

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

**Public Hearing #1592
June 14, 2011**

*******Draft Document – Subject to Commission Approval*******

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:03 P. M. by Vice Chairman Gowdy.

ESTABLISHMENT OF QUORUM:

A quorum was established as four Regular Members (Devaney, Gowdy, Thurz, and Wentworth) were present. Regular Member Ouellette was absent. Vice Chairman Gowdy noted all Regular Members would sit in, and vote, on all Items of Business this evening, with the exception of Regular Member Wentworth, who was recently appointed to the Board. Regular Member Wentworth has been sworn in; he will participate in discussion on items of business this evening but will refrain from voting this evening.

Also present was Town Planner Whitten.

GUESTS: Dick Pippin, Selectmen; Mark Simmons, Selectman; Kathy Pippin, Board of Finance, etc.

PUBLIC PARTICIPATION:

Vice Chairman Gowdy advised the audience the Commission would take comments but requested they limit their comments to non-agenda items of discussion, and to refrain from personal comments and/or personal complaints.

Paul Anderson, 89 Main Street, Chairman of the Water Pollution Control Authority (WPCA): Mr. Anderson reported the WPCA has recently revised their policies to accept all new sewer systems constructed by private developers – whether they serve condominium projects, active adult communities, whatever – as Town property. Mr. Andersen offered the Commission the recommendation that they revise their regulations to make all roads built within the community of East Windsor Town roads. The intent of the WPCA is to treat all sewer users the same; to do that there must be some control/consistency of construction of roads with regard to proper widths, materials, and standards, and consideration could be given to more room for on-street parking, etc.

No one else requested to speak under Public Participation.

ADDED AGENDA ITEMS: See Public Comments above.

APPROVAL OF MINUTES/May 10, 2011:

MOTION: To APPROVE the Minutes of Public Hearing #1591 dated May 10, 2011 as written.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

RECEIPT OF APPLICATIONS:

1. Application of Steven Farmer for a 2-lot subdivision of property located at 247/249 South Water Street. [R-3 & A-2 Zones; Map 71, Block 5, Lot 33].
2. Application of KROS East Windsor, LLC for Site Plan Approval to construct a single-user commercial retail/service establishment as approved by the PZC as part of the applicant's GDP Special Use Permit, on property at 44 and 54 Prospect Hill Road. The retail/service use may include some or all of the following accessory uses: restaurant, financial institution, personal/professional service and pharmacy. 44 Prospect Hill Road is owned by The 1010 Broadway, LLOC; and 54 Prospect Hill Road is owned by WLF Realty, LLC. [Zoned HIFZ; Map 29, Block 17, Lots 30 & 29].

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, June 2, 2011, and Thursday, June 9, 2011, was read by Secretary Lorraine Devanney:

1. Application of Newberry Road Enterprises/Steve Dearborn for a Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor's Map 093, Block 19, Lot 006.
2. Application of Apothecaries Hall Enterprises, LLOC for a Special use Permit for renewal of gravel operation and wash plant located on the south side of Apothecaries Hall Road. [M-1, R-3, & A-1 Zones; Map 057, Block 65, Lots 1 & 7].

CONTINUED HEARING: Annette Fortune - Special Use Permit for 2 training fields to allow for dog training classes and possible show events on property located on the north side of North Road. [A-1 Zone; Map 124, Block 16, Lot 26A] (*Deadline to close hearing extended to 6/14/2011*)

Vice Chairman Gowdy read the Hearing description. Appearing to discuss this Application was Annette Fortune, the Applicant, and Jay Ussery, of J. R. Russo & Associates, professional engineer.

Ms. Fortune reported Mr. Ussery has addressed all previous comments made by Town Engineer Norton regarding road width/construction, and parking areas. Ms. Fortune indicated she would like to request that the parking areas be allowed to remain grass as they will only be used during drier seasons, during sunny conditions, and only during the day. She indicated she is seeking the Commission's feedback with regard to her request.

Mr. Ussery summarized that the gravel driveway has been increased to a width of 24'; they are presently showing 19 parking spaces located at the end of the gravel driveway. Mr. Ussery suggested this facility would be similar to the Flaherty Field Trial area which is also a dog training field. This location provides good access to the site, and people can drive up close to the training fields. Mr. Ussery reiterated that Ms. Fortune would like permission for the parking areas to remain grass. If the Commission disagrees then the surface would be gravel.

Mr. Ussery indicated he has provided drainage calculations to Town Engineer Norton. The change of use from row crops to a gravel surface reflects a reduction in peak run off after construction. Mr. Ussery clarified that there will be NO regrading of the fields associated with this project. Town Engineer Norton's memo dated 6/8/2011 indicated Town Engineer Norton is comfortable with the revisions; all of his comments have been addressed.

