it would come back for a site plan modification.

Craig Minor: Yes.

Commissioner Serra: If not 4C, it could be 4A or 4B.

Commissioner Leggo: They would have to come back for a site plan modification.

Commissioner Camillo: We've already done this once, so let's (inaudible) doing it now.

Chairman Hall: If there are three options for three, why can't there be three options for four. Because again, as the attorney points out, we don't want to have their permit rejected or revoked because the one plan that went, failed, and they have to start all over again.

Commissioner Camillo: The three options are on the table, we prefer 4C, and whatever gets approved.

Craig Minor: If that gets denied, then the applicant has the option of going back to the OSTA and asking to get 4A or 4B approved.

Chairman Hall: Well, what about A or B.

Kari Olson: But we already have the Commission's approval to consider those options and with that automatically void our permit because we can't meet the conditions.

Commissioners: Correct

Commissioner Leggo: By having that in there then, we are saying it is all right for the right in, right out.

Craig Minor: Yes, I think you are all in agreement with that.

Kari Olson: What you are saying is that it is all right for us to pursue as an alternative with those options.

Craig Minor: If OSTA comes up with a fourth option, that would be the only reason you would have to come back.

Kari Olson: If there was no traffic light, they have to give us access to the property, so what are you suggesting then, I mean, really and truly, to have one entrance to a property that has 200 apartments.....

Steve Ullman: Public safety wouldn't agree with that.

Kari Olson: Exactly. Do we have a next best alternative? That's my only point - what's wrong with thinking about these options now, because if our expert is correct, and we can't convince OSTA to change their warrants, this is likely not to be approved with a light. I'm just saying, based on the warrants. We'll have to try and I think there has to be cooperation on the part of the town will help.

Chairman Hall: Well, we've got that letter from the Town Manager.

Kari Olson: Is that true? I haven't seen the letter.

Craig Minor: This is from the Town Manager, dated this afternoon.

"Craig, I understand that the Connecticut state Department of Transportation has not recommended a traffic signal to service the new development at E. Cedar St. Although the traffic generation is considerably lower with this type of development, I still believe a traffic signal is warranted and would urge the state Department of Transportation to reconsider its decision."

Chairman Hall: So, do we have something we can vote on?

Craig Minor: No.

Chairman Hall: We'll take a five minutes recess then.

Commissioner Serra moved to take a five minute recess at 8:30 p.m. The motion was seconded by Commissioner Sobieski.

Chairman Hall called the TPZ meeting back into session at 8:45 p.m.

Craig Minor: Okay, just one thing, on the second page, the back side, paragraph C, where it says, "this approval is for", scratch that out and write "the plans shall be revised to show". That is option C, which is your preference. Option A is right in, right out, Option B is Russell and Option C is full access with a traffic light, and your preference is Option C.

Commissioner Sobieski: I have one quick question, and it's my fault I didn't bring it up earlier. Along with Option C, with the light, obviously there are going to have to be some turning lanes installed. Is there any way we could show that is what should be required under the old 2007 regulation? I'm just asking the question.

Craig Minor: Let's let the OSTA determine if turning lanes are required or not.

Commissioner Sobieski: Okay, fine, just wanted it on the record.

Chairman Hall: It's been moved, seconded, and we had the discussion, now we are going to read the entire revised motion, and then take a vote.

Commissioner Aieta: We should rescind the second and the motion, and start a new one. The motion on the table is.....I seconded it, and I'm rescinding the second.

Commissioner Anest: I'm rescinding my motion.

Commissioner Anest: And shouldn't we add Hunter?

Craig Minor: I thought about that. I decided to leave it the way it's been identified for all of this time, and not change it at the last minute.

Commissioner Anest moved to approve, with conditions, Petition 09-15; Site Plan Approval (Continuing Care Retirement Community) at 751 Russell Road, HDC, ONE LLC, owner, Amara Community Living LLC, applicant, Kari Olson, Esq. City Place I, 185 Asylum Street, Hartford, CT contact.

**Findings:**

1. The Commission has compared these plans with the plans that were approved by the Conservation Commission per COA #2006-26. The Commission finds that the amount of wetlands and upland review area disturbed by these plans is the same as the amount disturbed by the 2006 plans. Therefore, the applicant has complied with CGS Sec. 8-3 (g)
2. The Commission acknowledges that East Cedar Street and Russell Road are both state roads. Therefore, any site plan approval granted by the Commission shall be subject to approval and possible revisions by the State of Connecticut Office of State Traffic Administration, formerly known as the STC.

**Conditions:**

1. This approval is for the site plans prepared on March 4, 2015 revised April 7, 2015 and as further amended below.
2. Grading and drainage plan (Sheet C-2): The plans shall be amended to comply with the LID requirements of Newington Zoning Regulations Section 6.15.3 to the Town Engineer's satisfaction.
3. Grading and Drainage Plan (Sheet C-2): The plans shall be amended to revise the shared driveway to Jensen Machinery as discussed during the TPZ meeting on April 22, 2015. The applicants may use either Option One, Two, or Three (as described in the e-mail from Michael Frisbie to Jensen Machinery on April 22, 2015 at 9:08 a.m.), whichever is their preference. The revision shall be reflected in an easement in favor of Jensen Machinery to be recorded by the applicant on the land records, as necessary. The TPZ prefers Option One, but understands that the final decision rests with the OSTA.
4. Site Plan (Sheet C-1): The plans shall be revised per one of these three options:
  - a. Site Plan (Sheet C-1): the plans shall be revised to show the right in, right out entrance onto East Cedar Street proposed by the applicants during the TPZ meeting on April 8, 2015.
  - b. Site Plan (Sheet C-1): the plans shall be revised to show the primary entrance onto Russell Road instead of East Cedar Street.
  - c. Site Plan (Sheet C-1): the plans shall be revised to show full access entrance onto East Cedar Street shown on the original plans dated March 4, 2015 with the addition of a traffic signal light at the entrance.

The TPZ prefers option "c" but understands that the final decision rests with the OSTA.

5. The applicant shall submit design calculations for the retaining walls in accordance with Section 7.4.8.B prior to plan endorsement.

The motion was seconded by Commissioner Aieta.

Commissioner Leggo: When this goes to the OSTA, will there be any mention of the fact that the town is recommending that light also?

Craig Minor: The plans will show the full access entrance and the traffic light. That is what the plans that are being submitted will show.

Chairman Hall: I think he means John's letter.

Commissioner Leggo: Yes. Will there be any reference that the Town of Newington is also recommending a light there also.

Craig Minor: Oh, sure. I'll make sure that that happens at some point.

