

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

**REGULAR Meeting #1639 – September 24, 2013**

***Minutes Heading: MEETING MINUTES***

***\*\*\*\*\*Draft Document Subject to Commission Review/Approval\*\*\*\*\****

The Meeting was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 7:01 P. M. by Chairman Ouellette.

**PRESENT:**    **Regular Members:** Joe Ouellette, Chairman; Lorry Devanney, Frank Gowdy, Dick Sullivan, and Jim Thurz.

**Alternate Members:** Marti Zhigailo

**ABSENT:**    **Regular Members:** All present.

**Alternate Members:** Bob Slate

Also present was Town Planner Whitten.

**GUESTS:**     Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission (arrived at 7:04 p.m.); Dick Pippin, Selectman; Kathy Pippin, Board of Finance.

**ESTABLISHMENT OF QUORUM:**

A quorum was established as five Regular Members and one Alternate Member were present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Should any of the Regular Members need to step down from service on an Application Alternate Member Zhigailo would also join the Board regarding discussion and action on the specific Item of Business which caused the change in voting membership.

Chairman Ouellette announced to the audience that the Public Hearing on the Application of Gaetan Letourneau for a 1-lot Resubdivision and a Special Use Permit, under Section 408, to allow a rear lot at 131 Tromley Road, owned by Jeff Cotnoir will NOT be heard this evening. There will be NO discussion of this Item of Business tonight; the Public Hearing is being continued to the Commission's October 8<sup>th</sup> Meeting.

**LEGAL NOTICE:**

The following Legal Notice, which appeared in the Journal Inquirer on Friday, September 13, 2013, and Friday, September 20, 2013, was read by Chairman Ouellette:

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1. Application of EWD, LLP for a Special Use Permit to create a conforming lot with zero frontage by waiving frontage requirements pursuant to Section 302. Property is located at 226 Main Street, East Windsor. [M-1 zone; Map 91, Block 12, Lot 30A]

**ADDED AGENDA ITEMS:**

No Added Agenda Items this evening.

**PUBLIC PARTICIPATION:**

Chairman Ouellette queried the audience for comments not related to posted Agenda Items. No one requested to speak.

**APPROVAL OF MINUTES/September 10, 2013:**

**MOTION: To APPROVE the Minutes of Regular Meeting #1638 dated September 10, 2013 as amended:**

**Pages #10 and #12, NEW PUBLIC HEARING: Herb Holden Trucking, Inc. –**

Renewal of Special Use Permit/Excavation (per Section 814) to allow earth products removal on property located on the west side of Wapping Road, owned by Northern Capital Region Disposal Facility. [A-1 & M-1 Zones; Map 27, Block 65, Lot 31:

**Page 10, MOTION TO APPROVE** the Application of Herb Holden Trucking, Inc. for a ~~One~~ **THREE** Year Extension, to expire *September 9, 2016*, for Special Use/Excavation Permit ..... west side of Wapping Road, owned by Northern Capital Region Disposal Facility, Inc. (NORCAP). A-1 & M-1 Zones. [~~Map 41~~ **MAP 27**, Block 65, Lot#31] .....:

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**Referenced Plans:**

Cover Sheet – Proposed Gravel Removal Operation Wapping Road East Windsor Ct, applicant Herb Holden Trucking, Inc. .... Dated 8/9/~~11~~ **13**.

**Page 12, Condition #13:** Operation of the gravel pit may include:

- screening of excavated material pursuant to provisions of Section ~~9 and 9A.5.~~ **807.**
- crushing of rock and gravel mined on-site only with portable crushing apparatus and pursuant to provisions of Section ~~9 and 9A.5.~~ **807.**

**Devanney moved/Gowdy seconded/VOTE: In Favor: Unanimous**

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette acknowledged receipt of the following Application:

1. Application of EWD, LLP for a Special Use Permit to create a conforming lot with zero frontage by waiving frontage requirements pursuant to Section 302. Property is located at 226 Main Street, East Windsor. [M-1 zone; Map 91, Block 12, Lot 30A]

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**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE:**

Nothing presented this evening.

**CONTINUED PUBLIC HEARING: Gaetan Letourneau** – 1 lot Resubdivision and a Special Use Permit, under Section 408, to allow a rear lot at 131 Tromley Road, owned by Jeff Cotnoir. [A-1 Zone; Map 64, Block 19, Lot 52. *(Deadline to close hearing extended to 10/29/2013):*

**MOTION:** To CONTINUE the Public Hearing on the Application of Gaetan Letourneau for a 1 lot Resubdivision and a Special Use Permit, under Section 408, to allow a rear lot at 131 Tromley Road, owned by Jeff Cotnoir. [A-1 Zone; Map 64, Block 19, Lot 52. Public Hearing CONTINUED to the Commission's regularly scheduled Meeting to be held on Tuesday, October 8, 2013 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Gowdy seconded/

**DISCUSSION:** None.

**VOTE: In Favor: Unanimous (Devanney/Gowdy/Ouellette/Sullivan/Thurz)**  
(No opposition/no abstentions)

**NEW PUBLIC HEARINGS: Consulting and Design LLC and owner Mercury Fuel Service** - Special Use Permit, under Section 502, for gas station and convenience store at South Main Street and Thompson Road. [B-2 zone; Map 81, Block 19, Lot 102] *(Deadline to close hearing 10/29/2013)*

Chairman Ouellette read the description of this Public Hearing. Appearing to discuss this Application were Attorney Joseph Capossela, of Kahan, Kerensky & Capossela, representing Mercury Fuel; Lorraine Hicks, also of Kahan, Kerensky & Capossela; Mike Devino, lessee with Mercury Fuel; Ron Fortune, of Consulting & Design, LLC; and Scott Hesketh, of F. A. Hesketh and Associates.