Vice Chairman Gowdy indicated he would rather see a gravel surface for the parking area as it is presently shown on the plans. He understood Ms. Fortune's logic that the fields would only be used during good weather but Vice Chairman Gowdy cited concern if patrons were caught in a sudden storm and emergency vehicles had difficulty getting into the area. He noted he understood the Applicant's concern for the cost of the gravel surface vs. the existing grass. Commissioner Thurz concurred, noting the eventual goal is to construct buildings at the site. The regulations require asphalt pavement; the Commission is meeting the Applicant half way by agreeing to a gravel surface. Commissioner Devanney also concurred with construction of gravel parking areas.

Commissioner Devanney questioned if a response had been received from the Fire Marshal; Staff indicated no response had been received as of today.

Commissioner Wentworth questioned if this proposal is considered a farm use? Town Planner Whitten replied negatively, noting although it is being proposed in an agricultural zone it is a business use.

Ms. Fortune indicated she would like to continue with her request that the parking area remain grass. Vice Chairman Gowdy noted such a request would require a vote for a waiver from regulation requirements; the Commission lacks the required quorum to vote on a waiver this evening.

Mr. Ussery questioned if an extension would be required to continue the Hearing to a subsequent meeting. Ms. Fortune noted she had submitted an extension through this June

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14th Meeting; she will submit another extension to continue the Application through the Commission's next regularly scheduled Meeting to be held on June 28th.

MOTION: To CONTINUE the Application of Annette Fortune for a Special Use Permit for 2 training fields to allow for dog training classes and possible show events on property located on the north side of North Road. [A-1 Zone; Map 124, Block 16, Lot 26A]. Application CONTINUED until the Commission's regularly scheduled Meeting to be held on June 28, 2011 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

MOTION: To GO OUT OF THE AGENDA ORDER and take the Application of the Warehouse Point Congregation of Jehovah's Witnesses next.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

NEW BUSINESS: Warehouse Point Congregation of Jehovah's Witnesses – Site Plan Approval to add lights to parking area at 202 North Road. [A-1 Zone; Map 125, Block 27, Lot 3] (*Deadline for decision 7/14/2011*):

Vice Chairman Gowdy read the description of this Item of Business. Appearing to discuss the Application was Charles Bradford and David Turner, representing the Building Committee of the Warehouse Point Congregation of Jehovah's Witnesses.

Mr. Bradford reported the purpose of the Application is to install 4 light poles in the parking lot of Kingdom Hall, and to replace an 8' x 12' shed in the same location as presently occupied by the existing shed. The power will come out of the building and be trenched to the 4 poles to be installed at the edge of the existing parking lot. The congregation currently has only one large light at the end of the carport attached to Kingdom Hall.

Mr. Bradford indicated that the following concerns were raised in Staff memos:

- **how the poles will be fastened to the ground (Town Engineer Norton, dated 6/14/2011).** In response to Commissioner Thurz's questions Mr. Bradford indicated the fittings could be sonotubes, or tapered fittings engineered to meet the needs of the poles. Proposed height of the poles will be 15'. Mr. Bradford submitted a manufacturer's description of the proposed poles.
- **type of fixtures to be identified and details to be shown on plans (Town Planner Whitten, dated 6/14/2011).** Town Planner Whitten noted the building fixtures must be full cut off, and should be turned off after hours as the Kingdom Hall is located within a residential zone. Mr. Bradford agreed to the full cut off fixtures; he will add details to the plan. The fixtures will be installed on timers, and will shut off after people leave the

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parking lot. Commissioner Wentworth questioned if the pole lights would be installed with motion sensors? Commissioner Thurz suggested motion sensors aren't usually used for pole lights.

Vice Chairman Gowdy questioned if the replacement shed would be the same size as the existing shed? Mr. Bradford replied affirmatively. He also noted that during previous communication with Staff the question of grading was raised. They will not be doing any additional grading; they will just be clearing the spot where the existing shed is located and dropping in a new shed.

The Commission agreed to add Town Engineer Norton's comments made under his memo of 6/14/2011 as additional conditions of approval. Town Planner Whitten's comment regarding details of building mounted fixtures to be shown on the plans is Condition #14.

MOTION TO APPROVE Application of W.P. Cong of Jehovah's Witness for a site plan approval for lighting and placement of a shed at 202 North Road Map 125, Block 27, Lot 3 A1 Zone

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions)

Referenced Plans:

Connecticut Regional Building Committee #2, Improvement Location Survey prepared for Warehouse Point Congregation of Jehovah's Witnesses showing proposed site improvements , 202 North Road (CT140), East Windsor, CT , prepared by Anthony Ferraro PE, scale 1"=20' dated 10/09/2010 p.1/1

Lighting Plan , E. Windsor Filename: 101203TN1LJSR1.AGI dated 1/11/2011 scale 1" = 20' prepared by RUUD Lighting

Referenced Plan Kingdom Hall of Jehovah's Witnesses prepared by Santos J Giangrave PE dated 6/13/93

-Conditions which must be met prior to signing of mylars:

1. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.
2. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final plans.