Chairman Hall: Is everybody happy with this. This is the last revision that you will make at this time.

The vote was unanimously in favor of the motion, with six voting YEA.

Kari Olson: Thank you very much.

Commissioner Anest: I would like to make a motion that we move the discussion of HB 6851 to prior to the Public Hearings.

The motion was seconded by Commissioner Leggo.

The vote was unanimously in favor of the motion, with six voting YEA.

#### B. Discuss HB 6851

Commissioner Anest: We have discussed this in the past, I would like to present a resolution in opposition to HB 6851. We have discussed this previously at previous meetings, how we feel about HB 6851. "Whereas HB6851 as amended, April 2015 would establish a Connecticut transit corridor development authority, and, whereas the Connecticut Transit Corridor Development Authority would have broad powers to establish a Connecticut Transit Corridor development authority, development within a one half mile radius of transit stations, and, whereas there are currently two transit stations in Newington, the surrounding area would fall under the jurisdiction of the Connecticut Transit Corridor Development Authority, and whereas the Town of Newington would have limited representation on the Transit Corridor Development Authority, for the actual effect on the town, and, whereas local land use and development decisions are best made by the town residents themselves, whereas the town residents have publicly expressed opposition to this bill, now therefore be it resolved that the Newington Planning and Zoning Commission strongly opposes House Bill 6851, and that copies of this regulation be sent to the Town's legislative delegation.

Commissioner Leggo: Second.

Chairman Hall: Discussion?

Craig Minor: A couple of weeks ago I prepared a summary of the two versions for the legislative delegation for the town that I live in, since one of our representatives is on the Transportation Committee. I felt that he and the other delegates from the Bristol area weren't aware of the changes that had been made to it, so I created a spread sheet and I made a copy to share with you folks. Most, if not all of the issues that this Commission was concerned about with the original version were changed. They may also have just been taken out. The (inaudible), only as agreed to by the Town per the memorandum of

understanding. No powers of eminent domain. The mayor will have a voting seat on the committee, which wasn't in the original version. The head of the Regional Planning Agency will have a non-voting seat which wasn't in the original version. The development authority would be specifically limited to all local zoning and wetland regulations, which was not in the original version. So it appears that all of the issues that the Town was concerned about have been addressed. I just wanted to make the Commission aware of that.

Commissioner Camillo: Was there a vote on this from the Town Council? Did it pass?

Commissioner Anest: It did not.

Commissioner Camillo: Maybe we should think about it and do our home work, and then come back and vote.

Commissioner Anest: We had discussed this previously, and we do not know when this is going to be brought to the floor to vote on. I understand that it has been changed, I know that it goes against our 2020 Plan, and if we have a CEO of the town, four years down the road, two years down the road, six years down the road, ten years down the road, who wants to see development and works against the town, that's where I have a problem. I think there needs to be more control over who is the representative. I think there still needs to be some fine tuning to help us, that's why I do not want to see it, and have strongly urged our legislative delegation to vote against it.

Commissioner Sobieski: I agree with Carol. A lot of people have talked to me about HB6851, they aren't happy about it, especially the people who live in that half mile radius. In the past, the State of Connecticut has been fantastic, (inaudible) The state-wide pattern has been in existence for many, many years. I strongly think we should do this, if the bill doesn't pass, no harm, no foul, but if it does pass, at least we are on record. Again, this does, in my opinion, this does bind somebody, say they want to sell the property, they have to let these people know that they are within this half mile, this possible development. Or it could happen, and I cite the I-291 interchange mess that we had when the department was going to build I-291. People bought houses and then all of a sudden they realized that there was going to be a highway in back, and all of a sudden you got lost in all of the deed transfers over the years. I definitely think that, I have heard, and I'm sure you're the same, other people are not happy with this bill. I think this is the least that we could possibly do, at this point in time.

Commissioner Serra: I just would like to go on the record as agreeing with Vice-Chair Anest and Commissioner Sobieski. Talk about the woes - the Governor is going to appoint eleven people to the panel, and we are going to have one. One vote. That's a no-win situation. I said it earlier with Amara, and I'm going to say it again: we need to do what is best for this town, we need to do what is best for the residents. We need to pick up the slack of what happened last night, and I apologize because I know there are people here from the Council, and in my opinion I agree with our newest Council member, Mr. Banach. I oppose this bill. I think we should vote on it and hopefully we will get a positive outcome.

Commissioner Camillo: With the bill or not, they can still take property.

Craig Minor: Not exactly. The State of Connecticut can always take properties, the Town of Newington can always take properties, but quasi-government agencies cannot. They could have under the first version, but now they can't.

Commissioner Camillo: With this bill, they can get all their ducks in a row instead of (inaudible) It's progress, it is, because if you look at train stations and bus stations all over

Connecticut, you don't want to get off the bus, you don't want your kid taking the bus, or the train, it's not safe. This could change things. I don't think we should vote on this tonight.

Commissioner Leggo: I just believe that we need to send a message that no matter what people say, we are deciding on what we think is best. Mr. Minor, when was this sheet made up?

Craig Minor: I did that about a week ago.

Commissioner Leggo: Okay, I wish this had been out a lot sooner. I mean it answers some questions, but still.....

Craig Minor: I was reluctant to submit it to you because I wasn't asked for it. I don't like pushing my opinion on people, and I wasn't asked for this, but now that it is on the agenda, I thought I better stick my neck out a little bit and give you what I think is important information for you to do with as you wish.

Commissioner Leggo: From what I've heard, they want to do everything they can to stop any chance of this happening.

Commissioner Aieta: Yes. Call the motion.

Chairman Hall: If we are going to vote on it tonight. The problem that we have is, when things come before us and get put on the table, it's been said that we don't want to vote on it.

Commissioner Aieta: The motion on the table has been seconded, and (inaudible).

Chairman Hall: I will do it by a roll call vote. I have it here.

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

## VI. PUBLIC HEARING

- A. Petition 13-15: Special Exception (Section 3.11.6: Restaurant) at 464 New Britain Avenue, Allyn and Linda Brown, owner, Luigi DeNovellis, applicant/contact, 124 Two Stone Drive, Wethersfield, CT. Continued from April 22, 2015.

Chairman Hall: Is the applicant present?

Craig Minor: I spoke to him today about the application, and he knew it was on the agenda. I spoke to the landlord yesterday. I don't know why he is not here.

Commissioner Aieta: Can we continue this to the next meeting?

Craig Minor: Sure.

Commissioner Aieta: I move that we continue Petition 13-15 to the next meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YEA.

Commissioner Claffey was seated for Commissioner Anest who left the meeting at 9:07 PM.

