

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

REGULAR Meeting #1638 – September 10, 2013

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:** Lorry Devanney, Frank Gowdy, Joe Ouellette, Dick Sullivan, Jim Thurz.

Alternate Members: Robert Slate, and Marti Zhigailo

ABSENT: **Regular Members:** All present

Alternate Members: All present

Also present was Town Planner Whitten.

GUESTS: Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Selectmen: Dale Nelson; Dick Pippin; Kathy Pippin, Board of Finance.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members and two Alternate Members were present. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Should any Regular Member need to step down from service for any reason then, following in accordance with the service rotation schedule, an Alternate Member would join the Board regarding discussion and action on the specific Item of Business which caused the change in voting membership.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer on Thursday, August 29, 2013, and Thursday, September 5, 2013, was read by Chairman Ouellette:

1. Application of Herb Holden Trucking, Inc. for 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].

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2. Application of Leslie J. Hickey for a Special Use Permit/Sale of Alcohol (per Section 805) to allow expansion of existing package store at 149 North Road, owned by Soucy Enterprises, LLC. [B-3 Zone; Map 125, Block 16, Lot 27].

ADDED AGENDA ITEMS: None.

PUBLIC PARTICIPATION: No one requested to speak.

APPROVAL OF MINUTES/August 13, 2013):

MOTION: To APPROVE the Minutes of Regular Meeting #1637. dated August 13, 2013 as amended:

Page #12, **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.....; 4th Paragraph, comments made by Susan DeSilva, delegate to the Flaherty Field Trail Association, 5th line: “....planned adult cluster homes on the other side, and received much ill well ILL WILL when this.....”**

Devanney moved/Gowdy seconded/

VOTE: In Favor: Devanney/Gowdy/Sullivan/Thurz

Opposed: No one

Abstained: Ouellette

RECEIPT OF APPLICATIONS:

Chairman Ouellette noted receipt of the following Applications:

1. Application of Leslie J. Hickey for a Special Use Permit/Sale of Alcohol (per Section 805) to allow expansion of existing package store at 149 North Road, owned by Soucy Enterprises, LLC. [B-3 Zone; Map 125, Block 16, Lot 27].
2. Application of Leslie J. Hickey for Temporary Liquor Permits for the following fundraising events to be held at 149 North Road, owned by Soucy Enterprises (B-3 Zone; Map 125, Block 16, Lot 27):
 - o Hal Kresge Beer & Wine Tasting Event – October 12, 2013, from 4:00 to 9:00 p.m.
 - o Enfield High School Football Program Event – November 23, 2013, from 4:00 to 6:00 p.m.
 - o East Windsor Rotary Tasting Event – December 6, 2013, from 4:00 to 9:00 p.m.
3. Application of KGS Realty, Inc. for 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].

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PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD

ACCEPTANCE: Steve Dearborn, 68 Newberry Road – Request from Atty. Bridget C. Gallagher for release of the bonds for 68 Newberry Road:

Chairman Ouellette noted receipt of letter dated 9/6/2013 from Attorney Bridget C. Gallagher requesting that the request for release of bonds for 68 Newberry Road made under an earlier letter be withdrawn.

MOTION: To ACCEPT the withdrawal letter of request written by Attorney Bridget C. Gallagher for release of bonds for 68 Newberry Road.

Devanney moved/Sullivan seconded/

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

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 9/17/2013*):

Chairman Ouellette read the description for this Public Hearing. Present to discuss this Application was the Applicant, Gaetan Letourneau.

LET THE RECORD SHOW Chairman Ouellette stepped down from service as he was not present at the previous meeting, and, although he read the minutes he indicated he was not comfortable voting on this Application. LET THE RECORD FURTHER SHOW Vice Chairman Gowdy replaced him as Chair of the Commission for this Application; Alternate Member Zhigailo joined the Board to complete the quorum requirement.

Town Planner Whitten summarized that the Application was continued so the public and the Commission could visit the site to see where the house is to be located, and to understand the lay of the land. She noted a lot of questions and concerns were raised at the previous Meeting. She felt the Application meets the requirements for Resubdivision and Special Use Permit to allow construction of the proposed dwelling.

Mr. Letourneau reported he intends to leave the large trees along the boundary but also plans to fill in spaces between the trees with other shrubbery. The plans have been revised to show the 18' wide paved driveway with turn around; the plans have also been labeled with notations that the dirt driveway from an abutting lot will be removed, and the shed on the other abutting lot will also be removed. Mr. Letourneau noted that the wetlands have been flagged; he has received a letter from the North Central Health District (NCHD) for approval for a well, and has also received approval for a sewer connection. Mr. Letourneau concurred with Town Planner Whitten's opinion that the

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Application meets all requirements for this proposal, and he has taken care of all the issues discussed at the previous meeting.

LET THE RECORD SHOW the Commission Secretary, Lorry Devanney, OPENED 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].

Commissioner Thurz and Commissioner Devanney questioned the definition of a rear lot. Both Commissioners indicated that the usual proposal for a rear lot places the dwelling to the rear. Commissioner Zhigailo cited concerns with the placement of the dwelling in the front of the parcel as she felt there was room for the dwelling in the rear. Mr. Letourneau pointed out that the proposed placement of the dwelling is actually further back than the houses currently positioned on the two adjacent parcels. Commissioner Zhigailo noted she also visited the site. She didn't like the configuration of the lot with the point coming down to the street; she felt it didn't fit the conformity of the neighborhood. Town Planner Whitten referenced Zoning Regulations, Section 408 – Rear Lots; reviewing the standards for a rear lot proposal she noted this proposed rear lot meets all minimum standard requirements. She noted the Applicant can come back with a proposal for a 30' access drive along the east side of the property and build the house in the back in the uplands review area but that would require a modification of the Inland Wetlands Permit recently approved. Commissioner Zhigailo reiterated her discomfort with the proposal for the house in the front; she felt it was like having a frontage lot. Town Planner Whitten noted the purpose of Section 408 is to allow rear lots but it is in the Commission's purview to decide if the Application fits the intent of the regulation.

