

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

December 13, 2023

I. PLEDGE OF ALLEGIANCE

II. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Chairman Stanley Sobieski
Commissioner ~~Craig~~Chris Miner
Commissioner Alan Nafis
Commissioner Gia Pascarelli
Commissioner Stephen Woods
Commissioner ~~Stewart~~ Drozd-A
Commissioner Peter Hoffman-A

Commissioners Absent

Commissioner Anthony Claffey-excused
Commissioner Domenic Pane-excused

Staff Present

Paul Dickson, Town Planner
Erik Hinckley, Asst. Town Planner, ZEO

Commissioner Drozd was seated for Commissioner Claffey and Commissioner Hoffman seated for Commissioner Pane.

III. APPROVAL OF AGENDA

Paul Dickson: The agenda is the same as published. When I read the public hearing notice just for information, the petition for 202 Deming Street, Petition 26-23, was published in the public hearing but it was pulled from the agenda. The applicant requested an extension and consented to an extension of time to submit all of their paperwork.

IV. PUBLIC PARTICIPATION (For items not listed on the agenda; speakers limited to two minutes.

Stuart ~~Kelly~~Calle: Good to see you. I see a lot of Dunkin Donut signs here so I supposed that you are bringing your petition before the board. I just want to say I support that, I'm glad to see that you are getting help as a small business person. It seems that the previous Town Planner moved heaven and earth to make things happen here, changing Industrial, and it's good to

support the small business people and the Town Planner here before Paul bent over backwards making the town center now be able to have a drive through which was prohibited in the past, and they have gone to great lengths to make sure that didn't happen and now it is happening and over Newington Junction, which Stanley lives, was re-zoned moving mountains too, for a drive through there for a different Dunkin Donuts guy I think, it never materialized, but it did pass, so things are moving forward celebrating and helping the small business along through some very tedious rules that have been set up and I could probably cite others. I'm here also as an abutter to the cemetery, and as a doctor and a person. I have sent some of you, a note to each of you outlining the rules of the cemetery. I guess the sextant is Bill DeMaio and when he first came he broke rules by just throwing away everyone's personal items, and when he got on the hot seat for that he made amends by following the rules of the ordinance, as saying you have to get your items out of here by a certain time, in fact he has put it out three times now, so he follows those ordinances regarding the conduct of the cemetery. However he is not at all following conduct in that he is disrespecting the solemnity of the cemetery. It says that no person shall ever disfigure, deface, destroy, move the fence, over by the blue memorial building. He has done that for his own convenience. He has removed cemetery dirt and soil, disturbed the lawn and areas around people's cemeteries, and he has essentially made a new entrance to the cemetery and that cannot just happen. I know there is a lot of political force here, I spoke to Erik about two and a half years ago, two years ago, I went to the police, and I was told to go to the police because somebody is breaking the ordinances, and so they sent me to Erik and then Erik passed it on to Chapman, and then Chapman buried it by leaving my complaint on his desk until he resigned, so now I make my appeal here because this is really the appropriate place for ordinances to be followed. I'm not at all, I have no remorse coming here, I'm standing up for the people who are respectfully buried there. I see what goes on in the cemetery and I would like to just respectfully follow the ordinances, and I know that the new Town Manager, I know he listens to the Republican attorney and it is just not going to happen, the people from the cemetery, the descendants of that cemetery will be coming and coming boldly because will follow the ordinances in that cemetery. That is why there are rules. Mr. Seremet set them up in 1977 and they have to be respected no matter how inconvenient it is for Mr. DeMaio. He has called me the enemy in the past, I went with my office manager and he called me the enemy for speaking up, and I am vocal. I stand on what I stand and I believe in what I stand and people respect me I think for that. I can't be prejudiced for speaking up and I will speak up to you, and I will speak up to the Town Manager because he is not following the ordinances. I will make sure that the descendants are heard and that their graves are respected and that sanctuary remains. So, whether you decide on that tonight, I just hope that Erik, in the future, since I am a local resident that you will speak to me and tell me what is happening to my complaint, I mean it just sat on Chapman's desk for months, until he finally left. Now we have a new beginning, a new team, a new Democratic leadership, I hope that everyone follows these ordinances. I am way over three minutes, and I respect that you have listened to me because it means a lot to me and all of the people, many of my patients end up in that cemetery, and they come and complain to me, like who is doing this. Thank you so much.

Rose Lyons, 46 Elton Drive: I think I am just going to have to hire an Uber driver to bring me up to town hall. I tried to get on to YouTube, tried to get on NCTV, and they weren't on right away, but in any case, I just wanted to say welcome to the new members, I'm glad to see some familiar faces at the table, so that I don't have to go through the Rose Lyons training period because they are all too familiar with me, but I'm glad to see that you are all there and I look forward to seeing what is going to happen with what is coming into town, and I don't know if this is the proper time or not to address this, and if it is not, just shut me up and I will be quiet about it until the public hearing on the cannabis dispensary. I just want to ask the Commission if they can, once this hearing is held, that they could look into whether or not they can cap the number of dispensaries and cultivating places for marijuana. I think that probably that is something that you would have to do with your regulations, but people have been talking about it, and I'm not for or against but I think it is something that you might want to consider. Again, welcome back to those that are back, and welcome to the new members. I look forward to seeing what you are going to do in the next year. Thank you.

Jan Kritzman: Good evening everybody. I live at 91 Tremont Street here in Newington, for 45 or 50 years and I'm going to tell you all a secret, but please don't tell my doctor, I drink between six and ten cups of coffee a day, sometimes I have it intravenous into my leg, so I am very much in favor of Petition 27-23 which would be a drive through also in the old Sovereign bank building.....

Paul Dickson: Mr. Chairman, I sorry to interrupt point of order, if this testimony on this.....

Chairman Sobieski: First of all, this is on the agenda Jan.....

Jan Kritzman: The gentleman who spoke before me spoke about it.....

Chairman Sobieski: Yes, he spoke about on a couple of things. The agenda.....

Jan Fritzman: Why don't I just finish really quickly and then get on, is that okay?

Chairman Sobieski: I would prefer that you follow the rules. Come back when we call Petition 27-23 please. This is public participation for items not on the agenda.

Jon Trister, 81 Woodland Street. I just wanted to pop in and congratulate all of the new members on their appointment and congratulate all of the new officers and particularly welcome back to Chairman Sobieski. Thrilled that you are all there and I'm looking forward to working with all of you. Congratulations everyone, have a great night.

Bill Garrity, 190 Tomlinson Avenue, Plainville, CT: I'm speaking as the original speaker did, the Doctor, I'm sorry, I got a letter sent to me because my grandparents are buried in that cemetery right where that fence is, right where that new gate is. I went there this morning, it was a hell of a day for me, I was trying to get everything caught up and I wanted to have a written testimony and I just did not have the opportunity. I am also very concerned over the fact that it has been twenty years and I did not go back and visit my grandparents, so it has been a rough day. I don't understand how someone could go ahead and desecrate a cemetery like that, and I don't know because again, I'm late to the party here, but I'm the last living relative, I have brothers but, this is upsetting to me. It doesn't look like this was done by a private company or anything

else. Did the town have a hand in this, because it has been cut, I mean, the cut through is for the public high school, correct? I mean, so did the town have a hand in doing this?

Chairman Sobieski: This is the first that I am hearing about this, so I don't know. Erik?

Erik Hinckley: My understanding is that it was done as part of the parks operation.

Bill Garrity: So the town actually approved and did that. I mean, were bodies moved, I mean this is painful for me.

Erik Hinckley: Mr. DeMaio is the sextant I believe for the cemetery, falls under their purview, they don't have to get any kind of approvals through the Planning and Zoning Commission.

Bill Garrity: Does the high school? The Board of Education?

Chairman Sobieski: My understanding is the Board of Education and the parks Department, Mr. DeMaio.

Erik Hinckley: My understanding is that Dr. Kelly has also spoken with the Parks and Recreation Department Board that has had a number of meetings on the same issue.

Chairman Sobieski: So please contact them, the Mayor and the Town Council, that is where that would lie, not here.

Bill Garrity: Planning and zoning, I'm trying to wrap my head around it, trying to figure out.....

Chairman Sobieski: Planning and Zoning deals with buildings and re-zoning of sections and what you are talking about is a different operation under Parks and Rec, which operates the cemetery, which Mr. DeMaio is the sextant.

Erik Hinckley: Mr. DeMaio or one of his underlings.

Chairman Sobieski: So we have nothing to say about the cemetery.

Bill Garrity: Okay, again, I was there this morning, there were headstones or grave sites that had been moved, to me it looks like they have been a heck of a lot closer together than they had been when my parents, when my grandparents were buried. So again, I'm asking, if anybody knows if bodies were moved, headstones were moved, and if there is a vehicle that is driving over bodies, driving over remains, this is upsetting.