B. Petition 15-15: Special Exception (Section 3.17.6: Recreation Uses) at 475 Willard Avenue Fun Quest Inc., applicant, Newington 2007 LLC, owner, Seema Sabanad, 12 Baldwin Drive Farmington CT, contact.

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

Kevin Lynch: Good evening, my name is Kevin Lynch, and I'm the franchise owner of Jump On In, which is a children's birthday party that features large inflatable playscapes, so they can come in and have birthday parties on these giant jumpy houses. This is Seema Sabanad, and (inaudible) they are the franchisee for Jump On In, that we would like to open in Newington. This will be our tenth location, we have four in Massachusetts, two in New Hampshire, two in (inaudible). We believe this is a very ideal site for it. The demographics are what we look for, there are a lot of families and children, and this is a good children's activity. Generally our hours of operation are by appointment so we are not open all day, every day. Typically I would say 85 to 90 percent of our parties fall on the weekends, usually Saturdays and Sundays. On a busy Saturday the first party can be 9:00 in the morning, and the last time slot could be as late as 8:15 at night. An 8:15 party could end at 10:15, and by the time they clean up and get out, it could be 10:45, 10:30, something like that. Those are our business hours, so generally we are open by appointment.

During the week, it's much quieter. We typically might have some "open jump" sessions where people could have their child come in and play on our equipment. Typically we don't get huge crowds for that, other than maybe school vacation weeks. In the morning, sometimes weekday mornings, at some of our locations we do Mommy groups, sometimes like ten to twelve, just for younger kids to come in. Really, most of our business is Saturday and Sunday.

Just to repeat, we are not really open for the public to walk in. We're looking at about 10,500 square feet where we will put up walls, air conditioning, bathrooms. We divide it into three sections. We have two rooms with the bouncy equipment, and then a third area would be the lobby, party rooms, and bathrooms. The party rooms are basically where they would go for cake. We will not be preparing any food on site, what we typically try to do is to find a good local establishment, a pizza shop, and arrange for them to deliver pizza throughout the day for us. It's fresh and it's hot. We don't allow guests to call the pizza shop and have pizza delivered, if we have one vendor we can give him the whole day's schedule and they deliver the pizza.

The way it works is typically we rotate the party through our rooms. In the morning, we start the parties in Gym A, and then move them into Gym B, and we start a new party in Gym A, and then we move the group from Gym B into the party room, where they have the pizza, and then rotate them through the facility the whole day. At any given time we could have up to three parties going on, and typically our biggest parties would include up to 25 children and typically with adults, the average party would have 15 adults, so the average number of people attending the party would be about 40. Sometimes both parents bring their kid to the party, so it could be a little higher. From our experience at our other locations we know that on a busy Saturday at any given time, we have about 40 cars, and actually this location is good for us because the parking is segregated from the rest of the building. There are some parking islands and it seems as if we have our own separate parking area even though we're only about 1.7 percent of a giant building.

Typically we offer two different types of parties, the Big Jump and the Little Jump. The Big Jump is up to 25 kids, so the birthday child can typically invite their whole class. The age group for the kids is probably about 3 to 11 or 12 typically. The bulk are in the middle of that

range, the vast majority of our parties are in the 5 to 8 range. Occasionally we do some teenage girls parties on a Friday night, but very rarely.

We have gym rentals, field trips in the summer time. A lot of summer camps will use our facilities during the day and a lot of them will schedule field trips with us. We will also do what we call Jump and Learn programs. It's basically jumping as an activity. It might be a two or three hour session, where the kids will do some jumping and then they will come in and do an arts and crafts project and then they go back to do some more jumping, and they will be tired for the day.

We expect to hire about 20 employees. Most of those will be supervisors or as we call them, "referees". There will always be a supervisor on duty, so there will always be somebody in charge, at the facility obviously. The referees are typically assigned to the parties, watching the kids for safety and as they rotate through the gyms. When it comes to the party room time, we want the parents to enjoy the party and not be stressed out, so the staff will do all the work. Typically the parties will generate about one bag of trash per party, which will be put into fifty gallon plastic bags, tied up, and thrown in the dumpster. That is a brief summary. We're excited, we think this is a great town for us and could be a really good location. It's our first location in Connecticut. I was raised in Connecticut so I'm glad to actually have a location here now. I live in Massachusetts now. We think this would be a great place for us and we are open to any questions that you have.

Commissioner Aieta: For the Planner: they meet all the requirements for parking, I mean it's overparked, and there is plenty of parking there.

Craig Minor: I did not do any analysis because as you say, it's a huge site and the building is only partially occupied, but I agree, there is ample parking.

Commissioner Aieta: For this type of an activity, this would be, this is an industrial zone, and you wouldn't be disturbing any residents or traffic. I don't see any questions that you could ask. It's pretty much cut and dried.

Commissioner Sobieski: I'd like to know if we should require a receptacle to be put outside the building like we did the previous applicant on Willard Avenue, the restaurant that opened up. The reason I'm saying this is that sometime when people leave, they are still eating food, and they need a place to throw it away.

Commissioner Serra: I know that you said you are going to have supervisors, you are going to have referees. You get a lot of kids banging around. Is there anyone that is going to be trained in first aid? Are you going to have a first aid station, just something if there is an incident?

Kevin Lynch: In our experience in our other locations, it's mostly bumps and bruises, a bloody noses once in a while, and we have a first aid kit. We don't really feel that we want to take on the responsibility of actually administering first aid, but in the rare instances where we have had somebody that we thought needs it, we would call 911 and get first response people there right away.

Commissioner Serra: Okay, thank you.

Commissioner Claffey: My question is outside activities. I've gone to some of these, I have a six year old and a three year old, and in the summer they bring out water slides.

Kevin Lynch: Actually I don't think we have ever done that in any of our locations. These things are huge, some people ask if we would ever rent them, no, these things are huge.

Commissioner Serra: Just following up on Commissioner Claffey's question. My question is to the Planner: if they were to do something outside, would they have to come for a separate permit for that?

Craig Minor: I'm glad you asked, because I didn't hear the same answer that I think Commissioner Claffey heard. Did you say you will not be doing outdoor events at this location, or did you not say that?

Kevin Lynch: Well, I didn't say we will not, but we don't have any intent to, we never have, so, I suppose.....I mean, to give the franchise flexibility, if it's a nice summer day, we could use a small section of the parking lot.

Craig Minor: I don't think it's a problem, I just think the Commission wants to know if this is something they should anticipate seeing as they are driving down the street.

Kevin Lynch: I'll say possible, but very unlikely.