Conditions which must be met prior to the issuance of any permits:

3. One sets of final plans, and One set of mylars with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. Both sets shall be filed in the Planning and Zoning Department.
4. A cash (escrow) or passbook bond shall be submitted for sedimentation and erosion control maintenance and site restoration during the **construction of the project**. Any funds that

may be withdrawn by the Town for such maintenance or restoration shall be replaced within five (5) days or this permit shall be rendered null and void. The applicant's engineer shall submit an estimated cost of the E & S controls to the Town Engineer. The amount of said bond shall be determined by the Town Engineer.

Conditions which must be met prior to certificates of compliance:

5. Final grading and seeding shall be in place or a bond for the unfinished work submitted.
6. Final as-built survey showing all structures, pins, driveways and final floor elevations as well as spot grades shall be submitted. (*not applicable*)
7. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all of these components have been completed, the Zoning Official may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.

General Conditions:

8. In accordance with Section 13.5.4 of the Zoning Regulations, any approval of a site plan application shall commence the construction of buildings within **one year from the date of approval** and **complete all improvements within five years of the date of approval**, otherwise the approval shall become null and void, unless an extension is granted by the Commission.
9. A Zoning Permit shall be obtained prior to the commencement of any site work.
10. This project shall be constructed and maintained in accordance with the filed plans. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
11. Any modifications to the proposed drainage or grading for the site plan is subject to the approval of the town engineer.
12. Additional erosion control measures are to be installed as directed by town staff if field conditions necessitate.
13. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval
14. **All light fixtures MUST be full cut off, with low glare and directed lighting. Detail must be added to the plan.**
15. All non essential lighting for security purposes shall be turned off after hours.

Additional Condition:

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16. *One item that may need to be added to the plan or submitted separately to the Building Department is a detail showing how the light poles will be installed.*

Devanney moved/Thurz seconded/VOTE: In Favor: Unanimous

NEW HEARING: Newberry Road Enterprises/Steve Dearborn – Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor’s Map 93, Block 19, Lot 6. (*Deadline to close hearing 7/19/2011*):

Vice Chairman Gowdy read the Hearing description. Appearing to discuss this Application was the Applicant, Steve Dearborn, and Guy Hesketh, P. E., of F. A. Hesketh & Associates, representing the Applicant.

Mr. Hesketh reported his firm has assisted Landmark Surveyors with the plans which appear before the Commission this evening; they have also worked with REMA Ecological Services (George Logan) who has submitted an Infiltration Study and Water Quality Sampling Report.

Mr. Hesketh submitted for the file:

- Certification of Notice to abutters.
- Affidavit regarding posting of signage advertising the Public Hearing.

Mr. Hesketh gave a description of the site, identified as Assessor’s Map 093 Block 19 Lot 006; he indicated they are looking for a Special Use Permit for reconfiguration of the Volume Reduction Facility for which the Applicant received a permit in 2007. The Permit approved at that time was for the operation of a Contractor’s Storage Yard and Volume Reduction Facility which Mr. Hesketh identified as “this” location. He has shown the proposed expansion of the Volume Reduction Facility in yellow on the plan. In addition to expanding “this” area they are also constructing a swale along the perimeter of the property, and a water quality basin. Mr. Hesketh described the activities of the Volume Reduction Facility as processing clean wood and brush and creating wood mulch.

Mr. Hesketh reported the plans show the permitted area as allowed by the CTDEP (Connecticut Department of Environmental Protection). If the Applicant processes clean wood, which the CTDEP regulates as solid waste, the material comes in and is reduced. The Applicant is registered under a General Permit with the CTDEP

Mr. Hesketh reported the plans show areas for the storage of wood mulch, top soil, and recycled amesite. They are proposing to strip the top soil and store same in the top soil storage area; they will create an area for the storage of millings created from the bituminous material. They will also create a riprap lined swale to catch the run off from the storage areas; the swale is graded to the east and southeast and water is then picked up by the swale and directed to the water quality basin. Erosion control measures are

shown on the plan as fencing along the perimeter of the project. Riprap will be installed in the swale and the outlet structure. When topsoil is returned to the area above the water line it will be planted with a vegetated blanket and appear to be a vegetated berm. The water quality basin is being constructed to control peak run off and mitigate water running off the site. They believe that the post-development flow is equal to or less than the pre-development flow. The CTDEP requires that 1" of run off generated on the site will be captured and treated. The proposed water quality basin has been designed to handle up to 3 1/2" of rain – 3 1/2 times the required amount of run off. Mr. Hesketh suggested they have over-designed the water quality basin but it meets the requirements for a 100 year storm for peak mitigation.