Chairman Sobieski: I understand that, I would be upset too. Trying to help you out here, but what I would do is get ahold of the Mayor, the Town Council, and make an appointment to go and talk to them and Mr. DeMaio. We don't have anything to say about it.

Bill Garrity: Many of you people look like you have been around for a little bit of time, and I just want to say I am speaking for Rita H. and William G. Bevin, 139 Audubon Avenue, which unfortunately not too long ago looks like it burned down, I drove by it the other day, and everything in Newington from my family is gone.

Michael Fox, 1901 Main Street: I just wanted to say hello to you as I have been put out to pasture, nice to see Stanley back. As you figured out, I'll be keeping tabs on you, and I'm sure

you will do a good job since some of you have been on there and you have Steve to carry you along, and the two Republicans so I'm sure you will doing quite well. I'll be speaking to you about public hearings and during public participation. Anyway, be well guys, I'm here.

V. ZONING OFFICER REPORT

Erik Hinckley: You all have it in your packet, if you have any questions, feel free

Chairman Sobieski: Are there any questions about the Zoning Officer report?

Erik Hinckley: the only thing I would like to bring up Mr. Chairman, the discussion about the cemetery stuff, it is an ordinance, it is not a zoning ordinance which zoning or TPZ would enforce, so whomever the Town Manager wants to appoint to enforce those particular ordinances.

Paul Dickson: Mr. Chairman, I just wanted to add that it was on the last Zoning Enforcement Officer's report and the information there was emphasized and forwarded on to the responsible parties.

Erik Hinckley: We are transitioning from what we used to do, for this report, we are working on the end report, tweaking that as well. It has all of the items that came up In November, whether they were open, closed or whatever.

VI. REMARKS BY COMMISSIONERS

None

VII. PUBLIC HEARING

Paul Dickson: What I am going to do is to read the notice that was published in the paper, so Newington Town Plan and Zoning Commission amended notice of hearing, published December 13, 2023 at 7:00 p.m. Notice is hereby given that the Newington Town Planning and Zoning Commission will hold a public hearing in council chambers, room 103 at Town Hall, 200 Garfield Street, Newington, Connecticut on Wednesday, December 13, 2023 to consider the following petitions:

- A. Petition 28-23: Zoning Regulation Text Amendment pertaining to family child care homes and group child care homes as a permitted use Accessory to a residence in a zone permitting either single, two-family, or multifamily uses (Add Sec. 3.1.5) (Amend Sec. 3.2.8) (Remove and add 9.2 definition), Newington TPZ, Paul Dickson.
- B. Petition 26-23 Special Permit (Sec. 3.4.7) to convert a pre-1920 single family residential dwelling at 202 Deming Street into two residential units in the R-20

Zone. Applicant/Owner Salvatore J. Visconti Jr. & Paula J. Visconti, contact: Paula J. Visconti.

To notice, that is the one that was moved to be heard at a later date.

- C. Petition 27-23: Special Permit (Sec. 3.13.0 and 3.13.7) and site plan for a restaurant with an accessory drive through at 79 East Cedar Street (AKA 63-79 East Cedar Street) in the B-TC Zone (Business Town Center Zone) and town center village overlay district. Applicant Cedar Street LLC, Owner: Newington Sovereign Bank Plaza LLC, Contact Cary Gagnon
- D. Petition 29-23: Special Permit (Sec. 6.16) for a cannabis Hybrid Retailer at 2661 Berlin Turnpike (AKA 2657-2661 Berlin Turnpike) in the B-BT Zone (Business Berlin Turnpike Zone) Applicant: Chillax LLC. Owner: 2661 Berlin Turnpike Associates LLC, Contact Michelle Bodian Esp.

This public hearing will be a Zoom webinar hybrid meeting. Information on how to attend the meeting will be posted on the town web site at <https://www.newingtonct.gov/virtual> meeting schedule. These petitions and related materials are available for public inspection at the Town Planners office, Town Hall, Room 204 and a published agenda at the Town Plan and Zoning agenda center, Persons who require an accommodation to participate in this public hearing should contact the Town Planner at 860 665-8578 or Town Planner at [Newingtonct.gov](https://www.newingtonct.gov) not less than twenty four hours before the public hearing. Submitted, Paul Dickson, Town Planner. It ran in the Rare Reminder, November 30th and December 7th.

- A. Petition 28-23: Zoning Regulation Text Amendment pertaining to family child care homes and group child care homes as a permitted use Accessory to a residence in a zone permitting either single, two-family, or multifamily uses (Add Sec. 3.1.5) (Amend Sec. 3.2.8) (Remove and add 9.2 definition), Newington TPZ, Paul Dickson.

Paul Dickson: In this one, I am the applicant so this text amendment, again, what is does it, Erik is going to bring it up, there is public act 23-142. As part of that public act, it required that all family child care homes and group child care homes be permitted as no different than a single family residence and it not require a special permit. A review of our Zoning Regulations revealed that our zoning regulations did require a special permit for those uses, even in a single family or multi-family dwelling. What this regulation does, it adds Section 3.15 which Erik will bring up, which has, Section 3.15 family child care home or group child care accessory to a residence in a zone permitting either single family, two family, or multi-family uses. The requirements are, no announcement signs shall be permitted more than two square feet in area, and all such uses shall be approved by the State of Connecticut Office of Early Childhood prior to issuance of a zoning permit.

Again, this is moving into uses permitted in all zones and it is then qualified by saying, accessory to a residence in a zone permitting single, two family or multi family. That makes it consistent on how we would treat those uses. Then the requirements there, there is nothing different from what we would do for a single family dwelling.

The next section, 3.2.8 just revises, it's in your packet, it's revised again to group child care homes, not located in a residence because you can't have a group child care home, which are smaller in size than a full child care center, but you can have them on commercial districts. You can have them in other districts, so this would be again, special permit because again, it is not in a home, it could be in an industrial, commercial, it could be some area like that, and that is within the purview of the Commission then appropriate adjacent uses. What it does there, it just strikes this section, F, from if the proposed location of such use is in an existing one or two family detached dwelling, the following additional requirements shall apply. So it is just striking that section that specifically talks about one or two family uses and provides a special permit for that, and the last item, there was a definition for day care center, and has stricken that definition for day care center and just incorporate day care related terms, so what this does is point it to the State Statute. So as the state statute evolves, on these uses, it won't require an update to the Newington regulations, so if the state says, we're at six, or now seven, that would require us to update ours every time a change happens. This ties it to the state statute, what those definitions are and it kind of pulls it all together. So that is the proposed text amendment.

Chairman Sobieski: Does anyone wish to speak in favor of this petition? Does anyone wish to speak against it?

Commissioner Miner: Mr. Chairman, I'd like to keep it open, just to give a look at it again, so people could come forward. There is no urgency is there?

Paul Dickson: The state did ask for them all to be pretty much, we did have to report to the state regarding the status of it, the ideal was to get it done prior to the end of the year. It was brought up at the last meeting, presented on October 26th to the TPZ and there was no issue and was recommended to go forward, that is completely in the purview of the Commission. We have not received any calls, nothing, or comments.

Commissioner Woods moved to close Petition 28-23, seconded by Commissioner Drozd and move it to Old Business. The vote was unanimously in favor of the motion, with seven voting YEA.

- A. Petition 27-23: Special Permit (Sec. 3.13.0 and 3.13.7) and site plan for a restaurant with an accessory drive through at 79 East Cedar Street (AKA 63-79 East Cedar Street) in the B-TC Zone (Business Town Center Zone) and town center village overlay district. Applicant Cedar Street LLC, Owner: Newington Sovereign Bank Plaza LLC, Contact Cary Gagnon

Cary Gagnon, 6 Cedar St, Suite 300B, Newington, Connecticut 06111: Thank you for having me, so what we are proposing, the building, there was a drive through dry cleaner and then

there was a drive through bank, and we have had a few different requests and different things to meet, as far as queuing, as far as drive through, and as far as landscaping, and so I think we have had, there was like forty things that we discussed and I think we met every single one of them, so we are trying to, at this point, this is a special exception, so we are here, asking for the special exception so we can open a Dunkin Donuts there.

Scott Hesketh: Good evening, for the record, my name is Scott Hesketh, I'm a licensed engineer, State of Connecticut, firm of F.A. Hesketh and Associates. Our office is in East Granby, Connecticut. With us tonight, you just heard from Cary Gagnon, and Brian McLaney is here from Alan ~~Bongianni~~Bongiovanni Group, Inc., His office handled the site plans and my office prepared the traffic impact report for this development.

Paul Dickson: Mr. Chairman, if I may interject, we just received updated plans on Monday. The applicant has just handed me the updated plans, would you like those distributed to the Commissioners?