Commissioner Serra: The question was, will they have to.....

Craig Minor: Not so long as you understood tonight that that might be a possibility. If you have a problem with that, say so now, but if you don't have a problem with it, then the ZEO will just treat it as acceptable.

Commissioner Leggo: The question that I have will probably go along with this. That area where it's at, I see a couple of loading docks not too far away. Do we have any truck traffic in that area?

Kevin Lynch: The building does, but they have a lot of loading docks. One of the things that was appealing about this particular piece of the building is that there is no loading dock, and there is a neighbor to the right of us if you are looking at the building, and there is no loading docks for them either. So we don't anticipate any truck traffic pulling into our area.

Commissioner Serra: Until this is established, I would like to know if they are going to do something as far as inflatable water slides, anything like that, like we do with fireworks displays. Come back, give us a rough sketch, you know, handwritten on a piece of paper like a lot of places do, and we approve it. That way maybe once it is established and we know that everything is fine, we can do a two year permit or something, but I think we should take a look at it if it's going to be an outdoor activity. With the parking lot, the loading docks, that many kids running around, it's just hard to keep an eye on all of them, so I think we should have something.

Chairman Hall: If they were to do something outside, they would have to come to us first to get permission to put it outside.

Commissioner Serra: Right.

Chairman Hall: Which is separate from any approval that we might give to the indoor.

Commissioner Serra: Yes.

Commissioner Camillo: That area has a lot of trucks parking there overnight. You would have to put something up there in that section of the parking lot, stating "no overnight parking". You have tractor trailers along each side of the curb.

Commissioner Leggo: I think this is going to be a great activity.

Chairman Hall: At this point we are going to ask the public to come forward with any comments that they might have, and then after they have spoken, if you need to, you have time for rebuttal.

Jeff Zelek, 55 Welles Drive North: I am going to speak to you as the Chairman of the Conservation Commission. I've already let Chairwoman Hall know that the Wetlands Commission is currently hearing an application related to this site. In the northeast corner approximately where this facility is being proposed we are hearing an application where the chemical Varsol is being pumped out of the ground, because there is ground water pollution from Varsol. This was an old industrial site, and this chemical apparently was used to (inaudible) and then dumped into a pit on site. So Ingersoll-Rand is currently pumping this out of the ground, treating it, and discharging the treated water out of the back of the building and that is why it is before the Wetlands Commission because we want to make sure that the quality of the water that is being released is sound enough to go into the wetlands. But with that said, I did want to make this Commission aware of that toxic condition, and if you are considering the application, to perhaps ensure that an environmental study is done so that it is a safe place for children. I don't know, Chairman Hall, if you have instructed the Planner to speak with the Town Engineer regarding this.

Chairman Hall: We have discussed your memo.

Jeff Zelek: I have not heard anything from the Town Engineer so I'll take that as it hasn't gone anywhere as a concern?

Craig Minor: If the Chairman wishes, I can ask the Town Engineer to provide the information on this to the Commission.

Chairman Hall: That can be one of the conditions.

Commissioner Camillo: Do you know what Varsol is?

Jeff Zelek: I am not an environmental scientist, by any means, and as I explained before, it's a chemical that was used to clean material on the site.

Commissioner Camillo: It's paint thinner. It's kerosene.

Jeff Zelek: The DEP has ordered them to remediate the site, so that's why this particular application is before wetlands.

Craig Minor: I'll provide a little background. Ingersoll-Rand has been doing this for years, remediating the ground water for years. What they had been doing was pump the treated groundwater into the MDC system and paying a sewer bill. They prefer not to have to do that, because their sewer bill just went up. So what Ingersoll-Rand is looking to do is instead of discharging the treated ground water into the sewer system, they want to put it into the stream, or maybe back into the ground, or some other way of disposing of this formerly contaminated ground water. Because it is within 100 feet of the wetlands, they have to get a permit from the Wetlands Commission.

Craig Minor: Ingersoll-Rand owns the problem now. I don't know if they were the original polluters.

Jeff Zelek: My understanding is that this is an above ground process. They pump this out of the ground, they have a system on site that treats it, and then the water that is discharged is unpolluted.

Commissioner Camillo: Then they want to put it back into the ground.

Craig Minor: Rather than putting it into the MDC system and paying whatever people pay for sewer service.

Commissioner Camillo: Correct. Now does the superfund have anything to do with, help to pay for that?

Jeff Zelek: I don't know.

Commissioner Camillo: I want to be sure that they are not going to contaminate the wetlands again. Be sure that it is acceptable, and actually, you can't drink it, but there are animals there that are going to drink it, and kids are going to play in the stream. Downstream is Piper Brook.

Jeff Zelek: All of this is in front of the Wetlands Commission

Chairman Hall: And I assume that the DEEP is also involved.

Jeff Zelek: Yes.

Chairman Hall: Any other questions? Anyone else from the public wishing to speak? Actually, Jeff, I'm not sure that you spoke in favor, you just kind of spoke. Which was your position.

Jeff Zelek: I am not speaking in favor or against. I'm just speaking to provide information and I wanted to have the Chair inform this Commission.

Chairman Hall: Okay, that's what we usually do third, but that's okay. Anyone wishing to speak in favor of this petition? Come forward, state your name and address for the record. Anyone wishing to speak in opposition to this petition? Anyone wishing to just speak?

John Bachand, 56 Maple Hill: I think it is interesting the things that you might not realize are going on in applications. I'm not against it or for it, I just had a question if there is an age restriction because it sounds like it's for little kids, but I know that college age kids go to some places and it's certainly not set up for young adults, so I just curious about that, if there is an age restriction or if that even matters. I think it's probably a good idea, the water is being pumped, at least what I learned at the Conservation Commission last meeting, that hopefully it didn't end up in Piper Brook, but it's supposed to be going through some really serious filtering process and that's why they don't want it in the sewer because you don't want clean water in the sewer, it's already been treated once. You are just overwhelming the treatment plants, so thank you.

Chairman Hall: Anyone else wishing to speak? Does the applicant have any rebuttal or an answer?

Kevin Lynch: I'll clarify the age restriction. Generally speaking the only age restriction is at the younger end. We typically tell parents that if their child is under two, it's probably not appropriate for them. A mother or a father can take a young child into a bouncy, but one of the things that is nice about our business is that we are not mixing the ages. A bunch of 12 year old boys jumping on the stuff at the same time as 3 year old girls is not a good combination. On the other end, we don't really have one; the market seems to tell us that once the kids turn 12 or 13, it's too babyish for them and so they don't schedule parties with us. On rare occasions we will get 16 year old girls, or something, or sometimes we could have somebody's surprise 40<sup>th</sup> birthday party.