Vice Chairman Gowdy noted that there seems to be some concern about the distance from the property lines. Under the original approval it was a 100' buffer distance because this site seems to be a combination of a crushing and excavation operation; it's a middle-type of operation. There was concern for the noise of the equipment. During the 2007 approval the 100' buffer was approved, and according to the minutes at that time it wasn't a problem. Now Mr. Dearborn wants to expand the operation and still disagrees to the 100' buffer distance. Vice Chairman Gowdy questioned that the line on the map shows a 13' or 15' separating distance?

Mr. Hesketh felt the buffer distance is 25'; they are showing a 25' buffer on the rear property line and the property line to the west. Vice Chairman Gowdy indicated he didn't know if the 100' distance is too much, but based on Sections 700 and 800 of the Zoning Regulations a 25' distance isn't good; it's too close.

Commissioner Thurz noted the Applicant had subsequently been issued a Cease & Desist Order; he questioned if those issues have been resolved? Mr. Hesketh suggested if the reasons for the Cease & Desist were wetlands issues then he felt they have been addressed, and they are working with Staff as well. Mr. Hesketh felt if the Commissioner were to approve this Site Plan then he felt the Cease & Desist issues would be addressed.

Vice Chairman Gowdy noted there also seems to be a concern from Town Engineer Norton regarding the calculations of impervious coverage for the millings. Vice Chairman Gowdy suggested he lives on a dirt road with millings; there are potholes and when it rains the water stays in there so he didn't consider that material pervious. Mr. Hesketh suggested the Regulations don't say what constitutes an impervious surface, therefore he looked to industry standards to develop his calculations. Mr. Hesketh suggested a gravel driveway would be a semi-impervious surface. By using the reclaimed materials for the parking areas, though it's not as pervious as 1" stone, it does allow water to pass through, so their position is it's pervious. In 2010 an environmental engineer did a test to estimate the surface infiltration rates. That study did show it isn't impervious but does have some pervious characters. Mr. Hesketh felt if the surface were impervious you would see ponding on the surface, it does hold water. In their opinion the proposed surface is similar to gravel.

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Vice Chairman Gowdy noted that part of the original plan included the planting of trees along Newberry Road; he questioned if the Applicant planned to plant those trees now? Mr. Hesketh suggested they are NOT shown on the plan. Commissioner Devaney questioned if there would be a problem planting the trees as they were a condition of the 2007 approval? It's 4 years later and they aren't there. (See later discussion of road plantings).

Commissioner Thurz questioned why discussion was occurring regarding Phase II when Phase I hasn't been completed? There are a whole list of things that were not done.

Mr. Dearborn reported that's why this proposal is a Site Plan Modification. He didn't want the trees by the road as they will cause shade, so they took them out of the plan. He doesn't want them. That's why it's a Site Modification Plan; I don't want the trees on the road. That's why they were taken out. Vice Chairman Gowdy recalled the planting of the trees was a condition of the 2007 approval; they were a requirement. Mr. Dearborn countered that's why it's a Site Plan Modification – to eliminate that. Mr. Dearborn challenged that a 100' buffer is between an industrial zone and a residential zone; he didn't know why he needed more than 25' in an industrial zone. The person behind him has 50' of trees and has trailers parked end for end so he (Mr. Dearborn) has to look at those ugly things which is hiding everything he is doing. Mr. Dearborn contends his property is an industrial zone, it fits the area, it's zone for what he is doing.

Vice Chairman Gowdy cited the Commission's concern for noise generated by the operation of machinery on the site. He also reiterated that the 100' buffer was part of Sections 700 and 800 of the Zoning Regulations. The trees were part of the original approval agreed to in 2007. He pointed out to Mr. Dearborn that he hasn't done a multitude of the things required in the 2007 approval, which was the reason for the Cease & Desist Order. He informed Mr. Dearborn that he is still operating under that Cease & Desist Order today and could be fined \$150/day per violation. Vice Chairman Gowdy suggested the Commission is trying to resolve the issues. He suggested to Mr. Dearborn the Commission is trying to get Mr. Dearborn to do what the Regulations require yet you (Mr. Dearborn) have not done what you were supposed to do. Mr. Dearborn acknowledged that they have spoken of these issues in the past.

Mr. Dearborn pointed out he is here with the Site Plan; you can either say you like it or you don't like it. He felt the requirements were ridiculous and were forced on him maliciously. Mr. Dearborn countered that major construction sites don't have these (requirements). This is outrageous; this is a farm. His operation is a recycling facility; his neighbors in the house can't hear his operation but he hears more noise from the chicken place.

Commissioner Wentworth questioned where the wood chips were going to be stored, and how much noise would be generated by the machinery? Mr. Dearborn suggested you can't hear the tub grinder on Newberry Road but you hear the back-up alarms from the

junkyard across the street. Mr. Dearborn welcomed the Commission to visit the site and listen for the noise.