Scott Hesketh: In any event, we are here for a special permit and site plan approval for the conversion of the existing, or former bank building to a Dunkin Restaurant with a drive through window. As the Commissioners might be aware, the site is located at 79 East Cedar Street, which is the intersection of East Cedar Street which is Connecticut Route 175, and Constance Leigh Drive in the downtown. Up on the screen right now is the existing conditions plan, which is sheet 1-8, which is part of the application package. It shows the site under consideration, the building on the right hand side, or the east side of the site, is the bank building which we are converting to a Dunkin restaurant. The building on the left side is a retail plaza which has a number of individual tenants. The bank building is about 2,160 square feet, the adjacent retail is about 4100 square feet. The overall site has 40 parking spaces, and the site has access to two driveways which both interconnect to the internal site driveway to Constitution Square. The original application which was presented, or the original plan which was presented as 1-1, which is not in your package but we have a copy of that up on the screen. Basically the original site plan, they were proposing to re-occupy the building, add a dumpster location, on the southeast corner of the site, do a minor change to one of the interior islands, on the north side of the site where the drive through lane exits, so immediately the plan was just to re-occupy the site. That was the initial site plan. Through town comments and staff comments, meeting with staff and going through a number of questions, comments, concerns, a revised site plan, which is before you this evening, which is presented on sheet 3 of 8, as part of the package, and I believe we have a color rendering plan which can be shown up on the board.

So after consultation with staff, a number of revisions were made. Because of queueing concerns we revised the site access. Currently the existing site has an enter and exit drive on the eastern portion of the site, and exits, for the bank I believe was only on the western side of the site. Due to queueing concerns from the drive through window for the Dunkin facility, we switched the access to the site, we are going to be widening the westerly side driveway to make that an enter and exit driveway. We are going to be narrowing the eastern driveway and making that an exit only driveway from the site.

We relocated the proposed dumpster from the southeast corner of the site to the westerly portion of the site, we have provided angled parking on the south side of the Dunkin building, the existing bank building. Those spaces are angled because we are proposing one way access around the building in that location and those parking spaces will be designated for employee parking so that there won't be a lot of traffic into and out of those parking spaces during peak hours operating out of the facility because the drive through queue will be located in that area to help us to avoid conflicts. We proposed some internal pavement markings, at the internal intersection, we are proposing that driveway to be stop sign controlled on the east bound and southbound approach. We are marking the intersection itself with "do not block the box" type markings, and that is in the event that the queueing from the drive through window extends past the existing building. We don't want it to block the internal intersection, but there is sufficient queueing west of the intersection to accommodate additional vehicles in the drive through queue during those morning peak hour rushes.

When we switched the driveway configuration to exiting traffic only in this location, with the "do not block the box", it allows exiting traffic from the drive through window to exit without being block and avoids the possibility of entering vehicles joining the queue and backing out into the Constitution Square driveway. So the relocation of the driveway provided additional queuing spaces.

This plan also provides additional Dunkin signing, directional signing throughout the site, you can see the drive through pavement markings to direct people to the right location and this plan also provides an increase in landscaping around the northeast corner of Cedar Street and Constance Leigh Drive.

That is the site plan in a nutshell. Again, Brian Mc Laney is here from Alan Bongiovanni, Inc., and he can, he will be happy to answer any specific questions in terms of the site plan, if the Commission still has them.

Turning to the traffic impact report, our office did prepare a traffic impact report, dated October 18th, and we provided supplemental information on November 16th, in response to town comments. In the course of preparing our report, we researched the files of the Connecticut Department of Transportation. The DOT had traffic volume counts on Cedar Street, Route 175 and on Constance Leigh Drive. Those counts were taken during January of '22 for Route 175, and during October '21 for Constance Leigh Drive. According to the ConnDot counts, East Cedar Street has approximately 18, 600 on a daily basis. The morning peak hour of about 1400 vehicles, and the afternoon peak hour of about 1500 vehicles, just to the west of Constance Leigh Drive. Constance Leigh Drive itself has 3600 vehicles on a daily basis, with the morning peak hour of 200 vehicles, and an afternoon peak hour of 433 vehicles, across the site frontage. In addition to the ConnDot counts our office conducted manual turning movement counts at the intersection, a signalized intersection, and those counts were conducted in early October for the morning and Saturday peak hour periods, because those would be the hours where the proposed facility has the highest trip generation. We used the ConnDot counts and the turning movement counts, we applied a one percent per year growth rate to a design year of 2025, to protect the background traffic volumes for the area. For the trip generation, we reviewed the Institute of Transportation Engineers trip generation report. That is a standard engineering reference which allows engineers and planners to estimate the traffic volumes at proposed facilities based on traffic volume counts at existing facilities throughout the country. We used

that to generate the traffic volumes for the former bank and for the proposed Dunkin restaurant. The former bank has a trip generation of about 21 trips during the morning peak hour, 45 trips during the afternoon peak hour, and approximately 57 trips during the Saturday peak hour. The proposed Dunkin restaurant is projected to have about 207 trips during the morning peak hour, 91 trips during the afternoon peak hour and 190 during the Saturday peak hour which represents increases of about 186 trips, 46 trips and 133 trips respectively. We distributed that traffic to the local roadway network, and 75 percent of the traffic would be oriented to and from Cedar Street, 15 percent we determined might travel through Constitution Square, and five percent of the traffic we projected to Constance Leigh Drive and five percent to Hawley Street on the opposite side of the intersection. We added that traffic to the background traffic volumes to get the combined traffic volumes upon completion of this development should the Commission so approve, and then we conducted capacity analysis calculations at the signalized intersection, at the intersection at Constance Leigh Drive and the Constitution Square driveway and at the sites of the driveways themselves. There was also an analysis presented in Table 4 of the report and the results indicate that during the morning peak hour the signalized intersection operates at an overall level of service B during the morning peak hour, and a level of service A during the Saturday peak hour under background conditions. A level of service B or A indicates delays in the range of nine to ten seconds per vehicle on average.

With the introduction of the site generator traffic the intersection will continue to operate at a level of service B during the morning peak hour and will operate at a level of service B during the Saturday peak hour and the average increase in delay is about one second per vehicle on average at the location.

The intersection of Constance Leigh Drive and the Constitution Square Driveway and the two site driveways all movements at both of those locations will operate at levels of service A or B during peak hours, meaning very minimal delays and very minimum queue lengths at those locations.

Town staff asked about the projected queues on Constance Leigh Drive at the signalized intersection and the calculations indicate that the maximum queue, 95th percentile queue has we like to call it in the engineering world, is approximately less than 100 feet. Actually it is in the range of 86 feet during peak hours. The intersection of the Constitution Square driveway is about 130 feet from the stop bar at that location so under the combined conditions, we have an additional 50 feet to play with there so it is unlikely that the traffic volumes after completion will back up and interfere with the operations at that location, with this Dunkin facility in place. Again, the projected queues on these Constitution Square driveways, at Constance Leigh drive is in the range of one to two vehicles during peak hours, so again, the traffic should not back up and interfere with operations of the internal site driveways to this facility.

In addition, we took a look at the queueing for the proposed restaurant itself, we used the standard distribution and based that on the peak hour projection of 106 entering customers into the Dunkin Donuts facility based in our experience with Dunkin Donuts facilities and based on published data by Dunkin Donuts, they project about 65 percent of the vehicles will utilize the drive through window during the peak hour, and we use an average time of service at the window of about 40 seconds per vehicle. Based on those factors, the expected queue would be about three to three and a half vehicles during the peak hour. One at the window, and three or four vehicles in line during most times. The average delay of a vehicle in the drive through is

about 131 seconds on average during that peak hour. The probability that the queue would exceed twelve vehicles is about two percent during peak hours.

Now we have an existing queueing lane of about 190 feet before you hit the internal intersection of the site, which is good enough for about nine or ten vehicles on average which is one of the concerns that town staff had in the original report which is why we flipped the driveways, we wanted to make sure that we had enough queueing space that the vehicles could remain on site and not spill out of the driveway onto the Constitution driveway.

So again, you have our original report, you have our November 16, 2023 response, which basically provides some backup information in terms of the traffic volumes, the queueing analysis, the average delays and such and those were submitted together with the original revised site plans which had been revised to date through a number of back and forth with town staff. I think that is our presentation in a nutshell. I tried to be comprehensive but brief. If the Commissioners have any specific questions related to traffic or the site plan we would be happy to entertain them at this time.

Commissioner Drozd: It appears as though the entrance to the entire lot is going to be in that one driveway, all the way, all the way west, correct? Has there been a discussion with the tenants in the next building over so they are in agreement with the customers all need to come in that way, and they are okay with at time, 40 to 60 cars an hour that their customers could be backing into with everyone coming in that way?