Chairman Hall: Okay, thank you. Do the Commissioners have any questions?

Commissioner Aieta: I'd like to move that we close the public hearing and move this forward to Old Business for the next meeting.

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

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

Rose Lyons, 46 Elton Drive: I mentioned this at the Town Council meetings, and I've mentioned this at (inaudible) meetings. I want to go on the record asking who the Council liaisons are for the TPZ. In all of the years that I have been coming here only a handful of times have Councilors shown up for these meetings, and yet tonight, two Councilors sat in the audience. I know why they were here, and I sure do wish that they would show up when other things happen and not when it's just something that they want to see happen.

John Bachand 56 Maple Hill: I think I know the answer, but when something has already been discussed on the agenda, is it considered "off" the agenda?

Chairman Hall: Anything that is printed on this paper, anything.

John Bachand: Even though it's already been discussed?

Chairman Hall: John, John.....

John Bachand: Okay. I was at the Town Council meeting last night and I told them that they should strongly support you, I can't go into the reasons why, so I guess I don't know what else to say here. I'll have to wait until the next meeting. Is it the 27<sup>th</sup>?

Chairman Hall: The 27<sup>th</sup> of May

Jeff Zelek, 55 Wells Drive North. Here I am again speaking as the Chair of the Conservation Commission. On the afternoon of April 28, 2015, I spoke with the Town Engineer, who is the staff assigned to the Inland Wetlands Agency. I asked him if the TPZ has requested an Inland Wetlands report from his office regarding any site plans being heard by TPZ. Under Section 8-3 (g) of the Connecticut General Statutes, Zoning Boards are required to consider Wetlands Reports. The answer from the Town Engineer was "no". As of April 29<sup>th</sup>, he had received no requests for an Inland Wetlands Report from Zoning. We had further discussions on what constitutes a "report". We resolved that I would seek guidance from the State of Connecticut Department of Environmental Energy and Environmental Protection and the staff specialist there. Her name is Darcy Winther, and her task is to serve all of the Inland Wetlands Commissions in the State of Connecticut and advise on technical and legal matters. I spoke with her on what constitutes a "report". Miss Winther referenced (Inaudible) Law Journal for a definition of a "report", that it is an official statement of fact. Miss Winther gave me knowledge that in legal situations with the Attorney General's office that a permit does serve to fulfill the legal obligations of a "report" as Mr. Minor had pointed out during the earlier site plan that you discussed. Miss Winther stated, and I agree, that an official Inland Wetlands report to Zoning should include a copy of the permit that was issued and a copy of the minutes from each of the meetings in which the Inland Wetlands Application was discussed. This would allow the Zoning Commission to read the minutes directly and understand the concerns raised by the Inland Wetland Commission, how the Commission voted and the reason that each Commissioner gave whether in favor, or against approval of the application. Miss Winther suggested binding the permit and the minutes together and

placing an official cover letter on the report to satisfy the requirement of Sec. 8-3(g). After providing a copy of the permit and a copy of the minutes to this Commission, the Inland Wetlands Commission could remain neutral on any application that was being heard. Providing this would avoid any subjective interpretations of the facts or recollection of the facts from when the permit was issued. Everything should be in the minutes. With that said, I instructed our staff from the Inland Wetlands Commission to prepare the report for this body or a site plan, if we were requested to produce one. I instructed him to create a cover letter, a copy of the original permit and a copy of all of the minutes and make them available upon request. However, we did not receive any requests from this body. Going forward, I strongly suggest that you request an official Inland Wetlands report from the Inland Wetlands Commission and we will give you the information, some of which you seem to be interested in, and that information would be in the minutes. So again, the approval process, at a minimum we did meet the requirements by seeing the permit that was issued, however that is a minimum. We should do a little better, and by requesting an official report from Inland Wetlands you will have a better sense of what the concerns were of the Commission. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak?

#### **VIII. REMARKS BY COMMISSIONERS**

Commissioner Sobieski: I don't know if anyone is aware or not, but I was made aware of the fact that Plaza Azteca was shut down on Cinco de Mayo. I guess there were several fights up there. Also I was informed that they had the fencing almost next to the roadway. I don't know whose responsibility this is, but when that fencing went up, it should have stayed on their property, not on the state right of way, which they have used. It would be my strong recommendation that next year we inform them, they must appear before this Commission and get a yearly application. Also I'd like to get a report from the Police Department as to what went on, and the Fire Marshal. I believe they were both involved.

Craig Minor: Let me speak to that for a minute. We found out when they applied for their building permit for a tent on May 1<sup>st</sup>, that they were planning to do this, and since the other Mexican restaurant, Puerto Vallarta, for years has come before you, for.....

Chairman Hall: No, that was Plaza Azteca. We gave them a multi-year because they were here for four years.....

Commissioner Aieta: Azteca has always come in, the one that is in the Lowe's parking lot.

Commissioner Sobieski: The issue was significant enough to cause almost all of the police districts up there, so I think we definitely need to review that, and also as I said, I would like the reports from both the Police Department and the Fire Marshal. A written report, not a one liner, and from the Fire Department, the chief, because he was involved in this also. I also would like to make sure that any more permits on the Berlin Turnpike clearly define where the state right of way is. By letting people get close to the highway like that, drinking and everything else, we're looking for problems. We definitely have to make sure that the event stays on private property. This is the first time that I have heard about it being so far out.

Commissioner Aieta: I suggest that the Planner have the Zoning Enforcement Officer send the restaurant a letter saying that they no longer have the permit and they have to come in next year.

Craig Minor: Well, it doesn't work that way.

Chairman Hall: We gave them three years, and they didn't come back to us this year, so I think the multi included this year. Hopefully we didn't give them five, I don't think we did.

Commissioner Aieta: You could rescind that.

Craig Minor: But you would have to go through due process.

Chairman Hall: No, because we put in their permit, I know this for a fact, we put in there that as long as there were no issues, and we do have an issue obviously now, so if it's documented we can go to them and say, hey, you know.

Craig Minor: But you need to do that at a meeting.

Chairman Hall: Fine, yes, but get in a position where we can do it.

Commissioner Sobieski: Does that require us to send them a direct letter now telling them this? If they thought they had a 3 year permit, that it has been rescinded and they would have to come before us again. Make sure that there are no loop holes, so they can't say, "oh well, we didn't know that".

Chairman Hall: Put it on the agenda for next meeting with the documentation, the Police Report, the Fire Marshal's report, the permit, so that we know how many years that we gave them, and make sure that that did go in there.