Vice Chairman Gowdy questioned that if the Commission continued to require the 100' buffer why couldn't Mr. Dearborn move the material back? Mr. Dearborn indicated that would be 100' of land he would be "losing" for storage. It's on the back of the property where no one can see it; he listens to the neighbor's noise; this is not an industrial zone; (the Regulations) say he can do this. There are only two residences on the street; he said Mr. Webb (next door neighbor) can't hear the machinery. You can hear other back up alarms. This isn't in a residential area like a lot of gravel pits in town; this is not an industrial area with tractor trailers going up and down the street all day long.

Vice Chairman Gowdy pointed out that part of this Commission's role is planning for future uses/operations/growth; that whole area could become residential as it is on the other end of Newberry Road. Mr. Dearborn contested that it would never happen.

Vice Chairman Gowdy noted to Mr. Dearborn that the Commission has given him recommendations to expedite his approval because without the Commission's approval you are operating under a Cease & Desist Order. The Commission and you must come to a mutual agreement to proceed. Mr. Dearborn reported he would not do what the Zoning Office is telling him he must do. He strongly contended he would not do it; he would not jump off a bridge because they tell him to.

Town Planner Whitten referenced a list of comments she had prepared to discuss. She reiterated this is an Application to operate a Volume Reduction Facility for creating wood mulch. The site is also being used as a Contractor's Storage Yard. The business is essentially clean and offers a place to dispose of brush and other clean wood products which would otherwise go to a landfill or be dumped on a property. The current use is non-compliant under the current permit. Violations include the location of soil stockpiles outside the approved area, drainage and grading improvements without a permit, and laying asphalt millings over much of the 5 acre site. She noted the Zoning Office wants to keep business in town; they just want to be sure the use is done by the book. Under this Application you are proposing to do some grading and drainage improvements and put down asphalt millings; none of those uses are prohibited.

When you put down something that is not pervious you must consider it to be impervious.

Town Planner Whitten noted that under this Application the Applicant is seeking to bring the operation into compliance and expand the business operation; when we come to the conclusion of the Application Mr. Dearborn will be in compliance. Town Planner Whitten suggested she has concerns with how the Application is presented. With regard to the impervious area calculation and fees the Applicant is claiming the area isn't an impervious surface. The drainage study uses a curve number of 89 which is gravel;

Town Engineer Norton is ok with that but that is under the impervious area when you calculate the road.

Mr. Hesketh reported that the (Zoning) Regulations don't say what is an impervious or a pervious surface. He gave calculations that show it isn't characteristic of impervious. Regarding the curve number of 89, it's the most conservative, and will cause more run off. The theory assumes all of this area that has been treated with asphalt will be discharging, while the wood chips will absorb that run off.

Town Planner Whitten noted that under his memo dated 6/13/2011 Town Engineer Norton has issues with the study done by REMA Ecological Services. If it's a cover over bare soil it's impervious. Town Planner Whitten reported she still believes Mr. Dearborn still owes additional money for Application fees based on the impervious area. It's ok to put that down but you/Mr. Dearborn need to deal with it as such, which is impervious coverage. Mr. Hesketh suggested he read Town Engineer Norton's comments; he has submitted data done by another (soil) scientist.

Town Planner Whitten indicated the drainage area map is not the same as the updated the drainage study. Mr. Hesketh indicated they looked at where the drainage delineations are. There's an area on the Tilden property but it appears to be picked up by the swale; it wasn't clear if it had any drainage impact on this property. Town Planner Whitten indicated that the proposed grades shown on the map today are different than those shown on the 2010 map. Mr. Hesketh reported that in his opinion the drainage report is still valid.

Town Planner Whitten referenced the 1% impervious coverage proposed. Mr. Hesketh suggested that part of the driveway and the area near the existing metal building is hot mix asphalt installed by the previous property owner. The 1% is based on the total 26 acre site. Town Planner Whitten contended that inclusion of the millings in the equation would bring it to 75%. She noted that Town Engineer Norton said that was under the impervious area, which makes sense.

Town Planner Whitten noted for the Commission that the current hours of operation are 7:00 a.m. to 4:30 p.m. Monday through Friday. As presented in Mr. Hesketh's memo dated 5/25/2011 to Town Planner Whitten the Applicant is asking for the following proposed hours of operation:

- April 1 to July 31 annually: 7 days per week, dawn to dusk
- August 1 to March 31: 7:00 a.m. to 5:00 p.m. Monday through Friday, 7:00 a.m. to 1:00 p.m. on Saturday, and closed on Sunday.

With regard to the buffer distance, Town Planner Whitten suggested she reviewed the minutes from the previous approval. Staff would like to keep the 100' buffer but shift everything 100' forward; a 25' buffer isn't adequate for this operation. Town Planner Whitten indicated she couldn't understand the opposition to shifting the operation.