Cary Gagon: Yes, I have had conversations with two of the tenants, and one I did not, but the two, the Subway and Michael at State Farm, they are fine with that. Michael says he gets like three people on an average day, and it is usually p.m., and the Subway is open for breakfast a little bit, but I have never seen more than three cars there.

Commissioner Drozd: Okay, I would be worried about somebody backing out when there is so much increased traffic coming in that now has to come past there.

Cary Gagnon, Yes, I think, the original way would have been my preference, but the way that we did it now I think to allow the extra queueing, what did we end up with for a queueing total?

Scott Hesketh: I think like nine.....

Cary Gagnon: No, we were like nine originally on the right side, but from the stop side back we can still queue another.....

Scott Hesketh: The calculations indicate, we don't expect more than twelve at a given time but there is queueing space available for fifteen or sixteen vehicles.

Commissioner Drozd: Where would the additional cars go on this map because I saw a really nice map for tractor trailers but not for traffic flow for customers

Scott Hesketh: Well, the window is located on the north side of the restaurant where the current drive through is, and you have room to stack nine or ten vehicles around the building until you get to the internal intersection at that point. At that point, vehicles would have to go to the other side of the intersection so there would be perhaps two or three vehicles on the west side of the intersection during the occasional peak times when.....

Commissioner Drozd: Would that make the customers from the neighbors not being able to get out or in based on increased flow.

Scott Hesketh: the peak times of this facility, and the peak times of the other facilities are... I don't think we are too concerned about vehicles in queue, twelve or thirteen vehicles during lunch at the Dunkin Donuts, that will be an early morning when the other facilities typically aren't open. Even if they do have a customer, it would be seldom, so it shouldn't be a concern.

Commissioner Drozd: I just wanted to address that to be sure we were looking out for the neighbors.

Commissioner Woods: The south side of the building, the seven parking spots, what are those designated for? Customers?

Scott Hesketh: Those are employee spaces.

Commissioner Woods: Are they to be marked as such?

Scott Hesketh: Yes, you can see on the plan that there is signage on each one of those spaces, there is a black circle and a black line there, and employee parking signs. Those spaces will fill up before the peak hour, and remain, there will seldom be a change over during peak hours and then after the peak hours are gone and the queues have dissipated perhaps someone might go home, so it allows them to back out and get out of there.

Commissioner Woods: The only way out is to back out and go through the drive through.

Seth Scott Hesketh: They are going to back out and go out through the drive through, yes.

Commissioner Woods: I realize that your drive through is 8:00 to 10:00 or 7:30 to 10:00, I'm not sure what your peak hours are.

Cary Gagnon: Peak hours are basically 6:30 to 10:30.

Commissioner Woods: And does it pick up again after lunch?

Cary Gagnon: Not really.

I know our calculations call for like 115 cars an hour or something like that.....

~~Seth Hasketh~~Scott Hesketh: The IT indicates that for this size facility at this location 106 customers.

Commissioner Woods: I didn't realize, I wasn't fully aware until I saw the packet, I didn't realize that both buildings were on the same plot of land. Again I think this is a good use, I really do, I don't see anyone being opposed to this, so we will see where the public is.

Commissioner ~~Nafis~~Sobieski: I have a question, and I asked the Planner to contact Alan. I'm looking at the property line, it goes a foot into the (inaudible) See this? If you look at the property line on the east side you will see it actually protrudes into the road. If I remember correctly, when the Town widened Constance Leigh they took some property here. I went by there today and I noticed that there is a span pole for a signal on that, so it looks to me as if the property line needs to be adjusted here. This is showing a sidewalk that is actually on Santander property, the northeast corner. I remember when they did this that the town did get some of the property and the state took some. They brought that lane down and widened it for the heavier trucks coming to the post office and at that time I think the market was still there. All I'm saying is that this is showing me a sidewalk that is, a town sidewalk on private property if I'm looking at this properly.

Scott Hesketh: There is an easement in favor of the State of Connecticut which is shown across the side frontage. If you look at sheet one of eight, which is the survey, you have the dark line, which is the right of way line, about eight to ten feet south of that there is a dashed line, it's labeled easement in favor of the State of Connecticut which I assume is for the sidewalks, snow plowing and the installation of signage and that bends around the corner to allow for the placement of the traffic signal equipment at that location as well, so it appears that it was an easement, not a taking but I'll let Brian add more to that.

Brian McLaney: There are easements in favor of the state there, there is a town drainage right of way, and there are grading rights there. I basically think that's what it is there, there is an easement in favor of the state there.

Commissioner ~~Nafis~~Sobieski: I guess my concern is that if somebody walks, falls on that sidewalk, who gets sued? That's my question. Normally when the state takes property it gets an easement, they move the property line back, that's all I'm asking. This is very deceiving, to say the least. If this is going to be an A-2 survey, I think it would have to be, has to be corrected, one way or the other, my opinion.

Scott Hesketh: It just may be that, and we'll look into it but there could be a number of reasons why it is just an easement instead of a taking, could make the lot non-conforming, in which case it is not something that you would want to give away, so there are a number of reasons why it could be, but it's not unusual that there would be easements instead of a right of way.

Paul Dickson: Mr. Chairman, we have reviewed the previous plans, as I noted when the plan was handed out, we received it mid-day Monday, with the work load, to do a turn around that quick, to do a site plan review for that, it was not available. The Commission also received the

plan tonight, nothing was in the packet for distribution to the public. So staff does need time to review that plan. Right now we don't have, we are not able to provide any additional comments or recommendations or anything as far as what was addressed. They did, the applicant did provide a cover letter with that about the staff comments that were addressed, but again there hasn't been sufficient time, seeing that we received it mid-day Monday to do a review for Wednesday night.

As far as staff concerns, the applicant did note that we worked with them for queueing, one of the major aspects to come out of that was the DOT research that they did on specifically Dunkin Donuts drive throughs. It's a little rare that one specific business gets studied, but they studied it for the impacts on Cedar Street, on state highways, and what they found generally was fourteen was kind of their standard number, that is one the site. The main things that staff would appreciate the Commission asking the applicant, again it has been brought up, that interior site circulation, how it works. We did ask the question as to how it would work in regards to Constance Leigh Drive, and the driveway to Constitution Square. When it comes to circulation, those are the primary concerns as how it works on site and then how it impacts the ability to leave and exit. The change for the interior of the site, does make a change as far as queueing. The original queueing could have backed up and then that would have essentially blocked the driveway. This has more chance that if it does reach that 14 it will block interior site circulation but at 14 cars would not block exterior site circulation and the town's parking lot.

One item, I did speak with the Fire Marshal, he was reviewing the initial plans and again, we just got these with a current new turning template, they do have some concerns. There is kind of a question too, a new location of the dumpster pad. It does show a counter flow for picking up that and I do note it is outside of normal business hours, but holding to that, that would be something the applicant would have to try to hold their trash provider to do. That is a potential counter flow type of operation. Again, that has been noted and originally the dumpster was on the corner of Constance Leigh and the entrance to the driveway, it as a prominent location, and because of the C L & P easement there were some concerns with that location. Staff did provide the comment about the design of the dumpster itself. They are proposing cedarwood dumpster. If you look at most of the ones in the town center right now, most dumpsters don't even have any enclosure. When you look at the town center design standard it really does tell you to complement the buildings and work with the existing architecture. It is within the purview of the Commission as far as how the design goes, staff did recommend that it might be an option to look at other options for dumpsters enclosures that do more closely match the building, or complement it, but a cedarwood fence might be okay to the Commission.

Another item is the signage, it was noted in the staff report that the signage proposed was internally lit, there actually are a lot of internally lit signage throughout, I noticed the locations, but when you look at the design guidelines I picked up one sentence that it actually does discourage and says not internally lit signs. So we do have non-conformance as far as the design guidelines go. I did speak with the applicant before the meeting and he said he was amenable to keeping the gooseneck lighting and keeping some of the similar signage that was on there for the bank previously. Again, these are kind of ideas for the, these are points for the Commission to consider because this is within the design district. Again, there are minimal changes to the building, the primary change to the building is actually signage and it will be the drive through window itself that will have to be slightly changed. It will be a different drive

through window other than a bank one, because that is not a pass through, but it most likely will be in a similar area. They did provide some elevations for the building that were associated with the signage but just the primary change. The regulations do require elevations of the building, so that is an item for the Commission to consider as well. Again, as I noted, we have not had time to review the updated site plan yet, and the Commission just received it tonight.

Mr. Chairman, if you have any questions, the Town Engineer is here as well, via video who can answer any questions for staff.

Chairman Sobieksi: Any other questions?

Anyone from the public wishing to speak in favor of this petition?