Commissioner Sobieski: Is there a limit to how many tickets they can sell? Again, I heard, going through second hand knowledge there was 1,000 tickets they sold.....

Commissioner Aieta: They advertised 4,000.

Commissioner Sobieski: Okay, 4,000, which is well over what that capacity is. So, can we put in a capacity based on local police and fire whether it be outside and inside? Can we do that?

Craig Minor: Yes, you can.

Commissioner Sobieski: From what I understand, they just advertised and kept selling tickets and selling tickets, that's when the Fire Marshal got called in and that's when the issue started. So, I want to make sure that we don't have this thing constantly going on.

Commissioner Aieta: Along the same lines, the last couple of weekends, they have been having car shows on the Berlin Turnpike. They aren't supposed to have them unless it is tied into a Newington charity and some portions of the proceeds go to a charity in the Town of Newington. That's part of the regulations. I don't know what is going on with these car shows, but these people are walking on the highway. You talk about being in the state right of way - these people are actually in the road. People are walking in the road.

Craig Minor: Somebody complained to the ZEO about that last week, and so Mike got in touch with the group that runs it, "Thunderbirds of Hartford", or something like that.....

Commissioner Serra: Can I just jump in here? I'm very familiar with that circuit. Depending on which show you are talking about, there is one at Panera Bread that is every other Saturday, and it's put on by the Charter Oak Firebirds. The money their raise they do give to charity, usually a veterans organization or someone in need. They are pretty good about that.

Commissioner Aieta: But they are on the highway. I think that they should stay off of state property. State property is probably 35 feet in, probably more than that. They should be in the parking lot, not on the grass. There were cars there where the bumpers were sticking out into the highway. This is not the only one. They have this one and there is one down at Burger King.

Commissioner Serra: The Burger King one has disbanded, Burger King actually kicked them out of there. The vehicles that show up there now are showing up on their own. It is not an organized show, and again, I only know all this because I was involved with that for a long time. I don't participate in that any more but I know the people who run these shows, I know what they do, but that one is no longer an organized show, it's just people showing up.

Craig Minor: Mike D'Amato has been in touch with Charter Oak and told them what to do to get a permit.

Commissioner Sobieski: Mr. Minor, they do realize that they cannot be on state property? Correct?

Craig Minor: I don't know what they realize, but when they come in for their permit, they will have to give us a plan. The plan will clearly show what is their property and what is state property, and the approval will indicate where it is effective. They must stay on their property.

Commissioner Sobieski: My concern is that people get up for these shows, and I've been through them myself, they want to show off. They get on the highway, they take off, and someone might lose control or something. You don't want to create a hazardous situation like you have up there now. That's my concern.

**IX. MINUTES**

**A.** Regular Meeting April 8, 2015

Commissioner Sobieski moved to accept the minutes of the regular meeting of April 8, 2015. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

**B.** Regular Meeting April 22, 2015

Commissioner Leggo moved to accept the minutes of the regular meeting of April 22, 2015. The motion was seconded by Commissioner Aieta. The vote was unanimously in favor of the motion, with six voting YEA.

**X. NEW BUSINESS**

None.

**XI. OLD BUSINESS**

- A.** Petition 10-15: Special Exception (Section 6.2.4: Free Standing Sign) at 2897 Berlin Turnpike (Firestone Complete Auto Care) National Sign Corporation, applicant, SB Newington 433 LLC, owner, Darcie Roy, National Sign Corporation 780 Four Rod Road, Berlin, CT, contact.

Chairman Hall: Staff report?

Craig Minor: Based on the Commissioners' response to the comments made during the public hearing, there does not appear to be any reason to deny this application. A draft motion to approve is attached.

Commissioner Aieta: I'm ready to make a motion for denial because this Commission is part and parcel to a lawsuit that affects this piece of property. I don't think it's proper that this Commission vote on anything that has to do with Firestone until this case cleared.

Commissioner Sobieski: That is also my feeling. I didn't realize we are part of this lawsuit. Apparently we are named as co-defendants or so, and therefore I don't believe it is proper to be voting on this, at this time.

Craig Minor: That is correct, the neighbors are going through the civil process to stop Firestone from being constructed. Since the Town issued building permits and zoning permits, we've been dragged into it. It's the Firestone attorney who is handling most of the defense, and it's his client who is being sued. This question came up last month, and the Town Attorney advised you that it is an application, and you should review it on its merits. The Town Attorney I assume knows that the Town of Newington is involved in the lawsuit, and he still advised you to approve it, or deny it on its merits, and not on the basis of this other lawsuit.

Commissioner Camillo: If they were to win, and we voted on this tonight, it would be (inaudible)

Craig Minor: I understand your question, but I don't know the nuances of the law.

Commissioner Sobieski: Mr. Planner, my concern here is maybe we should have asked Attorney Bradley for his opinion. He is a land use attorney. I know Attorney Boorman and what he said, but since Attorney Bradley was the one that defended us in this particular case, I would feel more comfortable with his answer. I would like to see a written answer and not a verbal.

Craig Minor: Is the Commission directing me to ask Attorney Bradley the same question?

Commissioner Serra: Would we be better off tabling this until next meeting, so we can get an answer from Attorney Bradley since he is the attorney of record? Let's get clarification so we are doing the right thing and we don't end up deeper into something.

Chairman Hall: Do we have a time constraint on this?

Craig Minor: The hearing was closed, and you have 65 days to make a decision after the close of the hearing, so you have plenty of time.

Commissioner Aieta: I was going to make a motion to deny without prejudice, but I'll make a motion to table this until the next meeting with some input from Attorney Bradley. I don't think that every time we get into a situation that we have to have an attorney tell us how to act. It's obvious that we are part and parcel to a lawsuit that is affected by our actions. I don't believe it is necessary, I believe it is up to these Commissioners to make a decision.

Commissioner Leggo: This is about a sign, right?

Chairman Hall: Correct.

Commissioner Leggo: This is about a sign, not about them being able to do business or not. It's about a sign. I just want to make sure that we know that.

Commissioner Aieta: But you are aggravating a condition that is already under appeal.

Commissioner Leggo: We're not aggravating it, we're looking at a petition that has been brought to us, for a sign.

Commissioner Aieta: It was brought to us under a regulation that is defunct by a judge.

Commissioner Claffey: I agree with Commissioner Leggo. We talked about a violation, but they are still out there banging nails. It's not that much of a violation.

Craig Minor: There is no violation.

Commissioner Claffey: If there is some lawsuit that is holding it up, I see it time and time again where there is a lawsuit, and the development is built, and the lawsuit gets worked out. It's a sign.