(Zoning) Regulations for an earth removal operation require a 100' buffer; this operation is similar. It's the use that requires the buffer, not the zone.

Town Planner Whitten indicated the plan is fine; the Applicant is allowed to have an impervious area. She indicated Staff wants to work with the Applicant.

Commissioner Devanney questioned if water has been brought to the property? Mr. Dearborn indicated he has a well.

Commissioner Thurz questioned where the water from the detention basin will drain? Mr. Dearborn indicated there is a grass swale 50' wide; they will put hay bales and rocks along the berm to slow the run off down. Mr. Dearborn indicated he hasn't touched that area; that's where the water has been running for years.

Commissioner Devanney questioned if they intended to continue with the 50 trips per day? Mr. Dearborn felt the most loads he processed were 30 loads per day. He indicated he didn't want to get too big; 30 loads per day 5 days a week is it.

Commissioner Devanney queried Mr. Dearborn how he felt about the 50' buffer, which would require a waiver. A 100' buffer is required; 25' is too small. Mr. Dearborn questioned that if he were not doing the grinding he wouldn't need that? Town Planner Whitten clarified that it's the stockpiles that are the issue. Mr. Hesketh suggested 25' is the edge of the access drive, then you have a 12' road around the piles; that's 37'. Mr. Dearborn agreed that he has the access area around the piles so they could be accessed by a fire truck if necessary; you can drive a truck around the topsoil pile. He's trying to keep the dirt 25' away.

Vice Chairman Gowdy queried if Mr. Dearborn felt 50' would be a good compromise? Mr. Dearborn reported he wasn't going to jump off the bridge; that land in the corner is sandy; corn won't grow there because it's sandy and shady so he gave up the area by the road which looks nice with the corn by the road. Mr. Dearborn reviewed various areas of the plan, noting his intended purpose for each area. He noted he wants to install a wood chip berm between the swale and the property line; the road is on the other side of the swale. Mr. Dearborn estimated the distance being considered is 30' to 35' before anyone would get to the stockpiles.

Commissioner Thurz reiterated the Commission wants to work with Mr. Dearborn, but there are neighbors to consider. Mr. Dearborn suggested the Commission should know what that issue is; whatever is approved for him it won't be right. Vice Chairman Gowdy suggested the Commission is only concerned about what is being proposed, and what the Commission can agree to. The neighbors have no play in this, except for issues of health, safety, or welfare. The Commission would like to have a revised plan showing a 50' buffer. Mr. Dearborn replied that 40' would be better; this is good land. Commissioner Devanney noted the distance is currently 37'; let's consider 50'. Vice Chairman Gowdy recalled the Commission could ask for 100'. Mr. Dearborn recalled again that the 100'

buffer is required between an industrial and residential zone. Town Planner Whitten reiterated that the separating distance is 100' if this activity operates with stockpiles. Under the Earth Removal Regulations a 100' separation distance is required; this operation is similar to an earth removal operation. The zone doesn't matter. This Application has been submitted under a Special Use Permit; if the Commission feels it's warranted they can ask for a 100' buffer. Mr. Dearborn questioned that if they go with the 50' that's where the stockpile would be – 50' from the property line? Town Planner Whitten replied affirmatively. Commissioner Wentworth reiterated that the proposal is showing a 37' separation distance; if Mr. Dearborn could be guaranteed that this issue would be put to rest for 15' wouldn't that be better? Mr. Dearborn agreed to a 50' buffer/separation distance, but postulated that that is where the piles have to stop.

Vice Chairman Gowdy turned discussion to the issue of the trees along Newberry Road. Mr. Dearborn recalled that during the original approval Application Commissioner Farmer argued over a half hour about the trees. He suggested the trees will be in the way when he mows and will cause shade. He would rather not have the trees; he felt it will look nice with the field. Mr. Dearborn suggested he may put in a split rail fence down the road. Vice Chairman Gowdy suggested adding the split rail fence in this approval; Mr. Dearborn argued for installation down the road. Vice Chairman Gowdy pointed out that Staff has pages of things Mr. Dearborn hasn't done which were required.

Town Planner Whitten clarified that the PZC can't act on this Application tonight because the Inland Wetlands Commission hasn't acted on the Application before them.

Commissioner Devanney requested to return discussion to the proposed hours of operation. Mr. Dearborn indicated he wanted to expand the hours of operation during the busy months. Mr. Hesketh noted Mr. Dearborn is proposing to go from a 5 day operation to a 7 day operation, dawn to dusk, April to August. Mr. Dearborn indicated that Saturday and Sunday are his busiest days. Vice Chairman Gowdy suggested dawn to dusk isn't going to work. Mr. Dearborn reported not 5, but maybe 6; there are gravel pits in town in residential zones where there are houses and you don't want people grinding stuff up. Mr. Dearborn reiterated he is located in an industrial zone, and no one knows he is grinding materials. Vice Chairman Gowdy suggested this request required more discussion.