Jan Kritzman: Where did I leave off? I think was weaned on Maxwell House a long time ago, anyway, on my way over I stopped at Dunkin Donuts, I think this is probably sixth or seventh, I lost count, coffee of the day, anyway one thing I don't like to see when I come down Cedar Mountain and I come down to the center which is often during the week, I see empty buildings, and it was that Sovereign Bank and before that it was the dry cleaners and they both didn't last. Dunkin Donuts, in that location is perfect for the center of town. It's going to last, and we know that. The fact that it has a drive through, it would be the only place I can get coffee in the center of town that has a drive through. It's a really cold windy day, it's raining, it's a hot, hot day, whatever it is, and I don't want to get out of the car, there it is. I can go through a drive through. Also, Subway is right next door, Subway sells a very nice subway, but they don't sell coffee, so you have a nice combination of the two businesses. You get your subway, get your coffee, go home. So I was thinking that you really should put all of your heads together and get all of the fine points settled and approve this Dunkin Donuts because I think it would be a big asset to the center of town, and bottoms up.

Harold Kritzman: I'm her other half, I live at 91 Tremont Street in Newington, we had a business in the center of town for approximately 13 years, opportunities prevailed themselves for us to move onto the Berlin Turnpike where we remained for well over 30 plus years. One of the problems that we had when we first moved into Newington center was literally drawing people to come into Newington center. We had a nature food stop, we had a bike shop, we had a gun shop, we had a coin shop, all of these were points of interest which would draw people into the town. We had a problem with signage, they couldn't find Market Square. They said, where is the square? Well, obviously it never really manifested itself the way it was intended to be, which was an enclosed shopping area. This would draw people into the town. This is a big thing. The town needs to flourish, it needs to have a way for people to find businesses within the town, and to want to find it convenient to be in the town. This adds convenience. If you have convenience, you give people a reason to come in, it's going to draw business to, not only the Dunkin Donuts but the associated businesses in the town. So I am one hundred percent for anything that bring business into the Town of Newington, thank you.

Gail Budrejko, 21 Isabelle Terr: I am one hundred percent in favor of this, and I will be utilizing it a lot. Living in the Hawley Street area, I will be utilizing it as a pedestrian for the most part. I

have heard a lot of discussion about the drive through and the traffic and the parking, but if I could just get a little bit more clarity on how the pedestrians will be accessing this building, particularly based upon, also because when it was Santander Bank there were those four parking spaces right at the door, and then right across almost there were four parking spaces and it was very difficult, either as a pedestrian or a driver to get in and out, so again, and then the fact there is a senior and disabled housing there, I'm sure those individuals will be utilizing it as pedestrians. Are there going to be like marked walkways, sidewalks, if I can just get some clarification on that, but I am in favor of it, one hundred percent.

Rose Lyons, 46 Elton Drive: I too will be utilizing that Dunkin Donut but it will be my car because I feel more comfortable in the car driving through but I am glad that Gail happened to mention the pedestrians, I hadn't even thought about that. The one thing I didn't catch and you probably addressed it, but if you could once again tell me about the entrance and exit onto Constance Leigh Drive. I know when the municipal parking lot was revamped, that they tried to widen that entrance/exit area, and they could not. It's pretty difficult if you have a standard size car going out and a SUV coming in to navigate that area. So if you could just let me know what your plans are for that. I don't think you can widen it, but I hope that you are going to figure out a way that it will be easy in and easy out for everything. Other than that I have no questions and I wish you well and look forward to the building having its drive through.

Mike Fox, 1901 Main Street: Good evening, I think what I am going to do is to echo Gail and Rose. Here we have a well known businessman in town, wants to continue doing business in the center, and so he is expanding his possibilities, so I am definitely in favor of this. We did change the regulations to allow this, so good luck Cary.

Chairman Sobieski: Anyone else wishing to speak in favor? Anyone wishing to speak against? Seeing none, could you address Ms. Lyons' questions please?

Scott Hesketh: In terms of pedestrian access, the intersection of East Cedar Street and Constance Leigh Drive has a signalized intersection, it has a pedestrian crossing which is all stop, pedestrian crossing, all stop and the pedestrian is allowed to cross and there is a count down signal there at that location. When we were out there doing our traffic volume counts I think there were two or three pedestrians that utilized the intersection, pushed the button and they were able to cross very safely. There are concrete sidewalks fronting both East Cedar Street and Constance Leigh Drive and the driveway to the parking lot. People can get to the facility and if they wish to enter they can walk up the exit driveway or if they cross over to the grass area, they can walk through the parking lot. There are concrete sidewalks in front of the Dunkin Donuts building, concrete sidewalks along the other retail building and one of those concrete sidewalks does extend out to intersect with East Cedar Street, so if someone walking on East Cedar Street they can enter the property directly from that location and cross the parking lot to access the entrance to the facility, so there are ample opportunities for people to access the street via the sidewalks and the pedestrian crossing at the intersection.

In terms of design of the intersection, the Constance Leigh Drive and the Constitution Square driveway, we are not proposing any improvements to that location, I don't have the width of the

driveway in front of me, but it is a single entering and exiting lane. It is stop sign controlled. During our counts we didn't notice any particular difficulties of people entering or exiting the intersection, traffic volumes were relatively low during our counts, they will be slightly higher with this facility in place, but we don't see any particular difficulty with those maneuvers as long as people stop at the stop bar where they are supposed to. I suppose if they creep out into the intersection, it always makes it difficult for anyone to enter or exit but we're not proposing any improvements, exterior to the site as part of this proposal.

Commissioner ~~Nafis~~Woods: On the plan up there, on the exit coming out, you have two trees and, is there any possibility you could run a sidewalk on this right hand side of the driveway next to the tree, right there? Then people would not have to actually walk through the driveway as cars are trying to exit. That would be closer to the building and not have to worry about dealing with cars.

Cary Gagnon: If we can still qualify with the greenage and the parking spaces, I'm not opposed to that, I can try to get the sidewalk a little closer, as long as we meet all of the criteria. We're pretty close, it might kick us out of the ballpark.

Paul Dickson: Mr. Chairman, just for a point of information, so the, there is in the Town Center Village Overlay District where this property resides, there is a special provision, because I know that the applicant is pretty much at their parking number right now, there is a special provision that says if properties reach the requirement of the Town Center Village Overlay design standards would be eligible to use the following incentives to facilitate their improvements subject to the approval of the Commission. So, item B, newly, new construction and substantially improved buildings, which abut the municipal parking lot and provide access and pedestrian sidewalks from the lot may not be required to provide additional new parking and may be permitted to share the existing municipal lot parking. So there is a provision, again, there is kind of like a mixture of property lines but still this property abuts the parking lot, so there is an opportunity to use that, and we did have initial discussions with the applicant as kind of noted in the staff report too, that we had encouraged looking for additional pedestrian access to the site.

Chairman Sobieski: Does that answer your question?

Commissioner ~~Nafis~~Woods: We should have another continuing sidewalk into the property. Again, just to keep people from having to walk in the driveway with cars.

~~Seth Hasketh~~Scott Hesketh: I get the feeling that we are going over to another meeting because staff hasn't had a chance to fully vet the plans so in the intervening time we will take a look at that and if it works with the percentage of green space, the ADA requirement, we'll take a look at that and see if we can't accommodate you.

Commissioner Woods: We have spent the majority of the night, and I guess it is our fault, talking about the drive through now, walk us through the experience of somebody walking up or

driving into the parking spot and walking up. This is not just a drive through restaurant. This is also a walk in restaurant, like most of your restaurants are. You have drive through window and then you also have a station inside and I think people want to hear that.

Cary Gagnon: I have a store that is doing 88 percent drive through because it has only five parking spaces, and my employees park at the restaurant next door in Berlin, so that is an arrangement that we have and I'll tell you, it works out good, but the speed of service at the drive through is still like 38 or 40 seconds, so it is difficult, but the people who really want to come in and park, there is formal parking here in front and then over here there are some, where Subway is, and I never see a car there at all.

Commissioner Woods: I want you to tell me, you have a front door, they can walk to the front door, they can walk to the cash register, they can order just like they do in the drive through, that is what they need to hear.

Cary Gagnon: We are doing to do exactly that. Everyone of my stores in town, except for the one on Main Street has a drive though and the one on Cedar Street, not East Cedar Street, but the one down further near the development of the apartments that they are building, that one is extremely busy and coming in and out of there, if you are traveling east towards Hartford it is just so difficult to take a left and pull out of there, so this will ease the pain there, transfer those customers up to this area, of course we are going to put in tables and chairs and a front counter where people can come in and have a place for them to sit. All of my locations, except for two of them have a drive through and without a drive through, I guess everyone knows what that is like so.....

Commissioner Woods: But our regulations require a restaurant. When we were talking about this, months ago, we also have to have a walk in service. You have to be able to get inside....