Attorney Capossela reported this is a Special Use Application for a gas station to be constructed at the location of the East Windsor Diner at the corner of Thompson Road and Route 5/South Main Street. The total parcel contains 2.83 acres. Attorney Capossela noted that Mr. Devino and Mr. Fortune appeared before the Commission previously for an informal discussion regarding this potential use. He gave a brief history of Mercury Fuel (which operates under several brand names), noting they came to East

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Windsor in 1993 when they opened the adjacent Sunoco service station at 11 South Main Street. Attorney Capossela asked Mr. Fortune to describe this proposal.

Mr. Fortune noted the existing building on the site would be demolished; the 30' wide drainage easement which runs through the back of the property will remain. Currently there are 2 curb cuts on Route 5; the northerly curb cut is being closed while the southerly curb cut is being repositioned and the radius is changing. The exit on Thompson Road will remain. The gas station will include 5 dispensers – one of which will provide diesel fuel - under a 123' x 24' canopy. The gas dispensers will be located in front of a 5,000+/- square foot building (110' x 46') which will provide a convenience store including tenant space with drive-through window service. A 12' wide drive (with menu board) will provide access for the drive-through. A separate 24' wide lane will allow traffic to circulate around the property. A second fueling station will be located to the rear of the convenience store; the second station will provide 2 dispensers for diesel fuel to allow larger trucks to be served. New catch basins will be installed as needed; new underground tanks will be installed as well. Mr. Fortune indicated that everything drains into the catch basins in the drainage easement; Attorney Capossela clarified that they would be dumping all the water into the Town catch basins in the easement.

Mr. Fortune directed discussion to signage. Attorney Capossela suggested that the original plan submission showed 6 signs; during his review of the regulations he noted only 4 signs are allowed. They are revising the Application to meet the regulation requirements. The proposed signage will include a free-standing sign on the Route 5 frontage, #2 and #3 will be on the canopy, and #4 will be wall sign on the building. Mr. Fortune reviewed the square footage of the proposed signs; he noted the free-standing sign along Route 5 is proposed to be 18' tall.

Chairman Ouellette questioned if the free-standing sign will be located on the Applicant's property; Mr. Fortune replied affirmatively.

Town Planner Whitten noted that the present free-standing sign is already non-conforming at 17'6". Attorney Capossela indicated they would be asking for a waiver of the height under the B-2 Regulations. Town Planner Whitten noted she has not an opportunity to review the proposed signage as that plan has been submitted tonight during this presentation. Attorney Capossela felt reducing the sign 6" shouldn't be a problem.

Mr. Fortune began describing some of the site work. They will be removing gravel on the back edge on the easterly side of the site. Areas on the plans shown in brown will be going from grass to pavement. Parking will be provided in front of the building and on the southerly side, and on the Thompson Road side of the site. Mr. Fortune reported the proposed 24' drive isle will be encroaching into the set-back area; they will be asking for a waiver of the regulation requirement for a 25' set-back from the property line.

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Commissioner Gowdy questioned what the “red ladder” indicated on the plans represented? Mr. Fortune reported that was a 10’ turning lane which Mr. Hesketh would discuss under his traffic study report. Attorney Capossela suggested it was Mr. Hesketh’s recommendation to create a dedicated left hand turning lane into the site in addition to the existing passing lanes going south on Route 5. Mr. Fortune indicated that any widening will happen on the side near the Applicant’s property. Attorney Capossela noted they will go to the State for approval after receipt of local approval.

Attorney Capossela suggested the regulations call for impervious coverage to not exceed 65%; discussion had occurred regarding interpretation of building coverage vs. total impervious coverage. Mr. Fortune reported that impervious coverage for the site will be approximately 63% - 59.1% for parking/paving and 4.1% for the building.

Chairman Ouellette queried the Commissioners for questions; no one had any comments at this point.

Chairman Ouellette raised the following questions:

- **What was being proposed for landscaping?** He noted Mr. Fortune had discussed removing pavement and adding loam and seeding; is any shrubbery being added? Mr. Fortune replied negatively. Chairman Ouellette suggested he would like to see the addition of some type of landscaping as was discussed during the preliminary/informal discussion.
- **Any ability to add vehicle charging stations to the site?** Attorney Capossela indicated they had not proposed any at this point but he would discuss that further with Mr. Devino.
- **Why bother adding the parking for large trucks on the south end of the site?** Mr. Devino indicated that was his idea; they had wanted to have an area to provide truckers to park while using the convenience store but it wasn’t their intent to provide over-night parking for large vehicles. Attorney Capossela agreed; they didn’t plan to provide over-night parking. He suggested the addition of signage.

Commissioner Devanney:

- **Referenced the rear tanks for larger trucks near the convenience store drive-through lane; she questioned if there would be enough room to accommodate them both?** Mr. Fortune noted the 12’ drive-through lane is separate from the area for the fueling area for the large trucks. Commissioner Devanney suggested her concern was for large trucks circling around to exit the site adjacent to the drive-through lane. Mr. Fortune suggested the plan has been designed to accommodate that traffic pattern. Mr. Devino suggested they have that provision at 11 South Main Street.

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Town Planner Whitten:

- **Questioned clarification of the waiver of the 25' property line set-back in relation to the 24' travel lane:** Attorney Capossela suggested the regulations require a 25' set back from the property line; there is pavement there already and they are asking for a waiver of the 25' set back to use some of the area. Town Planner Whitten questioned that the waiver is to use existing curb? Attorney Capossela replied affirmatively. Mr. Fortune suggested there is pavement on the neighbor's property so they will install a 6' grass strip with curbing along this line. Attorney Capossela suggested right now it's a "zero" set back; there is pavement up to the property line and they will be putting in 6' of grassed area but as a result they won't have a 25' set back. Chairman Ouellette requested clarification that the new curbing is 6' from the property line? Mr. Fortune replied affirmatively, noting there will be 6' of grassed area; there is a 24' width between the diesel dispenser and the curbing line. Town Planner Whitten questioned that the Applicant is providing a 24' lane but you are requesting a waiver for the 25' set back? Chairman Ouellette suggested they could have accomplished that if they placed the dispenser elsewhere. Mr. Fortune and Attorney Capossela both replied affirmatively; Mr. Fortune suggested they feel the proposed location is the best location.

Attorney Capossela noted they would also be requesting a waiver for the height of the building; Mr. Fortune noted the cupola makes the building height 38'. Mr. Devino suggested he didn't need the cupola; they're expensive. Town Planner Whitten suggested the cupola is a nice feature. Attorney Capossela referenced Section 501 – Bulk Area Requirements, note #3 references ability to waive the minimum height. Town Planner Whitten clarified the note referenced applies to the B3 Zone only.

Commissioner Thurz:

- **Concern with proximity of big rig dispenser with drive-through lane:** Commissioner Thurz cited concern with the big rigs going through the drive-through and convenience store and trying to get out the double lane. He felt there would be a big issue with the Dunkin Donut traffic across Thompson Road. Commissioner Thurz indicated he didn't like the location of the big rig dispenser. He didn't like the combination of fast food with people walking around and the dispenser for the larger trucks, although he didn't mind the diesel dispenser on the pumps. He felt that on Wednesday and Thursdays this would cause trucks backing up on Route 5. Mr. Devino suggested they have this situation at 11 South Main Street now. Commissioner Sullivan questioned the features of the pumps for the tractor trailers. Mr. Fortune indicated they wouldn't have the larger nozzles. Commissioner Sullivan felt that someone filling up with the smaller nozzle will be at the dispenser for some time. Commissioner Zhigailo felt her fellow Commissioners were projecting problems; she felt the site had the space to accommodate it.

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Commissioner Zhigailo:

- **Would the facility be open for 24 hour service?** Mr. Devino suggested they haven't decided yet. He noted the one dispenser at 11 South Main Street does serve larger diesel trucks; he didn't feel they have a problem. Commissioner Zhigailo felt diesel service is an essential component of this proposal; she felt the diesel service will be off-hours. Commissioner Zhigailo also didn't see the problem with the parking for the convenience store and the larger trucks.
- **Landscaping:** She suggested ornamental shrubbery would be ok but didn't want it to be overwhelming. Mr. Devino suggested DOT prohibits shrubbery in the right-of-way.

Attorney Capossela suggested the Applicant doesn't see this as a truck stop, but they do feel there is a need for some diesel service. Attorney Capossela suggested they don't see this to be similar to the truck stop in Willington but there is a need. Commissioner Gowdy felt any trucker passing through Massachusetts wouldn't purchase fuel in Connecticut. This service is a convenience. Chairman Ouellette suggested the question is – should it be at this location? Attorney Capossela suggested they think this layout will work fine, but that's a decision for the Commission.

Town Planner Whitten had no additional questions at this time.

Scott Hesketh, of F. A. Hesketh & Associates, gave a presentation on his traffic report, which is on file in the Planning Office. Excerpts from his report follow:

**April, 2010:** Average daily traffic volume 16600 cars; peak traffic: morning – 1033, afternoon – 1628.

**2011 traffic data** from the (new) Walmart development was used as a reference for this report. A 2% per year growth rate was applied to the 2011 volumes to represent ambient growth to develop the 2014 background traffic volumes.

**Trip generation based on use as a diner:** 100 trips/hour during morning and afternoon hours; 130 trips/hour on Saturday.

**Trip generation based on proposed use** (gas station/convenience store with additional leased space):

Monday – Friday: 6654 daily trips; 332 trips/hour – morning peak; 298 trips/hour – afternoon peak.

Saturday: 7242 daily; 288 trips/hour – morning or afternoon peak not specified.

**Traffic distribution:**

Entering traffic: 60% from the south; 30% from the north; 10% from the east.

Exiting traffic: 60% to the north; 30% to the south; 10% to the east.

Mr. Hesketh felt most people will make a right-hand turn in and out of the facility.

**Capacity analysis:**

Thompson Road/Route 5: Level of service: A or B during peak hours.

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Route 5 Access Drive: Mr. Hesketh suggested the level of service will continue to operate at a level C, with the exception of making a left hand turn onto Route. See specifics in report.

**Reconfiguration of Route 5 access:** Currently 2 lanes of traffic heading south merge into one lane at approximately the location of the southerly curb cut for this location. The Applicant is proposing to widen Route 5 to provide a dedicated southbound left turn lane into the site. See report for specific levels of service heading north and south. Mr. Hesketh felt the site has been designed to accommodate tractor trailers. He felt most will make a right-hand turn in to the site and make a left-hand turn out of the site at Thompson Road. He also felt there is no reason tractor trailers couldn't go from Thompson Road into the site; there is enough room to accommodate/provide circulation throughout the site.

**Stacking capabilities:** Mr. Hesketh reported there is more than enough room for stacking of vehicles safely. They are proposing a 12' drive-through access lane, and a 24' drive isle to allow circulation of traffic. They are providing stacking/queuing distance for 13 vehicles at the drive-through. See report for specific queuing distance, vehicle capacity, and customer tolerance for service delay.

**Accident history:** Mr. Hesketh suggested there didn't seem to be a lot of accidents in this area; see report for specifics. Town Planner Whitten clarified that the diner hasn't been operating for several years; no one should have been entering this site during that time. Attorney Capossela noted their traffic expert feels the site will work; they must also seek approval from the State whom he felt would have jurisdiction over the proposed work.

Commissioner Sullivan:

- **Will idling of tractor trailers be allowed?** Mr. Devino didn't know. A member of the audience indicated that Federal law only allows 5 minutes of idling. Chairman Ouellette suggested signs will need to be posted regarding this law; Attorney Capossela suggested the additional signage be made a condition of approval.
- **Status of existing station (11 South Main):** Commissioner Sullivan questioned if it will be dismantled? Mr. Devino replied negatively; Attorney Capossela noted this station might be a different brand of gas. They have no intention of closing the Sunoco station. Commissioner Thurz noted that traffic going northbound currently backs up at this location all the way to the high school at 5:30. Mr. Hesketh suggested then this would be a good location for a gas station with all those cars going by. Chairman Ouellette questioned if the plan was constructible? He realized this is a concept plan, but noted some of the work on the corner of Thompson Road and Main Street is proposed on someone else's land. Mr. Hesketh felt the work could be done with an easement. Commissioner Gowdy questioned what was the queuing distance/capacity for vehicles going south making a left-hand turn into the property? Mr. Hesketh estimated the distance is 125' and would accommodate 5 to 6 vehicles. Town Planner Whitten noted the queuing distance for the drive-through blocks 5 parking spaces. Mr. Hesketh



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suggested this is a standard design for a drive-through window. Town Planner Whitten suggested she keeps bringing this up because there is another location in East Windsor which has a similar design. The Commission was told that design would work as well but there is a significant problem each morning; they are very successful.

**MOTION: TO TAKE A FIVE MINUTE BREAK**

**Gowdy moved/Sullivan seconded/VOTE: In Favor: Unanimous**

The Commission RECESSED at 8:24 p.m. and RECONVENED at 8:33 p.m.

Chairman Ouellette opened discussion to the public:

**Scott Bliss, of JRS Associates, owner of the John Deere dealership across Route 5 from the diner:** Mr. Bliss cited concern for the proposed left-hand in stacking lane heading south; he felt the stacking up of traffic could make it almost impossible for anyone to leave his property and head north. He noted he's been watching traffic at this location for 30 years and between 4:00 and 5:30 p.m. leaving his location is a challenge as it is. Chairman Ouellette questioned if Mr. Bliss had anywhere else on his property that could provide access? Mr. Bliss indicated that currently the one driveway is the only access, although he did own some property to the south. Chairman Ouellette questioned if the plan would be more palatable if there were no left-turn lane? Mr. Bliss felt they probably need that but it needs to be altered so it doesn't prohibit his customers.

**Ray Boynton, lives in the neighborhood:** questioned how much fuel storage is anticipated? Mr. Fortune summarized the tank capacity at the various fueling locations, noting the total storage would be 42,000 gallons. Mr. Fortune noted the tanks would be double walled.

**Dick Pippin:** felt this was a good plan, better than the first, he felt the left-hand turn lane was a good idea, he indicated on the plan a modification of the lane which he acknowledged would probably screw the Blisses. Mr. Pippin disagreed with Commissioner Thurz – this is an absolute need; Mr. Pippin indicated he didn't know another place in East Windsor to fill up with a trailer. Mr. Pippin reported he has been driving a truck since he was 16; he has problems with the design. He feels the islands need to be cut back on Thompson Road; trucks won't be able to make the swing. Mr. Pippin felt the Commission should approve the cupola if they could as it would enhance the building.

**Jim Starvish:** reported he is a truck driver, he can't buy fuel anywhere in town. Mr. Starvish cited problems with the 7-11 (further south on Route 5) as he must back his truck out onto Stoughton Road. Mr. Starvish noted there have been trucks here for years; if zoning came in during the 50s then this is almost grandfathered. Mr. Starvish reported

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truck driving has changed over the years; he must pass drug tests and breathalyzer tests now. He spoke of the improved image of truckers, noting many make \$100,000 a year. Mr. Starvish reported there is a Federal law requiring that the stop and take breaks; would the Commission rather they stop on the side of the road or in a gas station? Mr. Starvish indicated he was in favor of this proposal.

Commissioner Devanney questioned how the cars stacking up will work, or how will it affect the people going into and out of the Sunoco station? Attorney Capossela indicated they don't feel that will happen as the pumps are on the other sides; they don't anticipate people stacking up on Route 5. Mr. Hesketh indicated they have room for 5 cars to stack going southbound to make the left-turn, but they don't expect stacking of vehicles at all times. Mr. Hesketh also felt the merge area allows for the ability for people to turn into Sunoco. Commissioner Thurz questioned if the State could change the timing of the traffic light? Mr. Hesketh gave an explanation of sequencing of the traffic signals. Mr. Devino offered that a gas station use isn't a destination use; Mr. Hesketh suggested it's a pass by use that feeds off of existing traffic.

Attorney Capossela noted reports made by Town Planner Whitten and Town Engineer Norton.

Town Planner Whitten began a review of the status of her comments:

1. Waiver required as proposal doesn't meet the 25' minimum distance for pavement/drive isle from the property line.
2. Stacking study has been supplied, see page 3 of the traffic study.
3. Signage size – Town Planner Whitten needs the Applicant to verify the information presented this evening. She noted the Commission doesn't have the ability to waive the height requirement for the free standing sign. Attorney Capossela indicated they will not request a waiver; Mr. Fortune indicated they will take 6" off the sign height.
4. Photometric plan – received tonight during this presentation; the Commission and Town Planner Whitten haven't had the opportunity to review or discuss this plan
5. No professional license stamps on any sheet of the plans received in the Planning Office; all sheets must have a live PE or LS stamp for an individual certified in Connecticut. Mr. Fortune flipped through the plan set submitted this evening for Town Planner Whitten, noting various professional stamps.
6. Site Plan must A-2 Certified
7. Impervious coverage must be added to the Site Plan.

Regarding Town Engineer Norton's comments, Attorney Capossela felt all comments noted in the earlier (8/8/2013) memo; he felt those noted on the 9/24/2013 memo were housekeeping items. Attorney Capossela felt Town Engineer Norton should be provided the revised plans for review.

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Chairman Ouellette reported he would recommend to the Commission that they keep the Public Hearing open.

Additional discussion involved the following items:

- **Photometric lighting plan:** Town Planner Whitten noted the plan was submitted at the meeting this evening; she has not yet seen it herself. Chairman Ouellette suggested his concerns involve the elevation of the canopy, how many lights, and how bright they will be for people driving down the street. Various members of the design team agreed the photometric plan had not been submitted previously although it had been requested earlier by Town Planner Whitten. Chairman Ouellette cited his concern delaying the application as additional information is provided without sufficient time for Staff referral and review prior to a meeting.
- **Landscaping:** Chairman Ouellette indicated a landscaping plan hadn't really been discussed. Mr. Fortune reported they are not proposing trees but are proposing low shrubbery.

**MOTION:** To CONTINUE the Public Hearing on the Application of Consulting and Design LLC and owner Mercury Fuel Service for a Special Use Permit, under Section 502, for gas station and convenience store at South Main Street and Thompson Road. [B-2 Zone; Map 81, Block 19, Lot 102]. Public Hearing CONTINUED to the Commission's regularly scheduled Meeting to be held on Tuesday, October 8, 2013 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Sullivan seconded/

**DISCUSSION:** None.

**VOTE: In Favor: Unanimous (Devanney/Gowdy/Ouellette/Sullivan/Thurz)**  
(No opposition/no abstentions)

**NEW PUBLIC HEARING: EWD, LLP** - Special Use Permit to create a conforming lot with zero frontage by waiving frontage requirements pursuant to Section 302. Property is located at 226 Main Street, East Windsor. [M-1 zone; Map 91, Block 12, Lot 30A] (*Deadline to close hearing 10/29/2013*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this Application was Attorney Carl Landolina, of Fahey & Landolina, Attorneys LLC.; Dana Steele, of J. R. Russo and Associates; and the principals of EDW, LLP.

Attorney Landolina described the site as being 8 ¼ acres located to the rear of Main Street, in East Windsor which has access by way of a private drive off Main Street through the parcel; that road has been in existence for several years. The Applicant has deeded rights to use of the

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road which had been constructed prior to construction of the building; they also have the right to place utilities within this private right-of-way. Attorney Landolina described the location of this property relative to properties owned by others – including the State of Connecticut for the I-91 off ramp. Attorney Landolina suggested the boundary lines shown on this map are the same as the Site Plan which was reviewed by the Planning Commission in 2002. He submitted a copy of the deed conveying those rights from DECTEN II, LLP to EWD, LLP, which makes reference to the conveyance map, together with the access right-of-way for ingress/egress and utilities.

Attorney Landolina reported that in December 2002 an application for SportsAir was submitted, and subsequently approved. Shortly after the 2002 submission and approval the map was shown to staff at Town Hall, and based on conversations with the Assessor it was thought the map was brought to the Assessor's Department and a street address of 226 and a separate lot designation was given to the 8.2 acres. In 2003 a Building Permit and Certificate of Occupancy was issued. In 2006 the Zoning Enforcement Officer issued a Certificate of Zoning Compliance indicating there were no known violations at the property at that time; the Certificate of Zoning Compliance was given to the applicants for purposes of financing.

Attorney Landolina cited a copy of the application submitted in 2002, which proposed the construction of indoor and outdoor athletic fields and a sports facility. That facility was up and running from that time until it was destroyed in the recent (2013) tornado. An application for a front parcel had been received by the PZC previously; during that application process the question came up that the subdivision wasn't approved and where did the frontage come from? The Zoning Official won't sign off on the Building Permit for rebuilding of the sports dome. Subsequently discussion occurred which resulted in the submission of this application. Attorney Landolina has provided the Planning Office with a letter dated 8/2013 to Town Planner Whitten which outlined their legal position. Attorney Landolina has reviewed the title going back to 1940. 1953+/- is the date to consider something non-conforming, and it's his opinion – see affidavit submitted - that this subdivision of this parcel didn't constitute a subdivision because it was the first cut since the 1950s. Attorney Landolina reported the cuts to the Smiths came out in the 1940s but he didn't find any other cuts. This larger parcel was put together from several smaller parcels for an industrial subdivision which didn't come into fruition.

Attorney Landolina suggested that if the Commission was of the opinion that a rear lot applied outside of the residential zoning regulations then it would meet the rear lot requirements because it has a minimum 30' wide access for ingress/egress, the applicants aren't required to own it free, and, if the Commission considers I-91 under the definition of streets then the parcel has frontage. Attorney Landolina suggested they are asking for the Commission, under Section 302, to waive the frontage requirement because:

- The facility has been in use for the past 10 years; its history shows that there has been no adverse impact on the public health, safety, and welfare.
- The parcel has had access over the adjacent right-of-way for 10 years. The Site Plan was reviewed in 2002 by staff; any concerns had been adequately addressed.
- The parcel has unique features which make it difficult to meet regulation requirements. Those features include the frontage on 2 sides by State roads, which may or may not qualify for the definition of frontage.

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- Approval of the Application would meet the Town's Plan of Conservation and Development goals, one of which is for the Economic Development Commission to retain and expand support for the community with services, jobs, and taxes, while remaining sensitive to the community's environment and quality of life. As proof of that contention Attorney Landolina noted that the facility has been paying taxes for 10 years and many people use it.

Chairman Ouellette questioned that from a zoning perspective is the Commission being asked to make a modification to the regulations, but they wouldn't really be discussing the Site Plan? Attorney Landolina replied affirmatively, noting the Site Plan has been approved and the facility has been operating for 10 years, and has met the requirements for a Building Permit. Chairman Ouellette questioned if the building being reconstructed would be larger than the building previously approved? Attorney Landolina indicated he didn't know what was shown on the Site Plan; the Application was for indoor and outdoor fields and a facility. Subsequent discussion determined the facility would be rebuilt as it existed.

Commissioner Gowdy felt that I-91 qualifies for frontage from his perspective, but noted Attorney Landolina didn't choose to go with that proposal. Attorney Landolina indicated he wanted to get approval for the Application because the owners are in a time crunch; this facility is a great community benefit – to East Windsor and surrounding towns. Commissioner Gowdy questioned how many properties have frontage on I-91? Town Planner Whitten indicated there were a few others. Discussion continued regarding issues associated with considering the highway frontage. It was noted the Applicant lacks the required set back distances for frontage.

Chairman Ouellette queried the audience for comments:

**Don Wagner, 227 Main Street, property owner to the north of the subject site:** Mr. Wagner felt that this is a wonderful facility for the town, and the programs are administered well. Regarding the Site Plan, Mr. Wagner referenced the northerly line which borders his property. He reported Gary LeClaire said it was a proposed property line, and then it became the property line; Mr. Wagner questioned if it was surveyed? Attorney Landolina reported Gary LeClaire surveyed the property during the 2002 Application. Mr. Wagner questioned if it was actually surveyed; there are no pins in the property. Town Planner Whitten suggested that was because the property wasn't subdivided. She indicated that by virtue of the conveyance this property line becomes your property line. This would be created by doing a first cut, which doesn't require a survey, or a map to be done. Anyone can create a lot by a first cut without a survey.

Mr. Wagner noted a large part of the property is asphalt and building; he gets most of the storm drainage. If this is created where does that drainage go? Chairman Ouellette suggested it would go where it went previously. Town Planner Whitten suggested this Application is just creating lot lines; when the Site Plan was approved the drainage was also approved. Mr. Wagner referenced the location of various catch basins, which he

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assumed was public drainage. Mr. Wagner suggested he is concerned with environmental issues. Mr. Wagner indicated he has an easement from the DOT for their drainage from I-91, and he has an easement from the power company but he doesn't have an easement from the Town. Town Planner Whitten reported she understands there is a Town right-of-way. Attorney Landolina submitted copies of drainage easements from prior owners when this parcel was combined into the larger parcel to create an industrial subdivision (Main Bridge Associates); the drainage easements were for 11 acres right to drain in 1982 onto property to the north which is the property which Mr. Wagner owns. Mr. Wagner reported the road was there when he purchased the property. He felt the Town bonded for the construction of the road as Pepsi was going there but pulled out when the exit for I-91 was closed down. Mr. Wagner reported he also owns 19+/- acres to the north but doesn't benefit from any of this drainage. He has put much money into a drainage system; how long must he do that? Attorney Landolina noted it appears there were drainage rights from this side of the parcel to the north; if the Town paid for some or all of the construction there would be plans. The Site Plan before the Commission is the plan approved 10 years ago, and the Town Engineer signed off on the drainage.

Mr. Wagner indicated he is also concerned about the parking capacity. He reported he owns the cul-de-sac and many cars park there. He gets calls from the police all the time. Mr. Wagner indicated he is looking for liability for the right-of-way. Chairman Ouellette questioned Mr. Wagner if he had expressed his concerns to the current property owners? Mr. Wagner indicated he had done so hundreds of times; they put cones up but groups come in and leave at the same time. Commissioner Zhigailo suggested the Applicant may be able to get a rider for their insurance policy.

Mr. Wagner indicated this wasn't a zoning concern, but he would like to have copies of documents relative to this Application. Chairman Ouellette questioned Mr. Wagner if he had a land use attorney working with him? Mr. Wagner responded positively, noting that they had found others but didn't have these documents. He indicated he had offers to sell the property but he needs transferable documents.

**Ray Boynton, 220 Main Street:** Mr. Boynton reported he owns 236 (Main Street) which abuts this property. Zoning regulations require a 100' buffer; he wants to go on record that the buffer be maintained. Town Planner Whitten questioned if Mr. Boynton was saying the buffer wasn't being maintained? Mr. Boynton reported he's saying that he wants the buffer to stay the same as it is now.

**Scott Novak, 184 Rye Street:** reported as a parent who has children who use the facility he is speaking in favor of the Applicant. They contribute to the community in the programs they provide for youths from East Windsor and surrounding towns; they also provide off-shoot business to the Town. Mr. Novak didn't see why they shouldn't be able to rebuild. He hoped the Commission could support this facility.

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**Ruth Ann Boynton:** questioned when the property is rebuilt will it be the same size? Chairman Ouellette replied it would be the same size.

**Robert Knapp, Enfield resident:** Mr. Knapp reported he is the athletic director for Enfield, he spoke of the value of the facility for local youth. Mr. Knapp reported he has probably brought 500 to 600 kids through the facility. They also provide kids an opportunity for employment.

**Marie DeSousa, 10 Rice Road:** suggested the “bubble” is something people recognize East Windsor for. They pay taxes. East Windsor doesn’t have a competitive athletic program; this facility provides that opportunity for local youth and youth from surrounding towns. Through no fault of their own the facility was destroyed. Ms. DeSousa felt their inability to rebuild would be a great loss for the community.

No one else from the public requested to speak. Chairman Ouellette queried the Commission for comments; no additional questions were raised. Town Planner Whitten noted the Commission needs to give the reasons the Application meets the intent of the regulation when making their decision.

**MOTION: To CLOSE the Public Hearing on the Application of EWD, LLP for a Special Use Permit to create a conforming lot with zero frontage by waiving frontage requirements pursuant to Section 302. Property is located at 226 Main Street, East Windsor. [M-1 Zone; Map 91, Block 12, Lot 30A] .**

**Devanney moved/Gowdy seconded/**

**DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Devanney/Gowdy/Ouellette/Sullivan/Thurz)  
(No opposition/no abstentions)**

Chairman Ouellette reported that personally, he is in favor of the proposal for all the reasons stated. He noted it’s interesting to hear Mr. Wagner speak of the other underlying issues which they haven’t been able to come to agreement on. Chairman Ouellette hoped they would be able to work out the drainage issues.

Commissioner Sullivan didn’t see how the Commission couldn’t vote in favor of the proposal, but he would like to see the Town be proactive with Mr. Wagner. Town Planner Whitten reported Staff has been trying to work with Mr. Wagner for the last year and a half.

**MOTION TO APPROVE the application of Owner/Applicant EWD LLP requesting a Special Use Permit for modification of frontage requirements to create a conforming lot without road frontage per Chapter 302 at 226 Main Street, Map 91, Block 12 Lot 30A in the M-1 Zone.**

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**(Discussion shall include reasons why this application meets the intent of the regulations)**

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**Referenced Plans:**

Property of EWD, LLP 226 Main Street, East Windsor CT Map 91 Blk 12 Lot 30A Zone M-1 prepared by JR Russo and Assoc, LLC 1 Shoham Rd, East Windsor CT 06088 860/623-0569 860 623-2485 Fax scale 1" = 40' dated 9/1//13

**Conditions that must be met prior to signing of mylars:**

1. The applicant shall submit a paper copy of the final approved plans to the Town Planner for review and comment prior to the submission of the final mylars.
2. All mylars submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.
3. The final mylars shall contain the street numbers assigned by the East Windsor Assessor's Departments and the Map, Block and Lot numbers assigned by the Assessor's Office.
4. 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 mylars.

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

5. The lots shall comply with the requirements of the North Central District Health Department requirements for on-site septic systems and wells.
6. Two sets of final mylars, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. One set of signed mylars, shall be filed with the town clerk by the applicant, no later **than 90 days after the 15-day appeal period from publication of decision has elapsed** or this approval shall be considered null and void unless an extension is granted by the Commission. One set, shall be filed in the Planning and Zoning Department.

**Conditions which must be met prior to certificates of compliance:**

7. Final Health District approval of the drinking water supply and the installation of the septic system must be demonstrated.



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8. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all public health and safety components have been completed, the Zoning Officer may issue a Certificate of

Zoning Compliance provided a suitable bond is retained for any remaining site work.

**Devanney moved/Gowdy seconded/**

**DISCUSSION:**       None (see comments made prior to motion)

**VOTE: In Favor: Unanimous (Devanney/Gowdy/Ouellette/Sullivan/Thurz)**  
**(No opposition/no abstentions)**

**MOTION: TO TAKE A FIVE MINUTE BREAK**

**Gowdy moved/Thurz seconded/VOTE: In Favor: Unanimous**

The Commission RECESSED at 10:07 p.m. and RECONVENED at 10:11 p.m.

**OLD BUSINESS: American Forest Products, LLC** – Modification of Approved Site Plan to allow addition of outdoor shed sales and installation of additional bins at 266 Main Street, East Windsor, owned by LCC Partnership. [B-2 zone; Map 81, Block 15, Lots 6 & 7] (*Deadline for decision extended to 10/26/2013*)

***TABLED – NO MOTION MADE***

**NEW BUSINESS: KGS Realty, Inc.** – Modification of approved site Plan to allow covered patio, entry, canopy and seasonal tent at 17 Thompson Road (LaNotte Restaurant). [M-1 zone; Map 82, Block 18, Lot 11] (*Deadline for decision 11/14/2013*):

Chairman Ouellette read the description of this Item of Business. Appearing to discuss this Application was Dana Steele, of J. R. Russo, representing KGS Realty, Inc./La Notte Restaurant. Also present was Sam Karagannis, owner of La Notte.

Mr. Steele submitted photos he and Mr. Karagannis have taken of the current construction taking place on the site. Mr. Steele reported Mr. Karagannis is looking for ways to maintain his business in a difficult economic environment. He is revising his business model to include a banquet facility which would cater to outside events/uses, such as weddings, etc. Mr. Steele submitted a plan for the Commission's review. Mr. Steele noted some existing pavement has been removed; other proposed improvements include a tent outside, and a covered entrance with vehicle canopy over the main entrance. The plans show a small addition which is intended to be a covered outdoor area with patio. Other work is already underway, including extensive landscaping to the

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area which includes retaining walls located in the area where pavement was removed.

Mr. Steele indicated that Clark Landscaping, of Bolton, came up with a computer generated concept plan, which should have been – but was NOT – submitted with the Application. The contractor didn't think permits were required. A concern was raised regarding the removal of parking spaces previously located in the area where the pavement was removed. Mr. Steele's review indicated they had 216 spaces; 148 parking spaces are required for the present use and 203 parking spaces presently remain.

The Commission and Staff raised the following comments:

- **Regarding the covered outside area:** Town Planner Whitten questioned if it would be available for food service? She suggested this was a great idea and noted there are 7 tables available outside presently. Mr. Karagannis reported it is only used as requested presently; he would be covering it to use in the Winter months.
- **Parking computations:** Chairman Ouellette questioned if the use of this outside area was included in the parking tabulation mentioned by Mr. Steele? Mr. Steele replied negatively. Town Planner Whitten clarified the area should be included in the parking study. Mr. Steele reiterated the use requires 148 spaces now and they have 203.
- **Previously approved parking landscape requirements:** Town Planner Whitten noted during a previous approval landscaping islands were required within the parking lot and landscaping was required around the perimeter; none of the islands have been installed to date. Chairman Ouellette suggested this resubmission allows the Commission to consider waiving those requirements, but they should be shown on the plan. Mr. Steele felt they had not been put in due to the cost. Mr. Karagannis suggested it was because of the snow plowing; trees were put in but they died. Mr. Steele felt the improvements will make the site even nicer; the terraced retaining walls are already in. Later in the meeting Town Planner Whitten noted the Commission can waive the width of the islands, but cannot waive the islands themselves.
- **Extensive landscaping including retaining walls and associated grading:** Mr. Steele agreed extensive landscaping has occurred. Town Planner Whitten noted no grading has been shown on the plans for the terraced areas. Commissioner Sullivan suggested this was more extensive than just grading. Commissioner Thurz questioned if there would be electrical work associated with this area? Mr. Karagannis replied negatively. Mr. Steele reported Mr. Karagannis is working on adding a fountain, and a waterfall for photo opportunities; he wants to provide wedding and pre-wedding events. Mr. Steele agreed the plans don't show much detail because the work isn't done yet. Mr. Karagannis' concern is that he has the area booked for an event for the end of October. Town Planner Whitten reiterated the work is already under construction, and they haven't stopped the work as required. Mr. Steele suggested they could provide an As-Built Plan.

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Chairman Ouellette noted under Commission bylaws the Commission must pause and consider extension of the meeting, or adjourn as required in the bylaws.

**MOTION: To EXTEND THIS MEETING until 10:45 p.m.**

**Gowdy moved/Devanney seconded/VOTE: In Favor: Unanimous**

Continuation of Commissioner and Staff comments:

- **Extensive landscaping including retaining walls and associated grading (continued):** Town Planner Whitten suggested she understood this is landscaping but the grades are being changed; no one has any idea where the water is going off site. She is also curious where the waterfall is being added. Mr. Steele suggested the waterfall will be near the building. Town Planner Whitten requested clarification that there is no electrical work associated with the waterfall? Mr. Steele replied “no”; Mr. Karagannis suggested they haven’t done that yet.
- **Chairman Ouellette questioned the rush to seek approval?** He understood there has been a misinterpretation of the regulations, but Staff has reasonable concerns. Mr. Steele suggested Mr. Karagannis needs to do the wedding bookings; he needs a Building Permit for the tent. Mr. Karagannis clarified that the tent will be a permanent structure. Town Planner Whitten questioned if Mr. Karagannis planned to serve liquor in the tent? Mr. Steele replied “not right now”; Mr. Karagannis clarified “not right now but in the future.” Chairman Ouellette questioned if Mr. Karagannis had booked events already? Mr. Karagannis replied “if it’s booked it will be a year down the road.” Town Planner Whitten suggested they hadn’t finished the grading. Mr. Steele reported the grading is finished; they can provide an As-Built. Chairman Ouellette suggested that was what Town Planner Whitten was asking for.
- **Previously approved lighting plan:** Chairman Ouellette noted the plans the Commission is looking at doesn’t show lighting. Mr. Karagannis felt it was modified when he got the Certificate of Occupancy. Commissioner Devanney suggested Staff could acquire a copy of the CO for reference. Mr. Karagannis reported there are lights on the roof of the building but nothing additional; he planned to have new building lights which would disperse light through the parking lot. Town Planner Whitten clarified the lighting must be cut off units which are down lit; the Commission needs to see the details of those proposed lights. Chairman Ouellette indicated the Commission isn’t trying to be difficult but these requests are made of all other applicants; the Commission review must be consistent with those of other applicants. Chairman Ouellette noted the Commission isn’t treating Mr. Karagannis any differently than they treat other applicants; all applications must meet Zoning Regulations.

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Chairman Ouellette queried Mr. Steele if he could provide the revisions in the next two weeks; Chairman Ouellette and Town Planner Whitten reviewed the outstanding items:

- **Site lighting** – location/type
- **Clarification of service of liquor in the outside seating area** – Town Planner Whitten reported a revision of the alcohol use requires a Special Use Permit Application with an associated Public Hearing; the use can't just be changed during Site Plan discussion.
- **Traffic islands** – update on status of completion of previous approval requirements.
- **Landscaping on previously approved plan which has not yet been put in** – trees which were removed must be replanted.
- **Details of proposed “structure/tent”** – height/size/location/electrical components (if any).
- **Submission of As-builts** – to include grading details.

Chairman Ouellette noted revised plans must be submitted to Staff prior to the meeting to allow review by Planning Staff and Town Engineer Norton.

**MOTION:** To CONTINUE the Application of KGS Realty, Inc. for a Modification of approved site Plan to allow covered patio, entry, canopy and seasonal tent at 17 Thompson Road (LaNotte Restaurant). [M-1 Zone; Map 82, Block 18, Lot 11]. CONTINUED to the Commission's regularly scheduled Meeting to be held on Tuesday, October 8, 2013 at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Gowdy seconded/

**DISCUSSION:** None.

**VOTE:** In Favor: Unanimous (Devanney/Gowdy/Ouellette/Sullivan/Thurz)  
(No opposition/no abstentions)

**OTHER BUSINESS:** None.

**BUSINESS MEETING/(1) Plan of Conservation and Development 2014:**

Town Planner Whitten noted the following meetings which are associated with development of the POCD, or will take public discussion on subjects within the POCD:

- Wednesday, September 25th, (Town Hall, 7:00 p.m.) – Conservation and Agricultural Joint Meeting regarding Open Space options.
- Thursday, October 24th (Park Hill) – PZC second kick-off public meeting regarding resident/business input to the POCD revision.
- Tuesday, October 29<sup>th</sup> (Town Hall, 7:00 p.m.) – Economic Development Commission

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Town Planner Whitten reported the Capital Improvement Committee allocated \$8,128 (down from \$10,000) to the revision of the POCD.

**BUSINESS MEETING/(2) Discussion – Adult Regulations (tabled).**

**BUSINESS MEETING/(3) Signing of Mylars/Plans, Motions:**

**Mylars:**       None.

**Motions:**

- **Herb Holden Trucking, Inc.** – Renewal of Special Use Permit/Excavation (per Section 814) to allow earth products removal on property located on the west side of Wapping Road, owned by Northern Capital Region Disposal Facility. [A-1 & M-1 Zones; Map 27, Block 65, Lot 31.

**ADJOURNMENT:**

**MOTION:**    **To ADJOURN this Meeting at 10:45 p.m.**

**Gowdy moved/Devanney seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission  
(8,565)