Vice Chairman Gowdy opened discussion to the audience, noting comments must be directed to him, no personal comments may be made to the Applicant.

Gerald Wilcox, principal in Wilcox Excavating, 50 Newberry Road, East Windsor:

Mr. Wilcox identified himself as the adjacent property owner. He reported he has a professional engineer, Robert Arsenault, reviewing Mr. Dearborn's plans. He indicated he isn't here to hinder business, or hinder Mr. Dearborn from enhancing his business, but he is here to protect his own business operations. Mr. Wilcox reported his property is edged by Maple trees. He has a permit to crush materials but hasn't used it, but he does have stockpiles of sand and topsoil – excess materials from his job sites - which he hauls

in and out of the property. Mr. Wilcox suggested he maintains a 100' buffer as part of his land; he rents out a portion of his land for storage of tractor trailers – which doesn't require a Zoning Permit but he did get one for an access road to the King Koil property. Mr. Wilcox indicated he has a plan before the Inland Wetlands Commission to do minor grading on his property, he will enhance it to get the banks stabilized. In 3 to 6 months he will have a 30,000 square foot industrial building to start on the west side going east, the property is laid out and the calculations have been done; he will be coming before the PZC in the near future. Mr. Wilcox suggested he respects his neighbors by keeping the trees as a buffer. The building will probably be 20' to 30' tall. Mr. Dearborn is proposing 30' to 35' topsoil and recycled amesite stockpiles which will be at least 15' to 20' higher than his building. His engineer said it could be disastrous financially to have the 30' stockpiles nearby. There are no dust controls proposed; dirt will be blowing onto his building. Mr. Dearborn's plans say they will be hauling off the property, and it says excavating. Mr. Wilcox feels the operation proposed by Mr. Dearborn will devalue his (Mr. Wilcox's) property. He must take a stand on this. Mr. Dearborn has plenty of land; he can move some of the activity. Mr. Wilcox suggested you can't put earth that close without having problems. The crusher he is running makes as much noise as an earth processor; screening topsoil and crushing gravel is a Special Permit.

Mr. Wilcox also opposed installation of the swale that close to his property line. He felt that Mr. Dearborn would be placing millings over the water table on his property. And, Mr. Wilcox felt the Commission was bending over backwards allowing the buffer to be reduced to 50'; Mr. Wilcox maintains a 100' buffer along his property; he does what the Town asks him to do, he expects Mr. Dearborn to live by the Regulations also.

Michael LeBreq, 63 Newberry Road: Mr. LeBreq reported he owns/operates a specialty auto restoration business directly across the street at 63 Newberry Road. Mr. LeBreq indicated his main concern is a fire hazard; fire trucks were at Mr. Dearborn's property a week ago. The piles of processed wood are smoldering at times. He questioned the burn rate of the processed wood if they do catch fire; what protection does the fire department have? He felt that if a fire starts in a large quantity of processed wood it won't take much time to cross the street to his business. He questioned if someone can find out the number of times the fire department has responded to Mr. Dearborn's property. He questioned that the fire department would be able to go down the paths between the piles to respond to a fire.

Mr. LeBreq indicated he had no issues with the industrial area.

Ray Noble, 88 Newberry Road: likes what Steve Dearborn has done with the property, people tell him all the time that it's better than when his parents operated a farm there.

Justin Valente: reported he has a tree removal business and dumps his debris on Steve Dearborn's property. He can speak for every landscaper that Steve provides a place to dump stuff at no cost. It sounded at times like the Commission was talking about Millstone II. It's an invaluable service to them. If you drive up Newberry Road there is

so much blight, Steve's place is super-clean. Even when it's raining there are never any puddles. Newberry Road is an industrial zone; the businesses outweigh the residential properties by 90%. Steve's business is invaluable to him and other landscapers.

Paul Andersen, Main Street, Broad Brook: reported he travels Newberry Road frequently, he hasn't seen a problem or heard noise – day or night. Regarding the trees along the road Mr. Andersen felt it would provide more liability than being an asset and will fall down or get blown down; he'll have to put them back 50' and it will eat up a big chunk of land. Mr. Andersen doesn't feel the trees are a plus in that area; the field of grass is better. The corn field is well maintained, there's no overgrown grass; somebody cares. Mr. Andersen felt that when you go to the residential area on the end of Newberry Road it's almost an encroachment of the industrial zone.

Mr. Hesketh requested clarification of the following pending items:

- Buffer – 50' vs. 100'
- Hours of operation
- Fence along edge of road in lieu of trees
- By approving these plans it would address the outstanding Cease & Desist issues. Town Planner Whitten clarified for Mr. Hesketh that approval of this plan would address the majority of the outstanding Cease & Desist issues.