Paul Dickson: They have submitted a floor plan showing twelve seats, and in discussions with the applicant

Cary Gagnon: We are going to have seating inside, a front counter to walk up to and the only thing we are going to have different here is an additional drive through.

Commissioner Woods: Again, I know you are doing it, this is just for the people at home.

Paul Dickson: In conversations with the applicant and comments that were given to the applicant it was kind of ensured that something be done. Right now the interior layout as provided is twelve chairs, four tables and the counter. We encourage the applicant to look at anything they could do improve, to kind of high light that interior because it is an area of town where it could very well receive a number of people walking to it, so anything to enhance it, to make it that third place, that community place, would be something that would be appreciated and that was something that was communicated to the applicant.

Commissioner Pascarelli: If I could just take this one step farther, I'm not trying to complicate the whole thing, if there is ample parking and there is possible exceptions for maybe eliminating a parking space here and there, could they also put in tables outside, I mean, this is one of the things that we are talking about here, with the town center overlay, the feel of Newington, and while I appreciate the opportunities for the business and I think that is great, I don't think we only want to think about bringing more cars into Newington that are just going to drive and leave. We want people to come, we want people to stay, we want people to, we want that feel, and I'm a walker and I appreciate what Gail mentioned earlier, her comment was right on, so I would just like to just put that out there if that was something that they could consider or if that is feasible or if that wouldn't work with their existing situation.

Cary Gagnon: If I may, I would absolutely entertain outside tables for seating. All of my restaurants have outside seating, so I'm a big fan. If I can do it and meet the criteria, then I would absolutely entertain that.

Paul Dickson: That would be, the clause that I read, again, it's subject to the approval of the Commission, that if is substantially improved, they may not be required to add some spaces, and it's going from a bank to a restaurant which has a higher count requirement for parking. So I think there might be some work in the differential there that if outdoor seating was provided, and the Commission was amenable to giving that approval to utilize that, not requiring new spaces again, that is contingent on that sidewalk connection, so having that sidewalk connection in addition to that outdoor space, from an off the cuff staff view, that substantial improvement is adding outdoor dining and is enhancing that, and I would very well consider that as a substantial improvement to the property. It also offers the opportunity for walk up windows as well for people walking there, so again, if all that works together, I think it could work together as a good package for something that we need.

Cary Gagnon: Outside seating, I don't really know if we can give up parking, we can make it happen. Walk up window, I can't figure out it would work in this situation because of the drive through traffic and I know of a couple of restaurants that did that, and they have a drive through lane and then the person has to get out and walk through the drive through lane, and that is as scary as what you brought up earlier.

Commissioner Miner: I'll make a motion that we continue the public hearing for Petition 27-23. The motion was seconded by Commissioner Nasif. The vote was unanimously in favor of the motion, with seven voting YEA.

- B. Petition 29-23: Special Permit (Sec. 6.16) for a cannabis hybrid retailer at 2661 Berlin Turnpike (AKA 2657-2661 Berlin Turnpike) in the B-BT Zone (Business Berlin Turnpike Zone) Applicant: Chillax LLC, Owner, 2661 Berlin Turnpike Associates LLC, Contact: Michelle Bodian Esq.

Paul Dickson: I believe Ms. Bodian is on line and unfortunately there was a scheduling conflict with Mr. Silverman who would normally be presenting so Michelle will be presenting to you, on line.

Michelle Bodian: Actually Phil Silverman will be available to do the presenting on line.

Phil Silverman: So again, I'm Phil Silverman, here with Michelle Bodian from my office, and Michelle is our Connecticut licensing expert, so she'll be answering any questions that you might have about that. Again, I know that I met with you several weeks ago, and have been looking forward to this hearing tonight, and here to gain approval for the Special Permit to operate a hybrid marijuana establishment at 2661 Berlin Turnpike. Again, this is the Berlin Turnpike Business Zoning District which is appropriate for this use. It was previously a Pier One Import store and as I'm sure you are aware, the area has substantial retail, food service and other office type uses as well.

Operating hours would be 9:00 a.m. to 7:00 p.m. which fits within your zoning and maybe Michelle, before we go too much further, could you just give a quick explanation, the Commission was interested to know, last time I was here, where we were in the licensing process, I wasn't able to give that information, so if you could walk them through that, it would be great.

Michelle Bodian: Chillax does have a hybrid retail provisional license, they were a social equity lottery winner when the state ran their cannabis lottery licensing process. So essentially they at starting point zero for their build out. Obviously we are looking for your decision here today and then they do have the option to extend the deadlines, so they have until February 2025, up until that point to achieve a complete build out and final license, but right now they are just at that provisional stage. After here, if they are successful they will be starting the process with build out, interaction with the State officials, and you might be familiar that the State of Connecticut requires a Department of Consumer Protection inspection along the way throughout the build out process and will be working hand in hand to be sure that the floor plan meets all of the security requirements and everything that the State requires.

Phil Silverman: All right. Thank you. So it looks like the next section I want to talk about is the site plan. Just so we are clear, as sort of an introductory matter, the property does meet all of the buffer requirements of your zoning; it's not within a 1000 feet of schools, churches, playgrounds, parks and the other sensitive uses that are mentioned in your zoning. So, just looking at the site, access and egress through two existing curb cuts, and there will be no change to those curb cuts so you are not going to see any substantial changes to the site. It's a solid site for this type of use, the only thing that you might notice are some security cameras that will be put up around which is in accordance with State regulations and I'm sure you are familiar with that. Also, we will be revitalizing and maintaining the existing landscaping. There is ample parking here, and I know there have been some questions from your department heads about the pavement markings and whether that exactly is in conformance with the request, but again, substantial parking for the type of use. There are 48 spaces required and we will exceed that by over 200 spaces.

Loading is through a rear door with a secure shipping area within the building and just another piece that is important there is an enclosed dumpster area which is locked at all times, no marijuana trash. If there is marijuana waste, it goes back to the facility from which we purchased this.

The remainder, if you can pull up the floor plan, this is all going to seem pretty familiar to you, in the sense that, like every other retailer, and you have approved two already, but there eleven point of sales positions and again, just so we are all clear, this is limited access, you have to be 21 years of age, or older, to get into this facility.

Regarding traffic at the facility, we presented a traffic impact statement and it shows an increase in traffic from the prior Pier One use, and I'm always skeptical about these things and I always want to bring this to your attention because I do a lot work up in Massachusetts and we have the same, the traffic studies that do this look at sort of the recent past in Connecticut and they did this in Massachusetts and they were predicting peak traffic at one of these facilities at 200, 300 vehicles at peak hours, and that may have been true at the beginning in Massachusetts, but eventually when you fill out the number of retailers you are going to have in the state, it goes way down. It goes down to something more along the lines of, if you had 100 vehicles a day at peak, that would be very unusual. Right now, there is an increase of about 101 more trips on Saturday mid day period and 59 on the weekday afternoon peak period, and I think it will probably be below the prior use within a year or two, if I had to guess and it sort of follows with how other states have done this. Internal security, again I don't want to belabor this because you have seen this in all of the other retailers that you have done, and it is all in accordance with state mandates. You have camera on the interior and exterior, the exterior cameras have a 360 degree view, we can see everybody coming and going, and in the interior, any where that marijuana is handled, there are cameras, so we have the ability to know exactly what is going on in the store. Perimeter alarms on the doors and windows, panic and duress alarms, scattered throughout in strategic places. The only on-site security personnel during business hours is monitored 24/7 during non-business hours.

One other thing, there is always a concern about odor with these facilities, that generally is not an issue with a retail facility because we are just dealing with packaged products and you know, we do have pressurized HVAC system infiltration and so that would presumably take care of it in the retail setting.

So that is really sort of a brief presentation, but Michelle and I are happy to answer any questions you may have.

Commissioner Nafis Sobieski: Paul, how far away do you have to be from a residential area?

Paul Dickson: So actually it is a regulation away from a residentially zoned, and is actually for a cultivator. There is no specific regulation that actually says that a sales location, a retail, however it does say that a retail cannot be located in the same building as residential which it is not in this case. The main ones, as far as distances, are for production and that is obviously because production has a higher impact, a lot more smell, but there is no residence located in this building.

Chairman Sobieski: I know, I have heard from several people in the Churchill Bridge area that they are not happy, they have enough problems up there now. They are concerned with this. Any other questions?

Commissioner Miner: Do you know the distances from Churchill to there? As the crow flies, through Churchill Bridge? I know there are also playgrounds.

Paul Dickson: We have identified those condos as an abutter, so it is an abutting property.

Commissioner Miner: There are playgrounds within that property as well as crossing over Main Street, I would like to know the distances to Churchill Park.

Commissioner Woods: They are probably the same as the old Bonefish Grill which was 2300 feet.