Commissioner Sullivan cited the builder could put the house in the rear area as he would have the buildable area in that location, but he would be putting the house in someone's back yard, and would be placing the house closer to the Field Trials so hunting would be occurring in the back yard of this dwelling. Commissioner Sullivan indicated that in this instance maybe locating the house in the front would be the lesser of two evils. Vice Chairman Gowdy cited his past experience with similar proposals. He felt the regulation doesn't require the builder to put the house in the rear of the lot; he can put the house where it's allowable. Discussion followed regarding the current rear lot regulation, its current language, and the criteria by which the Commission must judge this application. Town Planner Whitten clarified that this is a dual application. The lot is not a legal building lot until the Commission makes a decision on the subdivision, and then must make a decision under the Special Use Permit proposal.

Vice Chairman Gowdy opened discussion to the public:

Mary Hayes, 130 Tromley Road: Mrs. Hayes read from a prepared statement which included various statements, including reference to Minutes of Planning and Zoning (PZC) Public Hearing #1454 dated May 24, 2005 from which she quoted comments that

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the lot was located in an A-1 Zone and no house could be built on this lot. Mrs. Hayes cited comments from the previous meeting indicating that most of the lots on Tromley Road contained 150' frontage; Mrs. Hayes then quoted several lots and frontage lengths, and noted there are 56 lots on Tromley Road which have over 150' frontage. She quoted the frontage requirement of 175' frontage for a lot located within an A-1 Zone, and cited Mr. Letourneau's lot would have a 17 1/2' side yard set back. Mrs. Hayes also opposed the 140' length of the house as being longer than many houses on Tromley Road. Mrs. Hayes also opposed the appropriateness of the buildable area which she indicated didn't include wetlands; she also questioned the amount of impervious area as presented. Mrs. Hayes noted it had been stated that the drainage would drain to the rear of the lot, Mrs. Hayes then stated that there is a berm in the back near the Field Trials; she felt the water would collect and then drain onto neighboring properties. Mrs. Hayes noted the hardwood trees lose their leaves; evergreen trees will need to be planted along the property line. Mrs. Hayes also suggested that to place the house to the rear of the parcel puts it closer to the area where people hunt in the Field Trials; while people are supposed to not hunt within 500' of a dwelling they will not know where the property lines are. Mrs. Hayes felt the set-backs and property lines have no consequences with regard to this proposal. Mrs. Hayes then gave the Commission her opinion of what they need to do when considering this proposal.

Marie DeSousa, Rice Road: cited concern regarding the comments of the berm behind this lot as she is concerned with flooding on the adjacent property. Mrs. DeSousa noted the builder said the neighbor's driveway was on this property; Mrs. DeSousa wanted proof of that. Vice Chairman Gowdy cited the signature and stamp of the surveyor as representation of the plan as a correct document.

Denise Sturba: questioned what driveway the builder was talking about? Multiple people spoke amongst themselves; Ms. Sturba communicated with Mr. Letourneau. Mrs. DeSousa clarified for everyone that the "driveway" was actually a dirt path.

Laura Paulaskus, 136 Tromley Road: questioned when someone would address Mrs. Hayes comments? Vice Chairman Gowdy suggested he would take Town Planner Whitten's comments when she was ready to speak; he had been taking comments from the public first.

Town Planner Whitten offered the following information. During the original application for subdivision of these lots no house could be built because it wasn't applied for, or approved. Town Planner Whitten noted she had not had an opportunity prior to this Meeting to read the Minutes referenced by Mrs. Hayes, and didn't recall what was said several years ago. With regard to the buildable area, Mr. Letourneau does meet the requirements for buildable area within this lot; Town Planner Whitten read an excerpt from the regulations. She noted the plans show 45,685 square feet of non-wetlands soil contiguous/buildable area for this lot. Town Planner Whitten noted the allowable amount of impervious coverage for this A-1 Zone is low – 15% for the buildings and 25%

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overall. The calculations for this proposal indicate the amount of impervious area is 2.43%.

Town Planner Whitten questioned Mrs. Hayes where the berm was located on the State property? Mrs. Hayes indicated it was on the entire back of the property. Town Planner Whitten questioned how Mrs. Hayes was aware of the berm? Mrs. Hayes reported she has walked the property. Town Planner Whitten suggested the drainage is going to the back area which has been proposed as a Conservation Easement; the water will go where it goes now. Mrs. Hayes reported they all have water problems. Town Planner Whitten clarified that Town Engineer Norton had not addressed that during the Inland Wetlands review; he has said all his concerns have been addressed.

Commissioner Sullivan questioned if the rear lot regulations have changed since 2005? Town Planner Whitten indicated they had not changed. Discussion continued regarding the feasibility of this proposal fitting the rear lot intent. Jay Ussery, of J. R. Russo & Associates, indicated that although he has not worked on this project Mr. Letourneau has been a client in the past. He recalled that the Commission approved a rear lot configuration similar to this proposal on a cul-de-sac (believed to be Simone Drive) off Reservoir Avenue. The parcel contained 60' of frontage rather than the usual 175'; that parcel had more land to the rear. Mr. Ussery concurred with Town Planner Whitten in her assessment that the regulations have not changed.

Richard Hayes, 130 Tromley Road: reported that at another time this was a farm zone; they are trying to keep this land open. Mr. Hayes reported they didn't make a berm, they cleared farmland, and there is a road that continues into the Field Trial on that State right-of-way. Mr. Hayes reported that the water from his house goes into that ravine behind the 3 houses; the water will go into the wetlands and if you put more water there the property will get more water. Mr. Hayes recalled that the lot on the corner had to be graded to the rear because of the water. Discussion followed regarding the amount of impervious coverage – 2.43% - involved with the construction of the driveway and dwelling. Mr. Hayes countered that the water in the ravine behind those houses lies on the top like a pond; he felt the area can't handle any more water. Mr. Hayes reported he has worked the farmland for many years. Vice Chairman Gowdy questioned how Mr. Hayes would feel if the house were located to the rear? Mr. Hayes indicated it wouldn't make any difference. Vice Chairman Gowdy requested clarification that Mr. Hayes was saying there shouldn't be a house there at all? Mr. Hayes replied affirmatively, and noted someone else was willing to buy the land.

Mary Hayes, 130 Tromley Road: stated that a Special Use Permit requires the Commission to give real consideration to the merits of a proposal and how it fits in accordance with the POCD (Plan of Conservation and Development) which puts a priority on open space which links adjacent properties, and this piece is adjacent to the Field Trials. Mrs. Hayes felt the proposed house violates the wetlands regulations. Mrs. Hayes continued to read from her prepared statement, citing various requirements of a

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Special Use Permit, criteria for the Commission's decision, and again questioned the wetlands decision.

Town Planner Whitten clarified that the PZC doesn't deal with the Inland Wetlands impact. Mrs. DeSousa questioned the legal notice for the Inland Wetlands application. Town Planner Whitten clarified the difference in Public Hearing requirements for the Inland Wetlands Commission vs. the Planning and Zoning Commission - the statutory requirements which must be considered when calling for a Public Hearing, the posting process for both applications and the appeal process associated with each process, and the criteria considered relative to the separate decisions of each agency. Town Planner Whitten suggested the only reason for this application to return to the Inland Wetlands Commission would be for a plan modification.

Patrick Fortin, Tromley Road: cited concern for what will be done with the snow.

Mr. Letourneau indicated he would like to request a 30 day extension on this application. Vice Chairman Gowdy queried the Commission for opposition or agreement with the extension; everyone agreed to the extension.

MOTION: To ACCEPT the request for a 30 day extension of 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].

Devanney moved/Thurz seconded/

VOTE: In Favor: Devanney/Gowdy/Sullivan/Thurz/Zhigailo
(No opposition/No abstentions)

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 is CONTINUED to the Commission's regularly scheduled Meeting on September 24, 2013, at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Zhigailo seconded/

VOTE: In Favor: Devanney/Gowdy/Sullivan/Thurz/Zhigailo
(No opposition/No abstentions)

LET THE RECORD SHOW Chairman Ouellette returned to Chair the Meeting and return to a voting position; Alternate Commissioner Zhigailo stepped down from inclusion in the quorum.

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MOTION: To TAKE A FIVE MINUTE BREAK.

Devanney moved/Thurz seconded/

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

The Commission RECESSED at 7:57 p.m. and RECONVENED at 8:06 p.m.

NEW PUBLIC HEARING: 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]:

Chairman Ouellette noted file documentation from the Applicant regarding their request for a delay/postponement in opening the Public Hearing on this proposal. Tabling of this Agenda item was acknowledged; the audience was advised of the potential Hearing date; no motion was made.

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. (*Deadline to close hearing 10/15/2013*):

Chairman Ouellette read the Hearing description. Appearing to discuss this request for permit extension was Jay Ussery, of J. R. Russo & Associates, who is representing the Applicant. Herb Holden, the Applicant, and Dennis Botticello, the property owner, were present in the audience.

Mr. Ussery submitted the Affidavit for posting the Public Hearing sign.

Mr. Ussery reported this is an Application for a renewal of a gravel permit which was originally approved 5 or 6 years ago. He noted the property location on the west side of Wapping Road in the vicinity of the NORCAP landfill. Mr. Ussery noted property to the south and west, which is owned by Mitchell Property Group, accesses a materials storage facility from this parcel as well.

Mr. Ussery described the operation, noting excavation of materials has been phased over 4 sections. A vegetated screen, which was intended to buffer Phase IV from visibility from Wapping Road, has been planted although no work has yet begun in Phase IV. All phases contain approximately 7 acres. Work began in Phase I – which is now primarily a stockpile area – first; that material was mostly sand for which there is a low demand. A sedimentation basin is located in the corner of Phase I; no water runs off the property but instead flows into the interior of the property. They continued work into Phase II where they found gravel, and have proceeded approximately 1 ½ acres into Phase III. Market

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demand for the material is presently lower than anticipated when the project was originally approved.

Mr. Ussery noted receipt of memo from Town Engineer Norton which indicated he had no concerns, and took no except to the proposal except for his recommendation to move the stockpiled material out of the buffer.

Mr. Holden indicated he had no problem posting additional bonding. He noted Town Planner Whitten's recommendation to close out some of the phases and he is closer to the finished grade in Phase II so he would probably close out that phase first. Mr. Ussery gave the Commission a history of working the various phases, and the materials found in each phase which necessitated moving around the parcel. Much of the excavation work depends on what the market demands at any given time. Discussion followed regarding the purpose of phasing a project, the purpose of bonding associated with any work, and the effect of economic conditions on any project. Chairman Ouellette cited receipt of the quarterly reports as a mechanism for the Commission to ascertain that the site is not being overworked.

Discussion followed regarding the length of an extension. It was noted one year is the standard extension, however, longer extensions have been granted in the past.

Chairman Ouellette questioned why the planting strip had not been planted as shown on the plans? Mr. Ussery indicated the plans call for a double row of staggered plantings. The buffer was planted as required but some of the trees have failed. It was noted that the intent of the buffer was to screen the site from the public's view from Wapping Road; the buffer was to be planted during excavation of Phase II so it would have time to grow before beginning work in Phase IV. Commissioner Thurz noted the site isn't visible from the road.

Chairman Ouellette queried the Commissioners for comments. Commissioner Sullivan noted the last extension was granted for 3 years and that seemed to work well; the Town seems to be ok with that. Commissioner Devanney agreed with the 3 year extension but wanted additional bonding. Town Planner Whitten requested clarification that the additional bonding would be for Phase II and Phase III as is called for in the regulations? Chairman Ouellette and Commissioner Devanney concurred.

Chairman Ouellette noted the regulations also call for reclamation in areas which are completed; could any material be put back in any of the phases? Mr. Holden indicated the plan is to sell the materials but he is selling more gravel than sand; there isn't a lot of work out there due to the economy. The intent is to meet the finished grades. Chairman Ouellette suggested the condition was valid when approved. Commissioner Thurz indicated he was ok with the work as it's being done as long as it's bonded. He indicated Mr. Holden does what he says he will do.

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

The Commission discussed conditions of approval. Town Planner Whitten indicated the 45 conditions of the current approval would remain; a Condition 46 indicating that a bond shall be placed on Phase II and Phase III, and that any dead plants that were originally planted as part of the buffer be replaced. Town Planner Whitten noted if the Commission agrees with the 3 year extension the new permit expiration date will be 9/6/2016. Mr. Ussery and Mr. Holden were agreeable to the suggested conditions.

MOTION: To CLOSE the Public Hearing on the Application of Herb Holden Trucking, Inc. for 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.

Devanney moved/Gowdy seconded/

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

MOTION TO APPROVE the Application of Herb Holden Trucking, Inc. for a {One} Year Extension , to expire *September 9,2016*, for Special Use/Excavation Permit to allow earth products removal, and screening and crushing of products, on property located on the west side of Wapping Road, owned by Northern Capital Region Disposal Facility, Inc. (NORCAP) . A-1 & M-1 Zones. [Map 41, Block 65, Lot#31] This approval is granted subject to conformance with the referenced plans and the following conditions:

Referenced Plans:

Cover Sheet – Proposed Gravel Removal Operation Wapping Road East Windsor Ct, applicant Herb Holden Trucking, Inc. 59 Broad Brook road, Broad Brook CT 06016 860/623-8855, owner Northern Capital Region Disposal Facility Inc. 321 Olcott St, Manchester CT 06040 prepared by JR Russo and Assoc., 1 Shoham Rd, East Windsor CT 06088 860/623-0569, 860/623-2485 fax. Dated 8/9/11

2 of 5 – Overall Site Plan

3 and 4 of 5 – Grading Plan

5 of 5 – Erosion and Sediment Details

Previous Referenced Plans:

Cover Sheet– Proposed Gravel Excavation , Wapping Road, East Windsor, CT, Applicant Herb Holden Trucking, Inc.; Owner Northern Capital Region Disposal Facility, Inc. prepared by Anchor Engineering Services, Inc, 41 Sequin Drive, Glastonbury, CT 06033 860/633-8770, 860/633-5971 fax www.anchorengr.com, dated 9/17/10

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Sheet 1/7	Pre-Excavation Site Conditions
Sheet 2/7	Current Site conditions Map
Sheet 3/7	Overall Site Plan
Sheet 4,5/7	Layout and Grading Plan,
Sheet 5/6	Erosion Control Notes
Sheet 6/6	Details

Conditions that must be met prior to signing of mylars:

1. The name and phone number of an individual for 24 hour emergency contact for erosion control problems must be noted on the plans. Any changes in the individual responsible for emergency contact must be reported immediately to the Planning and Zoning Department.
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 mylars.

Conditions that must be met prior to issuance of permits:

3. A performance bond, with surety acceptable to the Town Attorney shall be provided by the applicant prior to the signing of the mylars.
4. One set of final plans, with any required revisions incorporated on the sheets shall be submitted for signature of the commission. The signed plans shall be filed in the Planning & Zoning Office by the applicant prior to issuance of any permits.
5. In order to ensure the site is graded in accordance with the approved plan, vertical and horizontal control points shall be setup around the entire perimeter of the parcel. Such control points shall be located as per approved plans.
6. In addition, **the applicant shall be required to provide the Zoning Enforcement Officer with as-built drawings six months after the issuance of the permit to demonstrate compliance with the approved grading plan**, Any deviation from the approved plan shall be a violation and cause for revocation of the permit
7. Each phase must be completed and stabilized prior to the commencement of a subsequent phase.
8. Bonding shall be required for each phase.

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9. No phase may begin until the previous phase has been *substantially* completed except for the phase containing the reclamation plan as indicated on the referenced plans.
10. Prior to the start of any new phase, the applicant shall submit evidence of conformance to the approved plans for the previous phases including a certified as-built survey showing finished grades.
- 11. Re-approval must be requested at expiration, at such time an as-built will be required.**

General Conditions:

12. A zoning permit shall be obtained prior to the start of any work or new phase. No zoning permit shall be issued until a cash or passbook bond for site restoration, erosion and sedimentation control has been submitted. Such bond shall be good for the life of the permit/project. Any funds that may be withdrawn by the Town for such maintenance shall be replaced within 5 days or this permit shall be rendered null and void.
13. Operation of the gravel pit may include:
 - screening of excavated material pursuant to provisions of Section 9 and 9A.5.
 - crushing of rock and gravel mined on-site only with portable crushing apparatus and pursuant to provisions of Section 9 and 9A.5.
14. Excavation shall not ever exceed the approved finished grade elevations. Subsoil must remain native.
15. The final grading shall conform to the proposed final grading as indicated on the referenced plans; but in no case shall any final slope be steeper than a rise to run ratio of 1:3, also known as a 33% slope.
16. In the event that the operation ceases before all phases are completed, the remaining land shall be graded to leave no slope exceeding 33%.
17. As each area or phase is graded to final contours, the ground shall be back covered with topsoil or loam to render it usable for growing agricultural products. All areas will require a minimum of 6 inches of topsoil in accordance with the regulations.
18. No trees, brush or stumps shall be buried on site.

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19. The driveway to the pit shall be maintained in a hard surfaced, paved condition from Wapping Road inward for a minimum distance of two hundred feet. The driveway shall be cleaned regularly to minimize the dust nuisance created by exiting traffic.
20. An oversized 300 foot gravel anti-tracking pad leading to the driveway shall be installed and maintained to further minimize dust nuisance.
21. The gate across the driveway into the pit shall be maintained in good condition and kept closed and locked during all times when the pit is not in operation. “Private Property – No Trespassing” sign shall be maintained at the entrance to the pit facing outward toward Wapping Road.
22. The total number of loaded, or partially loaded, outgoing trucks from the pit shall not exceed an average of sixty (60) trucks per day or a maximum of three-hundred (300) trucks in any one week period, counting Monday through Friday.
23. The pit shall not be opened or operated before 7:30 a.m. and shall not be opened or operated later than 5:00 p.m. on weekdays, Monday through Friday.
24. The pit shall not be open or operated on weekends OR HOLIDAYS.
25. Measures to minimize the dust nuisance from the site shall be provided by the applicant for review and approval of Town staff. Additional measures are to be undertaken if required by staff if field conditions necessitate.
26. The “Best Management Practices” outlined by the Hartford County Natural Resource Conservation Service shall be adhered to.
27. The applicant shall adhere to all conditions of their Inland Wetlands Permit.
28. The vegetation (trees) to be removed shall be accomplished in one step and the topsoil shall be stripped off and stockpiled immediately or a temporary vegetative cover implemented. Stockpiled soil shall remain on site for future reclamation of site.
29. Finished grades may not be closer than 20’ to the water table, and must adhere to approved plans.
30. There shall be no on-site maintenance of equipment unless it is a clear emergency. Town staff shall be notified if such emergency exists.
31. There shall be no bulky waste or debris disposal allowed on the site. The operator of the pit shall provide adequate security measures to prevent unauthorized waste

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- disposal. Any unauthorized disposal shall be cleaned up and disposed of off-site by the operator of the pit.
32. The project shall be carried out in phases as shown on the plans.
 33. All trucks and equipment shall be parked off-street.
 34. Upon completion of the excavation, the land shall be cleared of all debris and a minimum of six (6) inches of topsoil shall be spread over any disturbed areas.
 35. Additional drainage and erosion control measures are to be installed as directed by town staff if field conditions necessitate.
 36. Any modifications to the proposed drainage for the site plan is subject to the approval of the town engineer.
 37. This project shall be executed and maintained in accordance with the approved plans and conditions. Minor modifications to the approved plans which result in lesser impacts may be allowed subject to staff review and approval.
 38. By acceptance of this permit and conditions, the applicant and owner 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.
 39. This approval shall expire [**one year**] from the date of approval, or upon completion of the project, whichever occurs first.
 40. A double row of trees shall be planted along the roadway frontage before the start of phase 2.
 41. No trucks will travel on Plantation Road unless required for delivery in the local plantation road area.
 42. All existing gravel operations on the NORCAP property must be completed prior to start of this excavation project.
 43. Monitoring wells should be provided for each phase.
 44. Quarterly monitoring reports shall be submitted to the planning department for review
 45. Anti-tracking pad should be 300 feet long per Town Engineer.

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Additional Condition:

46. That bonds be placed on Phase II and Phase III, and to replace any trees that have died which were planted as a buffer along Wapping Road to screen Phase IV.

Devanney moved/Sullivan seconded/

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

NEW PUBLIC HEARING: Leslie J. Hickey – Special Use Permit/Sale of Alcohol (per Section 805) to allow expansion of existing package store at 149 North Road, owned by Soucy Enterprises, LLC. [B-3 Zone; Map 125, Block 16, Lot 27] (*Deadline to close hearing 10/15/2014*):

Chairman Ouellette read the description of the Public Hearing. Town Planner Whitten reported the department has not yet received plans related to this application; she has not yet prepared a motion based on application review. She suggested the Commission table this Application until the September 24th Meeting.

MOTION: To TABLE the Public Hearing on the Application of Leslie J. Hickey for a Special Use Permit/Sale of Alcohol (per Section 805) to allow expansion of existing package store at 149 North Road, owned by Soucy Enterprises, LLC. [B-3 Zone; Map 125, Block 16, Lot 27]. Public Hearing is CONTINUED to the Commission's regularly scheduled Meeting on September 24, 2013, at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Devanney moved/Gowdy seconded/

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

NEW BUSINESS: Leslie J. Hickey – Temporary Liquor Permits for the following fundraising events to be held at 149 North Road, owned by Soucy Enterprises (B-3 Zone; Map 125, Block 16, Lot 27):

Hal Kresge Beer & Wine Tasting Event – October 12, 2013, from 4:00 to 9:00 p.m.

Enfield High School Football Program Event – November 23, 2013, from 4:00 to ~~6:00 p.m.~~ 9:00 p.m.

East Windsor Rotary Tasting Event – December 6, 2013, from 4:00 to 9:00 p.m.

Chairman Ouellette read the description of this Item of Business. Appearing to discuss the Application was Leslie Hickey. For clarification, it was noted the closing time for the fundraiser for the Enfield High School Football Program Event was incorrectly listed on

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the Agenda as 6:00 p.m. rather than 9:00 p.m. The closing time for the event has been revised in the description listed above.

Town Planner Whitten noted the Commission has considered similar applications in the past. Issues to be considered is how the overflow parking will be handled, and if any of the events will include the use of an outside tent.

Mr. Hickey indicated that the Hal Kresge fundraiser uses a tent for the beer, and the music. Chairman Ouellette questioned if there had been any problems with the movement of traffic during previous events? Mr. Leslie reported that Hal Kresge's fundraiser is the largest because it's for the kids. Last year they hired 2 police officers to assist with the traffic issues, which worked out well; they plan to hire two officers this year as well. This fundraiser uses space inside the auction gallery and the tent outside. They have volunteers that help with the events. Mr. Hickey noted many people from the adjacent neighborhood in Enfield walk to the events.

Mr. Hickey reported the Enfield High School event is a small event involving perhaps 100 to 150 people. It's a wine testing event before Thanksgiving which is a fundraiser to raise money for equipment; it's sort of like a homecoming event. Mr. Hickey indicated they plan to hire one officer for that event.

Mr. Hickey reported the Rotary event is the smallest event; it's more like a private party. They plan to hire one officer for that event. Town Planner Whitten noted traffic concerns would be reviewed by Mr. Hickey with the Police Department for each event; if the Police Department had any concerns they would require additional staffing.

Chairman Ouellette questioned if Mr. Hickey had ever received any negative feedback from anyone regarding the sound associated with the outside events? Mr. Hickey replied negatively; Town Planner Whitten noted she is not aware that staff has received any complaints. Commissioner Thurz noted he lives relatively close to the event location; he can't really hear that much.

Chairman Ouellette queried the Commissioners and Town Planner Whitten for comments or concerns; no one raised any questions.

MOTION TO APPROVE the Application of Leslie J. Hickey and owner Soucy Enterprises LLC, requesting 3 temporary liquor permits per Section 805, for property located at 149 North Road, Map 125, Block 16, Lot 27, in the B-2 Zone. Events will be held in the Golden Gavel Tenant space, and parking area on October 12, November 13, and December 6, 2013 from 4:00 to 9:00 p.m.

Devanney moved/Sullivan seconded/

DISCUSSION: None.

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

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)**.

Chairman Ouellette read the description of this Item of Business. Town Planner Whitten and Chairman Ouellette noted the Commission had already begun discussion on this Application. Staff has received a letter requesting the Application be tabled until the September 24th Meeting.

MOTION: To TABLE the Application of American Forest Products, LLC for a 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]. Application is TABLED until the Commission's regularly scheduled Meeting on September 24, 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: Devanney/Gowdy/Ouellette/Sullivan/Thurz)
(No opposition/No abstentions)**

MOTION: To TAKE A FIVE MINUTE BREAK.

Gowdy moved/Devanney seconded/

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

OTHER BUSINESS: None.

BUSINESS MEETING/(1) Informal Discussion re: Community Gardens:

Albert Grant, Chairman of the Conservation Commission and Agricultural Commission, joined the Commission. Mr. Grant recalled that he had come before this Commission earlier to work out the availability of the Community Garden plots. During that discussion they were designated a roadway entrance on the west side of the Kogut property which was to be developed as a gravel parking lot. Mr. Grant reported that from

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his Commission's view the ground is stable and flat and non-erodible; they would like to have the parking on the turf rather than gravel.

Mr. Grant reported they have had some activity for an incubator farm this year. They are modeling their gardens on the South Windsor operation which has a perimeter driveway around the plots.

Chairman Ouellette questioned the previous approval, which he recalled as sort of a package presentation for the Dog Park, BMX Park, and the Community Gardens. Town Planner Whitten reported the 3 projects were presented at the same time; she read the narrative from the Agenda. The Community Gardens are sponsored by the Conservation Commission; the Community Gardens were approved for a 20 space gravel parking lot. Mr. Grant questioned that he thought it was a 15 space lot. Town Planner Whitten noted the approval, which referenced a site plan showing 3 separate parking areas, was forwarded to the Board of Selectmen (BOS) under an 8-24 referral for approval as well. Town Planner Whitten indicated Mr. Grant would like to change the location of the parking lot to be up on the hill. Mr. Grant reiterated they don't feel it's necessary to have a gravel parking lot.

Discussion continued regarding the intent of the gravel area. Commissioner Thurz felt the parking area should be gravel; Commissioner Gowdy concurred and felt the area of the gardens should be fenced in so people will know the area of the plots. He cited concern with the perimeter access being an access for ATV and 4-wheelers. Chairman Ouellette suggested the purpose of the gravel is a concern for parking during an early, wet Spring. Mr. Grant again referenced the South Windsor operation with the grass perimeter access. Chairman Ouellette also noted concern for tracking mud onto Reservoir Avenue. Mr. Grant felt they could provide a gravel access up to the plateau; people could then park on the grass. He suggested they had hoped to piggyback with the nearby remediation project but that didn't happen.

Chairman Ouellette questioned the need to do another 8-24 process? Town Planner Whitten recalled the previous approval occurred under a Special Use Permit which calls for a Public Hearing, and the 8-24 referral to the BOS. Chairman Ouellette felt this revision was above and beyond the approved plan. Town Planner Whitten felt at the least this should come back as a plan modification.

Discussion continued regarding the benefit of the gravel parking lot, and access to the plots relative to the layout of the growing area. Commissioner Gowdy reiterated his concern that the area be fenced in. Mr. Grant didn't see a problem with people using the area. Commissioner Thurz suggested the parking lot isn't a big area to install gravel; Mr. Grant questioned if gravel was the best thing to do?

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Chairman Ouellette suggested Mr. Grant work with Town Planner Whitten regarding a plan revision and return to the Commission for consideration. As the approval presently stands you are required to install a gravel parking lot.

MOTION: To TAKE A FIVE MINUTE BREAK.

Gowdy moved/Devanney seconded/

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

The Commission RECESSED at 9:00 p.m. and RECONVENED at 9:07 p.m.

BUSINESS MEETING/(5) Informal Discussion/Clarification – Rear Lots & Streets:

Although this Item of Business encompasses discussion of the rear lot regulations in general it was precipitated by conflicting situations which are presently occurring at 226 Main Street in the Warehouse Point section of East Windsor.

Present to participate in this discussion was Attorney Carl Landolina, representing Sportsworld, which was destroyed in the 2013 tornado. Also present was Jay Ussery, of J. R. Russo & Associates, who is familiar with property at 226 Main Street (Warehouse Point) which includes the location of the Sportsworld. Also present in the audience was Attorney Walter Bass, who represents the property owner, Donald Wagner.

Attorney Landolina presented the Commission a sheet which appears to be a “quick map” from the GIS which shows the area of Main Street encompassing the area occupied by Sportsworld. Attorney Landolina suggested this “quick map” was what a previous PZC saw when a Special Use Permit was granted in 2003. The parcel contained approximately 20 acres. The Commission was shown a plan with lot lines; the proposal was to put the dome on 8 acres of a larger parcel. In 2006 a Certificate of Zoning Compliance was given for financing purposes. The lot occupied by Sportsworld has been found to be a non-conforming lot with no frontage on Main Street, although it does have frontage on a private road. Attorney Landolina suggested the intention 10 years ago was for the private road to become a Town road accessing an industrial park but that didn’t happen (the plan for the subdivision was never filed), the bank took the property back. Subsequently the dome which is Sportsworld was destroyed; this legal issue is getting in the way of getting a CO (Certificate of Occupancy) to reopen the business. Attorney Landolina suggested the owners of Sportsworld have been paying taxes on the property for 10 years but now are unable to reopen due to the issue with the CO.

Attorney Landolina suggested that in looking through the regulations he and Mr. Ussery felt the issue could be dealt with by considering one of the following:

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1. to create a rear lot: Attorney Landolina felt Sportsworld fits all the requirements but rear lots are referenced in the residential regulations. Attorney Landolina suggested he didn't see that rear lots are limited to residential lots but the rear lot regulation is part of the residential regulations. The question is if the rear lot regulations have been used outside the residential areas, and if not, would you consider this for a rear lot?
2. if the answer to the suggestion above is no could they apply under Section 302 – Modifications? Attorney Landolina felt the Commission has the ability to modify the regulations so if you feel rear lots apply to residential zones the Commission could modify that by a ¾ vote to areas outside the residential zones under a Special Use Permit/Public Hearing.
3. technically this parcel does have frontage but the frontage is on a State highway: Attorney Landolina read the definition for a street – “Any right-of-way used as a public thoroughfare, dedicated and accepted for public travel, and any right-of-way recorded in the office of the Town Clerk constructed and accepted before the passage of these Regulations.” Attorney Landolina suggested that I-91 could be interpreted as being the public thoroughfare, therefore the portion occupied by Sportsworld could be considered to have frontage on I-91, and they have deeded access over the private right-of-way. Attorney Landolina suggested one issue to consider if I-91 applies as frontage would be set-back distances.

Commissioner Thurz questioned if the Town made this private access a Town road wouldn't we have issues with drainage and water? Town Planner Whitten recalled someone came in with an application previously but found they didn't have legal access for the water or drainage, and they didn't have legal access over the private drive. To accept the private access as a Town road would require that improvements be made to the private access. She felt the cleanest way to deal with this issue would be to approve the subdivision but, again, there is not legal access to drainage or water. She suggested everyone is trying to find an easy, quick way to fix this issue so these people can move forward and reopen their business.

Discussion followed regarding other parcels perceived to be located in similar manners. The parcels discussed were ultimately found to be existing under different conditions.

Chairman Ouellette questioned if the Commission would be cracking the door open for other situations within the community? Could the change be considered spot zoning? What could happen as a result of unintended consequences?

Discussion turned to acceptance of the private access as a Town road. It was determined there is no minimum length requirement, but there is a maximum length which would apply to the access under discussion. Town Planner Whitten reiterated the private access would require improvements prior to acceptance as a Town road; she is also not sure the owner would be willing to give up the road. Chairman Ouellette questioned if the owner had been brought into the discussions; Town Planner Whitten replied that he had been involved many times. Commissioner Thurz questioned the cost of the road improvements? Mr. Ussery suggested they would involve drainage, and paving; the cost would probably be over \$100,000. Commissioner Sullivan questioned if the Police patrol the private access; Town Planner Whitten indicated she didn't have the answer.

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Attorney Landolina indicated the reason for expediting this situation is if Sportsworld is not up and running by next month they would lose the whole season of activities. He noted everyone would still be having this discussion even if the tornado hadn't occurred but the issue of a CO is standing in the way of reopening the business. The Commission noted road acceptance couldn't happen quickly enough to reopen the business within a month.

Town Planner Whitten clarified this isn't a legal lot of record from a zoning perspective. The question has been raised to the Town Attorney but a reply remains pending.

Commissioner Sullivan questioned if they are grandfathered simply by the fact they existed prior to the tornado? He didn't feel the Town should be holding up the reopening of the business. Attorney Landolina noted the legal issue of this not being a legal lot of record is the problem; the answer to that question affects the issuance of the CO which affects reopening the business.

Attorney Landolina suggested if the Commission accepted the argument that they have frontage via I-91 then they could apply the criteria that if a building has been there for 3 years it's not considered a non-conforming location; then they would have 18 months to rebuild. Town Planner Whitten felt that calling the highway frontage is opening up a lot of frontage issues in town, which is not the intent of the regulations. She suggested that if you look at the definition of frontage – "The distance along the front lot line adjacent to a public street. For lots located on a public cul-de-sac turnaround or the outside curve of a public street, the lot frontage may be measured at the building line" – it excludes the highway. She suggested many definitions of frontage refer to access but that wording isn't included in East Windsor's definition. Town Planner Whitten reiterated there is not one foot of frontage for this parcel except on the highway. Mr. Ussery suggested that in terms of East Windsor the only place considered a highway is I-91; he felt if the applicable parcels were reviewed there are only a couple that wouldn't have access on another road. Town Planner Whitten noted that there are 2 highway access points in East Windsor.

Discussion continued regarding the property owner selling the parcel to Sportsworld. It was noted that would provide access but there would still be the issue of lack of frontage to deal with. Mr. Ussery suggested this is an industrial use in an M1 Zone but the front of the *whole* property is on Main Street, which is an R Zone which requires 175' frontage.

Mr. Ussery questioned what if they applied for a Special Use Permit to address the lack of frontage although the owner has deeded rights of access, and also apply under Section 302 – Modifications, which would be treating the issue on a case by case situation? Chairman Ouellette cited concern for setting a precedent for use of the Special Use Permit process. Attorney Landolina indicated the Commission would be waiving the frontage requirement entirely and would be waiving the zoning requirements on this parcel. Mr. Ussery questioned if the Special Use Permit could be specific to the use of the property? Town Planner Whitten noted that under Section 302 – Modifications – they would still need to meet specific criteria. She noted Attorney Landolina has done a title search and this could be the first cut but the minimum frontage isn't there. Attorney Landolina reiterated that if we do nothing the Zoning Enforcement Officer won't sign off on the Building Permit. Commissioner Sullivan questioned, from the Town's perspective, what the worst case scenario? Attorney Landolina suggested they could sue the Town as you gave us a Zoning Permit and Building Permit and God came through and now they can't rebuild.

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Chairman Ouellette noted site improvements/parking which occurred after the original approval are inadequate; they would need to submit a revised Site Plan. Town Planner Whitten agreed; she noted parking is an issue and Mr. Wagner has posted “no parking” signs on the access drive as it is.

Discussion returned to accepting the definition of frontage to include the highway. Town Planner Whitten reported the Planning staff won’t make that decision without a recommendation from the Town Attorney.

The Commission ultimately recommended that they submit for consideration a Special Use Permit Application under Section 302 – Modifications which would be unique to this parcel. Attorney Landolina indicated they will file an Application under a Special Use Permit for a rear lot in an M-1 Zone requesting a waiver of frontage. Town Planner Whitten clarified this would be a Public Hearing with notice to abutters made by the Applicant; the application, with site plan, must be filed tomorrow to conform to the timeframe for advertising a PZC Public Hearing, and the Public Hearing sign must be posted as well.

**BUSINESS MEETING/(2) Plan of Conservation & Development 2014 –
Commissioner Results & Survey Results:**

Town Planner Whitten reminded the Commission a Special Meeting has been scheduled for tomorrow evening, September 11th, at Scout Hall to take public comment for the revision of the Plan of Conservation and Development (POCD). She explained the process for the meeting and taking public comment.

Commissioners Sullivan and Thurz indicated they will be unable to attend as a meeting has also been scheduled regarding the water filtration units currently being provided to residents which were affected by local contamination.

BUSINESS MEETING/(3) Discussion – Adult Regulations (tabled).

BUSINESS MEETING/(4) Signing of Mylars/Plans, Motions:

Mylars:

- Dimitri Mitsalexakis – Site Plan Modification and Special Use Permit per Section 502, to allow an auto body repair shop at 179 South Main Street, owned by Donald J. Corkum. {B-2 Zone; Map 32, Block 21, Lot 69}

Motions:

- Soucy Enterprises Annette Fortune & Deborah Donovan and Kevin & Michele Sobaslai – 3-lot Resubdivision of property at 121 and 131 North Road. [B-3 Zone; Map 125, Block 16, Lots 26 & 26A].

ADJOURNMENT:

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MOTION: To ADJOURN this Meeting at 10:14 p.m.

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

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(9019)