Commissioner Leggo: If we approve the sign, and they don't get to open, they may have to take down their sign.

Commissioner Claffey: To me, as long as the sign meets the requirements of the Town of Newington Zoning Requirements, in regards to a free standing sign, it doesn't open the door for the business, or close the door for the business.

Commissioner Leggo: We have to honor the petition before us, that's all I'm saying.

Commissioner Serra: This business is not opening tomorrow. The sign is, to me anyway, I know they want to get out there, they want to advertise what is coming, but this business is not opening up tomorrow. I don't think it's that imperative and can't wait until our next meeting. Let's make sure, by denying it, or approving it, that we're not violating anything that is going to create another lawsuit or get us deeper in trouble.

Chairman Hall: So we had a motion, and it was withdrawn. We have a new motion, which is to table it and get more information before the next meeting. Do I have a second?

The motion was seconded by Commissioner Camillo.

Commissioner Sobieski: I want to make sure that we are going to get an opinion from Jack Bradley, Attorney Bradley.

Chairman Hall: I think that is what the motion indicated, from Attorney Bradley, not from Attorney Boorman. So that is what is on the table right now. The vote was unanimously in favor of the motion, with six voting YEA. The instruction on that is to table it, and get an opinion from Attorney Bradley, by the 27<sup>th</sup>.

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

### **A. Petition 16-15: Zoning Text Amendment (Section 3.1.3.B: Roadside Farm Stands) Andy Billipp, 277 Cedar Street, Newington, CT applicant/contact**

Craig Minor: The owners of Eddy Farm, Andy Billipp, approached me last fall and asked me if there was any way that he could allow an ice cream truck to be stationed at the farm stand.

We read the regulations and the regs say that the only thing that can be sold at a farmstand is produce that is grown at the farm. So he asked me to think about it, and I thought maybe we could amend paragraph B to include, at the Commission's discretion, the sale of food items sold from a truck. Mr. Billipp has requested that you amend the regulations to allow: "The Commission may approve one or more vehicle selling food items not made or grown on the premises, such as ice cream." He paid his \$500.00 application fee to have his opportunity to ask the Commission to amend the regs to allow farm stands to sell ice cream. I recommend the petition be scheduled for the first meeting in June, because we need 30 days, no, sorry, June 24<sup>th</sup> for the 30 days. The hearing would have to be on June 24<sup>th</sup>.

Commissioner Sobieski: Mr. Planner, quick question, ice cream trucks, do they also fall under the Department of Health? Would that be correct?

Craig Minor: I believe so.

Commissioner Sobieski: So the truck that he is going to have there would also need to have a health certificate?

Craig Minor: Yes.

Commissioner Aieta: I have no problem with them trying to sell ice cream, but every time someone doesn't like our regulations, we've done this so much in the last couple of years, they come in, we change the regulations for a specific individuals, and I don't think that is the proper way to do zoning. Okay, we're amending our regulations to allow one person that will apply to in the Town of Newington. So we're making a regulation change for one specific location, one specific applicant. That's not the way you do zoning. I have no problem with saying that this is an accessory use and not his primary use, it's not his primary sales, but I don't think we should be changing regulations for every single person who comes. We did it with Hayes, with the gas station, he wrote his own regulation that was specific to a location that no where else could ever use it. We've done it on several occasions, and I'm against making wholesale changes to these regulations for one specific person or one specific location. If it doesn't apply to anyone else, we shouldn't be changing our regulations. Now this doesn't mean that they can't have an ice cream truck, that is such a small insignificant addition to his business that we shouldn't be concerned with that, but to change our whole regulation for that specific reason is wrong. It's not the way we should be doing zoning.

Chairman Hall: If we were to do this, there is another change I think we need to make in this, so it would be a twofer. "Only produce grown on the premises can be sold."

Commissioner Aieta: They get their corn from New Jersey. They are already doing that for the last 400 years, and now you want to change the whole regulation to put the words, "he can sell ice cream"? For one specific location, you are bastardizing the whole regulation.

Chairman Hall: But do you know what I'm saying here, it's wrong to start with, so maybe a text amendment...

Commissioner Aieta: Did we already go through that portion of the regulations?

Chairman Hall: Section 3.1, yes.

Commissioner Aieta: Then maybe we should look at it again to make the change.

Commissioner Serra: Here's my question: you said that they would not be making food there?

Craig Minor: No, I didn't say that.

Commissioner Serra: Is their intention to use this unit to prepare and sell high quality locally made ice cream? I'm trying to remember, Mr. Billipp said they were just going to sell ice cream, they weren't making anything else on the truck? Are they are making smoothies, or all this other stuff?

Craig Minor: Okay.

Commissioner Serra: It's not just a truck coming to sell ice cream, like a Mr. Softee, Good Humor, I mean, you come in, you get a cone, you're done, and you're gone.

Craig Minor: Maybe there is somebody inside the truck making a smoothie and handing it to you through the window.

Commissioner Aieta: So it is locally produced on the premises. Why do they have to come to zoning, why do we have to make an amendment specifically for that?

Craig Minor: Because the regulation currently reads, "only produce grown on the premises may be sold." Only produce grown on the premises may be sold. That's pretty specific. I didn't know until this afternoon that Eddy Farm has always sold produce grown elsewhere. If I had known that, I would have told Mr. Billipp last fall that we have a bigger problem than him being able to sell ice cream. I didn't know that until five hours ago. So, I don't know what to say about that aspect of the situation.

Commissioner Serra: I think he has opened up his own can of worms.

Craig Minor: Yes he has.

Commissioner Claffey: I have to agree with Frank. To make a specific change, we're opening up a can of worms so other businesses and establishments in this community can, for example, set up a food truck to sell my product outside instead of inside, whatever that may be.

Craig Minor: Time out. We have spoken too much about the merits of this case. We can discuss it when...

Commissioner Aieta: Why are we scheduling it for a hearing? I'm saying we shouldn't put it on for a hearing. It's a bad idea.

Craig Minor: You have to. You have no choice. He paid his application fee. You don't get to decide who applies for things. You get to decide yes or no, but you don't get to decide who can apply for a change to the zoning regulations.

Commissioner Camillo: What if a person who sold hot dogs out of a truck, a little trailer came to you and said, I want to be in front of an empty store on the street?

Craig Minor: What would I say? I would pull out my map that I have of the spots in Newington where it has been already determined, years ago, where food vendors can have their trucks.

Commissioner Camillo: This truck is the same thing, so why can't they put it there?

Craig Minor: Because this location is not on the map of where vendors can pull their trucks over and sell from.

Commissioner Camillo: Are they on Cedar Street?

Craig Minor: Willard Avenue, where the farm stand is.

Chairman Hall: They don't do anything on Cedar.

Commissioner Camillo: They used to.

Chairman Hall: They did, but now they have a little sign that says, Willard Avenue. So anyway, this is coming, June 24<sup>th</sup>.

Commissioner Andrzejewski: I don't know if this is a loaded question, but can he just move to Market Square if that sort of vendor use is approved there?

Craig Minor: Presumably the ice cream truck vendor will pay him to have his truck there, at the stand.

### **XIII. TOWN PLANNER REPORT**

#### **A. Town Planner Report for May 13, 2015**

Craig Minor: Not much to report except the Gateway Plaza is finished. The ZEO went out to inspect it, took pictures, the work is now complete, the landscaping is all nice, the flowers are growing, and the grass is established, so I recommend that the \$22,000 bond be released. I have a draft motion

Commissioner Sobieski: I move to release the Performance Bond for Gateway Plaza in full, in the amount of \$22,000.

#### **FINDINGS:**

1. The Town Staff inspected the site on May 7, 2015 and found the site to be completed in accordance with the approved site plan.

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

Craig Minor: Last fall the owner of the Fountain Pointe Office Park asked that his bond be released. The Commission at that time said, let's wait and see if those three new arborvitae survive the winter. I went out there yesterday, and they aren't looking too good. [the Planner distributed photographs of the trees].

Commissioner Aieta: These are the three that he put in?

Craig Minor: Yes. I ask the Commission what you want to do, if you want to release the bond or not.

Commissioner Sobieski: Do we know if his arborist sprayed the arborvitae?

Craig Minor: Yes, we got the receipt last year from the arborist who sprayed them.

Commissioner Sobieski: Do we know if he has watered them? Because these look very dry.

Commissioner Serra: I'm not an arborvitae expert, but I just replanted eight of them for the third time. They take a while, and you have to constantly water them. I water them twice a

day, morning and night and so far so good. Again, I'm not an expert, but these were put in the ground and left. So I would be opposed to releasing the bond. Let him do it again, and take care of them, do it right.

Chairman Hall: Can we release a portion?

Craig Minor: I wouldn't recommend it.

Commissioner Aieta: I concur. There is no secret to planting arborvitae. I've got 35 of them on my property. I put them in once and they are 15 feet tall and they are as green as can be, and I never watered them. I don't know why it is so hard to get three of them to survive.

Commissioner Claffey: Can I ask that the next time you put a date on this?

Craig Minor: These were from my phone, and I haven't figured out how to do that yet.

#### **XIV. COMMUNICATIONS**

- A. Connecticut Siting Council letter re proposed modification to existing telecommunications facility at 123 Costello Road, dated April 22, 2015

Craig Minor: I just included this, just for information, to remind you, I get these pretty frequently but I thought I would have them come along to you once in a while. It's an existing facility and ATT Mobility has applied for permission to modify it.

Commissioner Aieta: It's an existing tower that they want to add another user on.

Craig Minor: Correct. Let me find out a little bit more about this one and come back to you at the next meeting.

Chairman Hall: It's pretty close to a multi-unit.

- B. Memo from Housing Needs Study Committee to Newington Town Council dated April 24, 2015.

Craig Minor: At the last Town Council meeting, the Housing Needs Study Committee presented its findings, including the cover letter. Councilman Banach asked me to present this same letter to the Plan and Zoning Commission, for your information.

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

Rose Lyons, 46 Elton Drive: I just want to say thank you to all, and the staff. The Petition where it was thought to be, or they could continue to do with the stipulation that there were no problems, and if it wasn't for social media, how would people have found out that there was even a problem, without reading the police blotter, and maybe the Police should be notified that there are conditions for these events being held, and if there are problems they should be reported to the TPZ. One other thing, thank you for speaking into the microphones, but that was during the first public participation, it was good, but it declined.

#### **XVI. REMARKS BY COMMISSIONERS**

Commissioner Leggo: During the recess I looked at my phone, and my wife said that out there, on TV, they could not hear us. So apologies to anyone watching.

Commissioner Sobieski: Maybe it might be a good idea that the Police Department review each and every one of these functions, and notify the Town Planner if there are any problems. I mean more than a one line sentence, yes or no. I think we need to know this, obviously Azteca brought it to light, but there may be other things going on that we have given permission to do, and there might be problems, traffic, or whatever. I think we need to have some follow up mechanism from the departments that are involved, whether it be the Police, or Fire, and get back to the Planner. A simple e-mail will do.

Commissioner Aieta: They had to have police, off-duty police there.

Commissioner Leggo: How did it get so out of control?

Commissioner Sobieski: I don't know, I wasn't there but...

Chairman Hall: If there was 1,000 people there, it can get out of hand pretty quickly.

Commissioner Sobieski: But my issue is that this was brought to light again thanks to Ms. Lyons, that it was on social media. How many permits that we have issued where things happen, like a traffic issue, or traffic is tied up? We really need to stay on top of this. I'm saying, three months ago, six months ago, who is going to remember there was a problem?

Craig Minor: I think this will be remembered.

Commissioner Sobieski: On this, yes, but if it was a smaller incident, six months from now, nobody is going to remember. So what I am saying is that when we give these special permits out, we need to have some follow up action from the Police Department, whether it be Lt. Morgan, whoever it may be, just drop you a one line, this function went off well, no issues, no problems, same with the Fire Marshal. This way it's back up for us, so if someone says, last year we had 36 kids hanging on a telephone pole, we have the back up.

Commissioner Serra: Just to follow up on Commissioner Leggo, I was getting text messages that the cameras are off, that they could hear us, but they couldn't see us. What happened at Cinco de Mayo, I was at the other Mexican restaurant, and we heard from there what was going on. I was getting text messages, phone calls from people driving by the area. I was aware of it, I know that doesn't help everyone in town, and social media did get it out there, advising people to avoid the area. I know that they did have two officers assigned there, but once it broke out, they called all hands in because I guess it got pretty rough up there.

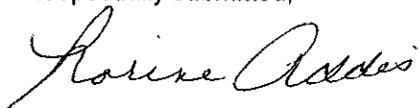
**XVII. CLOSING REMARKS BY THE CHAIRMAN**

Chairman Hall: It was a long night. I think this hopefully will be the end of our long nights, for a while. Thank you for your input and your due diligence and we will see you on the 24<sup>th</sup>.

**XVIII. ADJOURN**

Commissioner Leggo moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 10:40 PM.

Respectfully submitted,



Norine Addis,  
Recording Secretary