Paul Dickson: Again, the separation requirements, Section 6.1 and 6.4, so it talks about no medical marijuana production or adult use cannabis cultivator or micro cultivator or growing facilities shall be allowed within one hundred feet of a church, temple, or other places used primarily for worship, public buildings, private recreation, school or park or day care facility. So again, that is cultivation uses. There is no medical marijuana production facility or adult use cannabis cultivator or micro-cultivator facility shall be allowed on a site that is less than 100 feet from any property that is zoned for single family residential uses. Again, it cites marijuana production facility, adult use cannabis cultivator or micro cultivator. No medical marijuana dispensaries or production facility or adult use cannabis retailer, hybrid retailer, cultivator, or micro cultivator facility shall be allowed within the same building, structure, or portion thereof that is used for residential purposes or that contains another medical marijuana dispensary production facility or adult use cannabis, hybrid retailer, cultivator, or micro cultivator, so that actually says within the same building The other one is no adult use cannabis retailer or hybrid retailer, shall be located less than 500 feet from another adult use cannabis retailer or hybrid retailer. The distance measured from the radius of the front door, of each establishment and so it says all distances in this section are measured taking the nearest straight line between respective lot boundaries, except for subsection D, which is the 500 feet from door to door, so a lot of our distance regulations for residential, again it's for production facilities. That is something that we did look at, and this application staff reviewed and it was located 2,000, approximately 2,300 and 4,800 feet respectively from the other locations.

Commissioner ~~Nafis~~Miner: I would be curious to know the distance from the park, Churchill Park.

Paul Dickson: There is a buffer area between the two, a naturally vegetative area.

~~Commissioner Nafis~~Scott Hesketh: Do you have Google Map?

Commissioner Woods: I have a question Paul, going back to our first, 28-23 on child care, what does it do? Now you can have a child care in any house, that makes it a little difficult for enforcing.

Paul Dickson: This is more like looking at a liquor store. The regulations are very similar. There is a little more stringent now on cannabis because it is a new industry but they require similar types of distances, and as far as that, if this was located within a neighborhood, it could be a little different, but I think the applicant can speak towards how these operations typically run. As far as staff goes, the two locations that we have seen operate, we haven't seen any issues associated with them. The recent location opened with very little fanfare, and I have actually only seen a couple of cars there. No one milling around.

Commissioner Woods: I have gone by maybe four or five times and seen only four or five cars there.

Paul Dickson: Yes, people generally go in, pick up their order and leave is what we have seen.

Commissioner Woods: You can order on line, drive in, pay your money and then you leave.

Erik Hinckley: The property line, from the back of the Pier One property is about 1400 feet from Churchill Park.

Commissioner ~~Nafis~~Miner: I believe there is also a playground within Churchill Bridge. Does that qualify with the distance regs?

Paul Dickson: From our distance regs, we don't have a specific distance regulation for sales. If it was a mixed use development that had an apartment as part of it, then the answer would be no. Those are all, as we read through them, again talking about production facilities over and over and over rather than retail sales.

Chairman Sobieski: Any other questions?

Commissioner Woods: You addressed the landscaping, here it says basically no changes, only for maintenance. I don't know what there is to maintain there, there is nothing there. It's pretty unsightly.

Paul Dickson: From the staff perspective when we wrote the memo, it differentiates, they are going to spruce it up, replace dead plants. Maintenance for us is replanting what is supposed to be per the original plans. They are not planning on doing any major changes to the entire landscape, but for us maintenance.....

Commissioner Woods: But the islands planted, they will bring them back to what it was supposed to be.

Paul Dickson: From our reading and discussion with them.....

Commissioner Woods: And the whole front of the building is concrete so you can't do anything there.

Phil Silverman: Again, we would have to take a look at what was intended there and the idea is to bring this back to life, because I understand that it has not been attended to recently, so we will bring it back to life and then we will maintain it as it is supposed to be. This is an operator who has done this in some other locations across the country. They are not, they don't want to have a site that isn't attractive, it just doesn't serve them well to do that, so I'm hearing some concern that this needs to be spruced up, that is clearly my client's intension, is to make this an attractive place for customers to come, and medical patients.

Chairman Sobieski: Any other questions?

Paul Dickson: I just wanted to add, in the staff report, there were some suggested suggestions, staff has had some additional suggestions in looking at previous applications, I would like to read them in and that way would give the applicant a chance to respond to them while the public hearing is open: So; the applicant shall obtain all required permits and approval (building, health, etc); Revise the site plan to make the parking table agree with the plan; the final design of the odor control system shall be submitted to the Town for review and approval. The new ones are building signage is not approved as part of this application, signage will require a review and approval by town staff; this approval shall not be finalized and affective until the applicant has provided the Town Planner's office with a copy with an issued hybrid-retailer cannabis license from the Department of Consumer Protection; unless otherwise extended and report to Section 6.1, 6.9.c, this approval shall expire after six months if the applicant fails to provide a copy of a issued approved hybrid-retailer license from the State of Connecticut, Department of Consumer Protection; the applicant shall provide a copy of any license renewal to the Town Planner's office within 30 days of being granted; a copy of this permit shall be filed in the Town Clerk's office along with a copy of the state issued hybrid-retail establishment license within ninety days of the issuance of the final license from the Department of Consumer Protection.

These are conditions that were placed on Zen-Leaf and similar to the ones that have been carried through on hybrid retailers.

Phil Silverman: If I could just ask you to repeat one, because I want to make sure it's with Michelle, is one of those, is it six months to get that license, is that what you are suggesting?

Paul Dickson: Correct, that is per our regulations, six months, however it can be extended by the Town Planner.

Phil Silverman: Okay, Michelle, is that an issue?

Michelle Bodian: Is that the provisional license, or the final license.

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Paul Dickson: Typically what it has been is the provisional license that is dedicated to the site, so there has to be some evidence that it is dedicated because provisional license right now are out there. People have some Provisionals that haven't dedicated a spot yet, because it is the chicken and the egg, that has happened with the state system, but yes, and what I saying is that is within six months and I believe it can be extended another six months by the Town Planner.

Michelle Bodian: You are looking to see the address associated with the license with some type of filing? I just want to make sure I understand that.

Paul Dickson: Yes. Those are specific from 6.1 and 6.9 conditional approval. Again, the conditional approval shall expire if the Town Planner is not presented with a copy within six months of the date that the TPZ conditional approval and another six month extension of conditional approval shall be granted to the applicant upon written notification to the Town Planner that an application for a DCD license has been filed, indicating the expected decision date of the Department of Consumer Protection license. So again, it's pretty much one year, six months, if sometime before that six months if there is something, a hangup with the license, you just have to provide a notice to me indicating that you filed the license, the application for the license and it shall be extended another six months.

Chairman Sobieski: What is the Commission's pleasure? First, anyone wishing to speak in favor of the application? Anyone speaking to speak in opposition to the application?

Commissioner Woods moved to close Petition 29-23 and move it to Old Business for possible action tonight. The motion was seconded by Commissioner Drozd. The vote was unanimously in favor of the motion, with seven voting YEA.

VIII. APPROVAL OF MINUTES

Commissioner Woods moved to accept the minutes of the November 8, 2023 meeting. The motion was seconded by Commissioner Drozd. The vote was unanimously in favor of the motion, with seven voting YEA.

IX. NEW BUSINESS

None

X. OLD BUSINESS

- A. Petition 28-23: Zoning Regulation Text Amendment pertaining to family child care homes and group child care homes as a permitted use Accessory to a residence in a zone permitting either single, two-family, or multifamily uses (Add Sec. 3.1.5) (Amend Sec. 3.2.8) (Remove and add 9.2 definition), Newington TPZ, Paul Dickson.

Commissioner Woods moved to approve Petition 28-23 pertaining to family and child care homes and group child care homes with an effective date of December 28, 2023 .

Reason for Approval:

The text amendment will coincide with the recent changes to the state statutes.

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

- B. Petition 27-23: Special Permit (Sec. 3.13.0 and 3.13.7) and site plan for a restaurant with an accessory drive through at 79 East Cedar Street (AKA63-79 East Cedar Street) in the B-TC Zone (Business Town Center Zone) and Town Center Village Overlay District. Applicant Cedar Street LLC, Owner: Newington Sovereign Bank Plaza LLC, Contact Cary Gagnon

Tabled

- C. Petition 29-23: Special Permit (Sec. 6.16) for a cannabis Hybrid Retailer at 2661 Berlin Turnpike (AKA2657-2661 Berlin Turnpike) in the B-BT Zone (Business Berlin Turnpike Zone) Applicant: Chillax LLC. Owner: 2661 Berlin Turnpike Associates LLC, Contact Michelle Bodian Esq.