Vice Chairman Gowdy noted the question of the impervious coverage and additional fee must be resolved. Town Planner Whitten requested that the Applicant, Town Engineer Norton, and the Commission discuss the issue further. Mr. Hesketh suggested the Regulations don't define impervious coverage, so he must look at the industry definition of testing, and he has submitted those results for the record. Commissioner Devaney concurred with Vice Chairman Gowdy; the Commission won't be comfortable with the proposal until the impervious coverage issue is resolved.

Mr. Dearborn reported the original area was 4.5 acres which went up to the well casing, but he wanted to swap that area for the area in front; it's 1,000 square feet less and we're talking about another \$3,500 (in fees). He questioned why nothing was talked about during the original application? Town Planner Whitten noted that during the original application Mr. Dearborn said the soil surfaces would be loose gravel, this becomes like pavement. Mr. Dearborn countered that when you have a contractor storage yard you know the first thing you do is strip off the top soil and then put a base down. Town Planner Whitten suggested that you (Mr. Dearborn) never claimed you would put down the impervious material; you could have but you didn't. Town Planner Whitten continued with her position of this material being impervious coverage. Mr. Dearborn reported that water soaks into all the areas that have millings in a ½ a day; gravel or millings, it isn't sealed like a driveway or highway. Vice Chairman Gowdy suggested that issue was one of the issues that caused Mr. Dearborn to be out of compliance; you must meet the Regulations.

Ray Noble, 88 Newberry Road: reported when the industrial park was built they had strict covenants to get people to build there, he felt there were no buffers, the Town bent over backwards to bring business in, those buffer zones come and go.

Gerry Wilcox, principal in Wilcox Excavating, 50 Newberry Road, East Windsor: felt buffers and buildings are different, we are talking about a 35' pile vs. a 30' building, and earth materials are different, buffers are very important; when you have 35' high piles where will the water go? It will go off his property, 99% will go off the asphalt, where will it land? Mr. Wilcox suggested the proof is in the pudding; he's putting a building up there.

Town Planner Whitten questioned if the Applicant wanted to come back for the next PZC Meeting or wait until the Wetlands issues are resolved? Mr. Hesketh wanted to leave it open.

MOTION: To CONTINUE the Application of Newberry Road Enterprises/Steve Dearborn for a Special Use Permit for a Modification to Volume Reduction Facility at property located at 68 Newberry Road, East Windsor, CT. [M-1 Zone; Assessor's Map 93, Block 19, Lot 6. Application CONTINUED until the Commission's regularly scheduled Meeting to be held at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

MOTION: To TAKE A TEN MINUTE BREAK.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

The Commission RECESSED at 9:00 p.m. and RECONVENED at 9:12 p.m.

NEW HEARING: Apothecaries Hall Enterprises, LLC – Special Use Permit for renewal of gravel operation and wash plant located on the south side of apothecaries Hall Road. [M-1, R-3 & A-1 Zones; Map 57, Block 65, Lots 1 & 7] (*Deadline to close hearing 7/19/2011*):

Vice Chairman Gowdy read the Hearing description. Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, and Kevin Charbonneau, the Applicant.

Mr. Ussery reported the Applicant is presently working in/processing materials in Phase 14, stump grinding is occurring in Phase 7, 8, and sometimes 6, Phase 15 hasn't even been cleared yet. There are some stockpiles of gravel and sand but there haven't been a

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lot of sales in the past year. The anti-tracking pad is paved 800' back from the road. Mr. Ussery reported it rained today, there were no materials left on the road.

Mr. Ussery reported they would like to ask for a 3 year, rather than 1 year, renewal period, which would require a waiver approval. They realize that due to the attendance tonight they will have to return at the next meeting.

Vice Chairman Gowdy questioned if the Planning Office had received any complaints? Town Planner Whitten responded there were none to her knowledge. Commissioner Devanney felt the Applicant runs a good operation.

Vice Chairman Gowdy queried the audience for comments; no one requested to speak.

MOTION: To CONTINUE the Application of Apothecaries Hall Enterprises, LLC for a Special Use Permit for renewal of gravel operation and wash plant located on the south side of apothecaries Hall Road. [M-1, R-3 & A-1 Zones; Map 57, Block 65, Lots 1 & 7]. Application CONTINUED until the Commission's regularly scheduled Meeting to be held at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

BUSINESS MEETING/(1) Correspondence:

Town Planner Whitten noted Herb Holden Trucking has submitted their quarterly report for the Wapping Road operation. Submission of quarterly reports is a condition of the application approval.

BUSINESS MEETING/(2) Staff Reports: None.

SIGNING OF MYLARS/PLANS, MOTIONS: None.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:22 p.m.

Devanney moved/Thurz seconded/

VOTE: In Favor: Unanimous (Devanney/Gowdy/Thurz)

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(7730)