Motion to approve with conditions:

Commissioner Pascarelli moved to approve with conditions Petition 29-23 for a special permit for a cannabis hybrid retailer at 2661 Berlin Turnpike with the following conditions:

1. That the applicant shall obtain all required permits and approval (building, Health, etc.)
2. The applicant shall revise the site plan to make the parking table acre with the plan.
3. The final design of the odor control system shall be submitted to the Town for review and approval.
4. Building signage is not approved as part of this application Signage will require review and approval by town staff.
5. This approval shall not be finalized and effective until the applicant has provided the Town Planner's office with a copy of an issued hybrid-retailer cannabis license from the Department of Consumer Protection.
6. Unless otherwise extended with Section 6.1, 6.9 C, this approval shall expire after six months if the applicant fails to provide a copy of an issued hybrid-retailer license from the State of Connecticut Department of Consumer Protection.
7. The applicant shall provide a copy of any license renewal to the Town Planner's office within 30 days of such renewal being granted.

8. A copy of the special permit shall be filed in the Town Clerk's office along with a copy of a hybrid retail license for the State of Connecticut within 90 days of the issuance of the license by the Department of Consumer Protection.

The motion was seconded by Commissioner Nafis. The motion was unanimously approved with seven voting YEA.

XI. PETITIONS FOR PUBLIC HEARING SCHEDULING

- A. Petition 26-23: Special Permit (Sec. 3.4.7) to convert a pre-1920 single family residential dwelling at 202 Deming Street into two residential units in the R-20 zone. Applicant/Owner Salvatore J. Visconti Jr. and Paula J. Visconti. Contact: Paula J. Visconti.

Paul Dickson: The item that was not on this meeting, the Deming Street, to convert a pre-1920 single family residential dwelling at 202 Deming Street into two units. The applicant has consented to an extension. They did not have the required plans in, we received a floor plan on Monday, so we are reviewing that with them. They do plan on being at the next meeting and they actually were in our office today as we started to review some of it with them so I think that is progressing and should be on the next meeting.

Chairman Sobieski: Is this the one in the PD Zone?

Paul Dickson: No, this is in the R-20, it's a little further down the street.

XII. TOWN PLANNER REPORT

Paul Dickson: One thing to note on the current applications, that the Balf did submit their bi-annual update, and just as a reminder for the Commission that what this is, it is not a site plan application, it's what they submit every two years that is an update that shows what work has been done on site, and it's an update that says what they are going to be doing for the next two years. They do it every two years as part of the process, again it isn't an application for doing anything new it says okay, we excavated this portion in the past, what we are looking to do and provide you with a overall summary of continuing operations. The Town Engineer and I did go to the site on the 28th of November to look at it since we were both new to the town. That will be on the next meeting's agenda, again it will be on the agenda for basically accepting it, so it's not a site plan approval, it's just accepting it in because they are required to submit very two years. It's part of an agreement with the town from 1989 when they got the original approval and they continue to accept it so the town gets a progress update on everything that has happened.

From there, I plan on reporting more at the next meeting, I figured that this one might be a little longer, with the public hearings and since there are new Commission members, showing again what I have done here periodically is photos of the site, updating what is going on, progress,

expected time tables. I know those watching actually do appreciate that, so I will continue to do that.

The one item I would like to bring up is 3333 Berlin Turnpike. They are continuing at pace, they are paving, we were actually there meeting on site, with them for a progress meeting today and they are continuing working on the site, they are working on trying to get final pavement in a lot of the areas, there are some areas that were delayed from DOT work and actually the DOT had to work on their storm water basin which kind of backed up too, and there was more MDC work behind that, so it has slowed down some of the work on the site. That is the parking lot being paved, and in front of the grocery store. Again, photo of paving, you have building A, B, behind building C, to the right of the photo and then building D would be behind that. That is building D right there, so that is going to be the future home of CAVA. We also took a quick tour of some of the units again, this is in building one, in one of the one bedroom, this is the living room, dining, area, so you can see the progress being made. This is the building that is the furthest along. It is building One. They are working on that, and they will be working on binder courses.

They actually shared this with me today, so this is fresh off the press, so what they have done is, and I am kind of bringing this to your attention because they are probably going to be looking for bonding for the site sometime soon, so I just want to stay with the Commission about what items are left undone and then we will kind of work through that process.

The first thing I would like to high light is every area that is kind of bluish purple that you see on your screen, that is the area that is planned to have the main parking area, the top coat line striping, full signage done between 12/8 and 12/15. That is the work that you saw going on. The second item is actually the driveway which is going to be the binder only and then the top coat coming in April. They are working with the state right now on the access, and they might not be able to cut through this season, they are looking at potential right in, right out for a potential opening, but this is something that will go through the process and once we know more, I will share it with the Commission, and again, it is a slight change to the plan, but the plan is ultimately, at the end of the day, what was approved. There are interim steps that happen with construction season and with the work to be done.

The second plan area is as you can see at the bottom here, this area will be left incomplete until February or March. There is a dumpster pad in that area, that is going to be used as a cover stock pile over the winter and you have these buildings, so Shake Shack, they are targeting March 1st. You have the other area here, which is kind of in flux so the binder, the top coat if they can get it done, they would like to get the top coat done in this area, but that is where you have Crumbl Cookies and P.J's coffee, so they are staring to lease up these spaces. The dumpster, January or February will be done so we will have that available for them and then CAVA in the corner, they are looking at later, so as this process goes, I just want to update the Commission on the work that is being done, the time frames and to kind of get a heads up on how much work they have done. The most important thing for any site opening to the public is accessibility, making sure all of the ADA is available, making sure it is generally safe to circulate. We will be looking at the as built to see what work is not complete and work with them on bonding. So that is my report for that, and my plans for the next meeting is to kind of put together a primer because there are new members on the Commission. There is a public act

that requires training, I know many people have already gone to it prior to even getting seated on the Commission and I appreciate that but I will put together what is coming up because after Newington TPZ Commission

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the holidays I can see putting more items potentially up there and it is something that I will keep updating the Commission on, discussing with those who need it for a requirement and then discussing opportunities that are out there as well.

Chairman Sobieski: You are going to keep track of who goes? I attended the housing one on Monday, and I don't know if they issued a certificate or not, but I did attend.

Paul Dickson: So I would request that anyone who has gone to training, if they did not provide a certificate if you have something that says that you were registered and you have that e-mail and you basically say, yes I went to this, submit it to me. If you have a certificate, great, but it is actually up to the town to actually keep track of the certification.

Chairman Sobieski: I know when I was on the Commission before, I said that this Commission did not have the authority to override a superior court decision, but I was overruled. Not once but three times, so I was surprised when Renata said that she agreed with me. The other thing that she also agreed with was all sides should have equal time, you can't have one side (inaudible) than the other, and I would like to address that, make sure that goes on.

XIII. COMMUNICATIONS

Chairman Sobieski: The CRCOG letters, are we all set?

Paul Dickson: Those are in your packet for review. As you see, we are not the only ones doing the family child care, people are getting it done before the end of the year.

XIV. PUBLIC PARTICIPATION (For items not listed on the agenda; speakers limited to two minutes.)

Rose Lyons, 46 Elton Drive: I understand that there is no back and forth at this particular time but I would, at the next meeting, I would like to know whether or not the town knows, and if not, when they might know what is going in as a grocery store at 3333 Berlin Turnpike. I'm really tired of looking at all the guesses on Facebook, so if anyone can come up with any concrete answers I'd appreciate it. I'd like to wish you all a Happy and Health Holiday and a very healthy New Year. Thank you for all you do.

XV. REMARKS BY COMMISSIONERS

None

XVI. CLOSING REMARKS BY THE CHAIRMAN

Chairman Sobieski: I have a couple of remarks, Number one, I'd like to put together, I was hoping that Mr. Pane and Mr. Claffey were here, I would like to have a small committee put together to look at all of the things over the last couple of year where they decided that they

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could override the superior court decision. I'd like to get a copy of that decision to make sure that everybody here understands that you can't override a superior court decision. That has been done several times.

The second thing that I would like to address was a complaint that was filed in 2022 and, it was from Jeff Zelek and it had to do with Petition 12-22, Special Permit for an open space subdivision 359 Church Street and 321 Tremont Street, the previous Commission having rendered a decision. A violation of the general statute 124 Section 8-3G1 violation of Newington Zoning Regulations Section 7.2 and TPZ Zoning regulations 6.3.5. I would like to know if anyone has ever seen this? I will leave this copy with you. I would like to find out what happened to it. What I have noticed in the years that I have been off is that this Commission passes stuff without waiting for Wetlands to render a decision. When I was on before, it was the other way around. You had to get the wetlands approval first, and then this, and I would like to keep the same order if possible.

Also, like I said, it's my first time back in two years and I'm a little rusty, so you have to kind of forgive me, but I will catch on.

XVII. ADJOURN

Commissioner Woods moved to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary