

AGENDA
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting, Monday November 2, 2009, 7:30 p.m.
Or upon completion of Inland Wetlands Agency Meeting
Council Chambers, Audrey P. Beck Municipal Building

Minutes
10/19/09

Scheduled Business

7:30 Public Hearing

Special Permit Application, Proposed Retail Package Store, 153 N. Eagleville Rd, Pesaro's LLC, o/a. File #585-3

Report from Director of Planning

7:45 Zoning Agent's Report

A. Monthly Activity Report

B. Enforcement Update

C. Hall Property Old Mansfield Hollow Rd; DeBoer Property, Storrs Rd

D. Other

8:00 Request for Permitted Use Determination: Property in a Planned Business-5 Zone.

Memo from Director of Planning

Old Business

1. Review of Proposed Signage and Landscaping for 454 Storrs Rd, File #1279

Memo from Director of Planning

2. Site Modification Request, Chuck's Margarita Grill, Proposed Deck, 1498 Stafford Rd, File #303

Memo from Director of Planning

3. Special Permit Application, Proposed Conversion from one to two family, 1620 Storrs Road, Y. Ghiaei o/a, File #1276-2 M.A.D. 12/23/09

4. Potential Re-Zoning of the "Industrial Park" zone on Pleasant Valley Rd and Mansfield Ave.
(To be tabled -awaiting potential comments from primary property owner)

5. Other

New Business

1. Request to Terminate Hiking (public access rights on lot 23 of the Maplewoods Subdivision) Files #974-2 and #974-3

Memo from Director of Planning

2. 2010 Meeting Schedule

Memo from Director of Planning

3. Other

Reports from Officers and Committees

1. Chairman's Report

2. Regional Planning Commission

Communications and Bills

1. Fall 2009 UConn Enrollment

2. Fall 2009 Planning Commissioners Journal

3. AGvocate Workshop-Promoting Agricultural Viability, 11-30-09 at Canterbury Town Hall

4. Town of Coventry Notification of Regulation Change

5. Other

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DRAFT MINUTES

MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting, Monday, October 19, 2009
Council Chamber, Audrey P. Beck Municipal Building

Members present: R. Favretti (Chairman), B. Gardner, J. Goodwin, R. Hall, K. Holt, P. Kochenburger,
B. Pociask, B. Ryan
Members absent: P. Plante
Alternates present: M. Beal, G. Lewis, L. Lombard
Staff Present: Gregory Padick, Director of Planning

Chairman Favretti called the meeting to order at 7:39 p.m. Alternate Lewis was appointed to act in Plante's absence.

Minutes:

10/5/09-Hall MOVED, Gardner seconded, to approve the 10/5/09 minutes as written. MOTION PASSED with all in favor except Pociask who disqualified himself.

10/15/09 Field Trip- Holt MOVED, Ryan seconded, to approve the 10/15/09 field trip minutes as written. MOTION PASSED with Favretti, Holt and Ryan in favor and all others disqualified.

Public Hearing:

Special Permit Application, Proposed Retail Package Store, 153 N. Eagleville Rd, Pesaro's LLC, o/a.

File #585-3

Chairman Favretti opened the Public Hearing at 7:41 p.m. Members present were Favretti, Gardner, Goodwin, Hall, Holt, Kochenburger, Pociask, Ryan, and alternates Beal, Lombard and Lewis. Lewis was appointed to act. Gregory Padick, Director of Planning, read the legal notice as it appeared in the Chronicle on 10-6-09 and 10-14-09. Padick referenced the following communications received and distributed to Commission members: a 10-15-09 report from G. Padick, Director of Planning; a 10-15-09 report from G. Meitzler, Assistant Town Engineer; a 10-6-09 report from E.H.H.D.; and an undated letter from Charles DeFazio, CCO, LLC, handed out this evening.

Mary Hirsch, owner of Pesaro's LLC, and Bryan Burney, the potential occupant, were both present. Hirsch indicated that in response to question raised in Padick's report, she has written to the D.O.T. requesting a crosswalk, but asked that approval of this Special Permit not be contingent upon a response from them in the interest of time.

Pociask questioned if there is sufficient lighting on the site to accommodate the increase in pedestrian traffic that will occur at night.

Gardner questioned if a caution sign would be appropriate for cars pulling out onto King Hill Road.

Beal was concerned about the amount and timing of traffic that potentially could be generated by the new use as compared to traffic generated by the existing tenants, noting that the highest volume of traffic to the proposed business probably would be after the existing tenants' hours.

Padick indicated the issue of a safe pedestrian walkway into the store would have to be addressed, so that patrons would not have to walk between parked cars. He suggested that the addition of a handicap parking space at the front of the building would also provide a safe walkway for patrons. Designating the parking space closest to King Hill Road for employee parking was also recommended for safety reasons. During the discussion following, it was determined that the site has adequate parking spaces even if an additional handicap parking space is added.

Alison Hilding, 17 Southwood Road, expressed concern for pedestrian and vehicular impact if this proposal is approved. She cited the lack of good lighting at the intersection of King Hill and N. Eagleville Roads and the existing problem with traffic and pedestrians on both sides of N. Eagleville Road. She suggested that added lighting be directed downward so as not to increase U-Conn's existing light pollution problem.

Arsalan Altaf, of CCO Brothers LLC, asked if his letter had been entered into the record. Padick said that the letter,

passed out this evening, had been sent to the town attorney. He anticipates that the letter will have no relevance to this application but feels the Public Hearing should be kept open.

Alison Hilding, 17 Southwood Road, questioned if UConn was contacted regarding this proposal. She also expressed concern for an increase in truck traffic that will occur in order to serve the package store.

Hall MOVED, Gardner seconded, to keep the Public Hearing open until 11/2/09. MOTION PASSED with Goodwin opposed.

Public Hearing:

Special Permit renewal request for the use of live music in conjunction with the following restaurants: Huskies, King Hill Rd: Stonewall Tavern, Rt. 32; Ted's Restaurant, King Hill Rd., and Zenny's, Rt. 44.

Chairman Favretti opened the Public Hearing at 8:10 p.m. Members present were Favretti, Gardner, Goodwin, Hall, Holt, Kochenburger, Pociask, Ryan, and alternates Beal, Lombard and Lewis. Lewis was appointed to act. Gregory Padick, Director of Planning read the legal notice as it appeared in the Chronicle on 10-6-09 and 10-14-09. Padick referenced a 10-7-09 report from the Zoning Agent which was received and distributed to Commissioners.

Hirsch noted that there have been no complaints received on any of the establishments up for renewal and there have been no other communications.

Chairman Favretti noted no comments from the public or Commission. Goodwin MOVED, Kochenburger seconded, to close the Public Hearing. MOTION PASSED UNANIMOUSLY. Hearing closed at 8:15 p.m.

Goodwin MOVED, Holt seconded, that the Commission approve the Live Music Permit renewals through November 1, 2010 for the following restaurants: Huskies Restaurant, file # 780-2; The Stonewall Tavern, file # 595; Ted's Restaurant, file # 1107; and Zenny's Restaurant, file # 984. These renewals are conditioned upon compliance with the current mandated conditions for each, which shall be attached to this motion. MOTION PASSED UNANIMOUSLY.

Public Hearing:

Special Permit Application, Proposed Conversion from one to two family, 1620 Storrs Road, Y. Ghiaei o/a, File #1276-2

Pociask disqualified himself. Chairman Favretti opened the continued Public Hearing at 8:17 p.m. Members present were Favretti, Gardner, Goodwin, Hall, Holt, Kochenburger, Ryan, and alternates Beal, Lombard and Lewis. Lewis and Lombard were appointed to act. Padick noted no new communications or staff reports.

Y. Ghiaei, owner and applicant, was present and gave his view of the misinformation circulated following the fire. He indicated that since the fire he has decided to create a two-family residence with his son and his family living in Unit A, which has 4 bedrooms, and himself living in Unit B with 1 bedroom. The septic has been approved for 5 bedrooms. He reviewed his proposed parking layout to accommodate these two units. The regulations indicate that eight parking spaces are required, but Padick suggested that the applicant can willingly limit the number of parking spaces if those living there will number less than eight people. Padick also noted that the setback from Storrs Road is less than the regulations require.

Favretti noted no further questions or comments from the public or the Commission. Gardner MOVED, Holt seconded, to close the Public Hearing. MOTION PASSED with all in favor except Pociask who was disqualified. Hearing closed at 8:32 p.m.

Zoning Agent's Report:

Hirsch had no new updates to provide. Ryan questioned if there are size restrictions on political signs. Holt questioned the truck bodies on the Hall site.

Old Business:

1. Review of Proposed Signage and Landscaping for 454 Storrs Rd, File #1279

Padick referenced his 10-15-09 memo that was distributed to all members of the Commission. After a brief discussion the consensus of the Commission was that they would like to review a complete landscape plan that includes the proposed ramp and the area along Bassetts Bridge Road. Holt asked why the building's plans had

not been sent to the Design Review Panel. Padick responded that this application was for a modification, and modifications are not normally sent to the Panel.

2. Site Modification Request, Chuck's Margarita Grill, Proposed Deck, 1498 Stafford Rd, File #303

Mike Gallager, of Chuck's Margarita Grill, reviewed the revised plans submitted this evening. He indicated that they are planning a deck on two levels and would like background music to be piped outside if allowed. There are no plans for live music. Patrons would be served by the inside kitchen and bar with no bar on deck. The deck would remain open roughly one hour after the kitchen is closed. On Sunday-Thursday food is served until 10pm, and Friday and Saturday food is served until 11pm. They request the deck be open on Friday and Saturday until 12:30am, and the rest of the week until 11pm.

The applicant stated that there will be low-voltage down-lighting on the deck, and fans will be used to eliminate mosquito problems. The Commission suggested a fence to break sound, in addition to the pine trees, on the north side of the deck nearest the neighbors. No cooking will be allowed in the proposed fire pit.

Extensive discussion was held regarding the handicap access that is proposed through the inside bar area and if it would offer safe egress during an emergency. Also discussed was the possibility of paving the deck.

Padick suggested discussion be continued to the next meeting and said that the Commission members should decide what the neighborhood impact may be. He also requested that the applicant notify neighbors for the next meeting.

Steve Browning, patron and area resident, commented that summer months in this community are economically hard for businesses, and he hopes that the application will be approved.

Noting no further questions or comments, the Commission agreed to continue discussion at the 11/2/09 meeting.

3. Potential Re-Zoning of the "Industrial Park" zone on Pleasant Valley Rd and Mansfield Ave.

Lombard disqualified himself. Padick discussed the proposed changes in the 10-15-09 draft revisions. The consensus of the Commission was that Padick should send a copy of these draft revisions to the Husseys, who are the major owners of the tract.

New Business:

1. Request for bond releases:

a. Baxter Road Estates, PZC File #1229

Kochenburger MOVED, Holt seconded, that the PZC authorizes the Director of Planning to take appropriate actions to release a \$7,500 cash bond, plus accumulated interest, that was posted with the Town to ensure completion of required subdivision work in the Baxter Road Estates Subdivision. MOTION PASSED UNANIMOUSLY.

b. Windwood Acres, PZC File #1229-2

Kochenburger MOVED, Holt seconded, that the PZC authorizes the Director of Planning to take appropriate actions to release a \$10,000 cash bond, plus accumulated interest, that was posted with the Town to ensure completion of required monumentation in the Windwood Acres Subdivision. MOTION PASSED UNANIMOUSLY.

Reports of Officers and Committees:

None noted.

Communications and Bills:

Noted.

Adjournment:

Favretti declared the meeting adjourned at 9:39 p.m.

Respectfully submitted,
Katherine K. Holt, Secretary

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TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Planning and Zoning Commission
From: Gregory Padick, Director of Planning
Date: October 29, 2009
Re: Special Permit Application, Proposed sale of alcoholic beverages at 153 N. Eagleville Road. File #585-3

This memo updates my 10/15/09 report. Since the continuation of the 10/19/09 public hearing on this application, the applicant has submitted a revised site plan (revised to 10/26/09), a supplemental Statement of Use (dated 10/28/09), a 10/27/09 memo from the owner of Ted's Spirit Shop regarding waste disposal needs and a 10/26/09 letter from the State Traffic Commission regarding the appropriate process for requesting new pedestrian crosswalks. In addition, the Town Attorney has prepared a legal opinion (dated 10/29/09) addressing issues raised in a letter from Attorney C. DiFazio. The following supplemental review comments are offered for the PZC's consideration:

1. The revised site plan replaces an existing parking space immediately west of the proposed package store entry with a cross hatched pedestrian area. In my 10/15/09 report, I recommended relocating an existing handicap space from the northerly parking area to provide for safer pedestrian access to the proposed package store. Although my recommendation will necessitate the loss of a parking space west of the building, it is still considered the most appropriate option. As currently proposed, the pedestrian cross-hatched area is wide enough for parking a car and enforcement may be a problem. In addition, since a significant amount of pedestrian traffic may be present, the elimination of a space in the westerly parking area may lessen potential vehicle/pedestrian conflicts. The property will still be in compliance with parking requirements even if a space is eliminated. This issue should be reviewed with the applicant.
2. The revised site plan designates the parking space closest to King Hill Road as an employee space. This designation was recommended by staff.
3. The revised site plan depicts existing street lighting along North Eagleville Road and King Hill Road and existing wall mounted lights on the subject building. I have reviewed the adequacy of lighting with the Assistant Town Engineer and it is staff's opinion that existing lighting is adequate for the subject uses.
4. At the 10/19/09 public hearing, it was suggested that a one-way traffic pattern be considered for the subject site. I have reviewed this suggestion with the Assistant Town Engineer and it is staff's opinion that the existing two way traffic pattern is the more appropriate option. Both access driveways have good sightlines and adequate width for two way traffic. A one-way pattern would be difficult to enforce and would present issues for delivery vehicles.
5. The attached 10/29/09 report from Mansfield's Town Attorney emphasizes that a decision on any Special Permit application must be based on zoning approval criteria and that the issues raised by Attorney DiFazio are not considered relevant.
6. The submitted letter from the State Traffic Commission notes that any cross-walk requests must be reviewed by a municipal Traffic Authority before consideration by the State. Staff will bring this matter to the attention of Mansfield's Traffic Authority.
7. Recommendations contained in my 10/15/09 report regarding dumpster screening and the need for State Liquor Control Authority approval remain applicable and should be addressed in any approval motion.

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O'Brien and Johnson

Attorneys at Law

120 Bolivia Street, Willimantic, Connecticut 06226

Fax (860) 423-1533

Attorney Dennis O'Brien
dennis@OBrienJohnsonLaw.com
(860) 423-2860

October 29, 2009

Attorney Susan Johnson
susan@OBrienJohnsonLaw.com
(860) 423-2085

Planning & Zoning Commission
Town of Mansfield
Audrey P. Beck Building
Four South Eagleville Road
Mansfield, CT 06268-2599

Ladies and Gentlemen:

As requested by Town of Mansfield Director of Planning Gregory J. Padick, I have completed my review and analysis of the **PZC Referral: Letter of Opposition to Pesaro, LLC Application for Special Permit filed by CCO, LLC.**

Greg has asked me to review an undated letter from the attorney for CCO, LLC, in which he complains that his client, the owner of the property at 125 North Eagleville Road, Storrs, where Ted's Spirit Shoppe is currently located, is owed a sum of money by Ann Marie and Brian Burney, the owners and permittees of Ted's, whose business is a subject of the Pesaro, LLC application.

Pesaro owns property at 153 North Eagleville Road to which the Burneys hope to relocate Ted's Spirit Shoppe. Pesaro has applied for a special permit from the PZC to help enable the relocation of Ted's to the Pesaro premises down the road to happen. CCO believes that the PZC should deny the application because the Burneys should not be "rewarded" for their failure to allegedly pay money owed to their current landlord, CCO, in back rent, maintenance charges, and late fees.

The question for me as town attorney is whether his letter, even if true, may be taken into account by the PZC in determining the Pesaro application for a special permit.

Article V, Section B.1. of the Zoning Regulations of the Town of Mansfield mirrors state enabling law by providing that "It is recognized that there are certain uses that would only be appropriate in Town if controlled as to area, location or relation to the neighborhood so as to promote the public health, safety and general welfare. . . [S]uch uses shall be treated as special permit uses."

It is axiomatic that if the standards for issuance of a special permit set forth in the zoning regulations have been met by the application, a permit must be issued. See, for example, **DeMaria v. Planning & Zoning Commission of Enfield**, 159 Conn. 534 (1970). The same analysis applies to site plan reviews which are also labeled administrative acts.

Planning & Zoning Commission
Town of Mansfield
October 29, 2009
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The approval criteria for special permits in the Town of Mansfield are listed in Article V, Section B.5 of the Zoning Regulations. That section begins: "In all special permit applications, the burden rests with the applicant to demonstrate that the subject proposal will not detrimentally affect the public's health, welfare and safety and that the following approval criteria have been met: . . ."

Even if true, the allegations set forth in the CCO attorney's letter, have no bearing whatsoever on the determination that the PZC must make as to "the public health, welfare and safety. . ." Moreover, Article V.B.5 includes no criteria upon which the letter could conceivably have any relevance whatsoever.

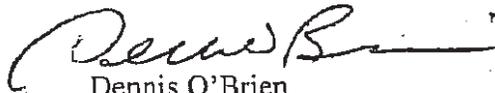
The special permit criteria include a rule "[t]hat all approval criteria cited in Article V., Section A. 5 (Site Plan Approval Criteria) of these regulations have been met." A quick glance at the site plan approval criteria readily demonstrates that the subject letter has no relevance in that context either.

My conclusion is that the CCO letter contains nothing that may be taken into account by the PZC in determining the Pesaro, LLC application. Nevertheless, since the PZC functions as an administrative agency, you are not bound by the rules of evidence that govern a trial, and may operate informally as long as the due process rights of the parties are protected. See, e.g., *Magnano v. Zoning Board of Appeals of Westbrook*, 188 Conn. 225, 229 (1982).

My recommendation, therefore, is that the DiFazio letter be included in the record of this case, but totally ignored by the PZC in making its determination in this case. I also ask that this opinion letter be included in the record as well.

Please let me know if you need any more from me on this matter.

Very truly yours,



Dennis O'Brien
Attorney at Law

cc: Gregory J. Padick
Director of Planning

Pesaro's LLC

Mary C. Hirsch
mchpesaro@gmail.com

795 Stafford Road, Storrs CT 06268

860-487-0880 cell: 860-655-0880

STATEMENT OF USE

Pesaro's, LLC – Proposed Package Store
153 North Eagleville Rd., PZC # 585-3
Revised: 10/28/09

This letter is submitted to address some of the questions and issues that were raised at the 10/19/09 Public Hearing. A revised site plan dated 10/26/09 has also been submitted to depict pertinent changes. Plan revisions include: existing street and building lighting, existing pedestrian crosswalk on North Eagleville Road, proposed designated employee parking & signage and proposed pavement cross-hatching in front of tenant entry to building. I have also submitted a 10/27/09 Memo from Bryan Burney, owner of Ted's Spirit Shop, concerning his refuse and recycling needs.

Specific questions raised at 10/19/09 Hearing

1. **Lighting:** The revised plan depicts the locations of seven existing street lighting fixtures on utility poles in close proximity to the site and existing, wall-mounted light fixtures located at each tenant entrance to the building.
2. **Vehicle Traffic:** The current tenant, North Campus Barber Stylists, operates Monday through Saturday with varying open/close times. Its latest closing is 7:00 pm on Wednesday, 4 pm Mon., 5 pm Tues, Thurs, Fri., and 2:00 Saturday. The heaviest customer use for the proposed package store would be through the early evening hours so under most circumstances there would be minimal vehicle conflicts between the two uses. The two existing entry/exits to the site mean that delivery trucks to the package store can enter the site, park & unload, and then exit without having to make difficult turning maneuvers within the parking area.
3. The plan now shows a designated employee parking place closest to the King Hill Road curb cut. This space will be provided an "Employee Parking Only" sign.
4. The plan now shows cross-hatching in front of the customer entrance. This is provided with pavement markings in a full, existing parking space as oppose to an additional handicap space and allows us the benefit of a 'regular' parking space on the west side of the building.

Pesaro's LLC

Mary C. Hirsch

STATEMENT OF USE

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Memo to: Planning and Zoning Commission
From: Bryan Burney, Owner of Ted's Spirit Shop
Date: 10/27/2009
Re: Special Permit Application for 153 North Eagleville Road File# 585-3

To whom it may concern,

I am writing this letter to relieve any concerns that the board may have in regards to the trash removal. The refuse dumpster that is currently there is adequate size and will need no alternations. I use little to no garbage so I will just be replacing the dumpster with a cardboard dumpster. Thank you for your time.

Thank you,

Bryan Burney



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546
Phone: (860) 594-3020

October 26, 2009

Mr. Curt Hirsch
795 Stafford Road
Storrs, CT 06268

Dear Mr. Hirsch:

Subject: Town of Mansfield
SR 430 (North Eagleville Road) at King Hill Road
Crosswalk

This is to confirm receipt of your October 19, 2009 letter regarding a crosswalk on SR 430 (North Eagleville Road) at King Hill Road.

Requests of this nature must be received by the State Traffic Commission, in writing, from the Local Traffic Authority (LTA). Your concerns should first be directed to the LTA of Mansfield at the following address if you wish to pursue this further:

Mr. Matthew Hart
Town Manager
Town of Mansfield
4 South Eagleville Road
Mansfield, CT 06268
Tel: (860)429-3336
FAX: (860)429-6863

Thank you for taking the time to express your interest in this matter.

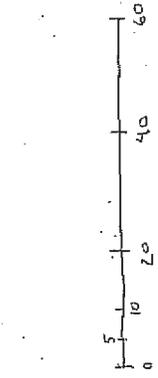
Very truly yours,

A handwritten signature in black ink that reads "David A. Sawicki".

David A. Sawicki
Acting Executive Director
State Traffic Commission

cc: Mr. Matthew Hart

N/T
AND OF
F CONNECTICUT



HILL

ROAD

ROAD

EAGLEVILLE

SIDEWALK

SIDEWALK

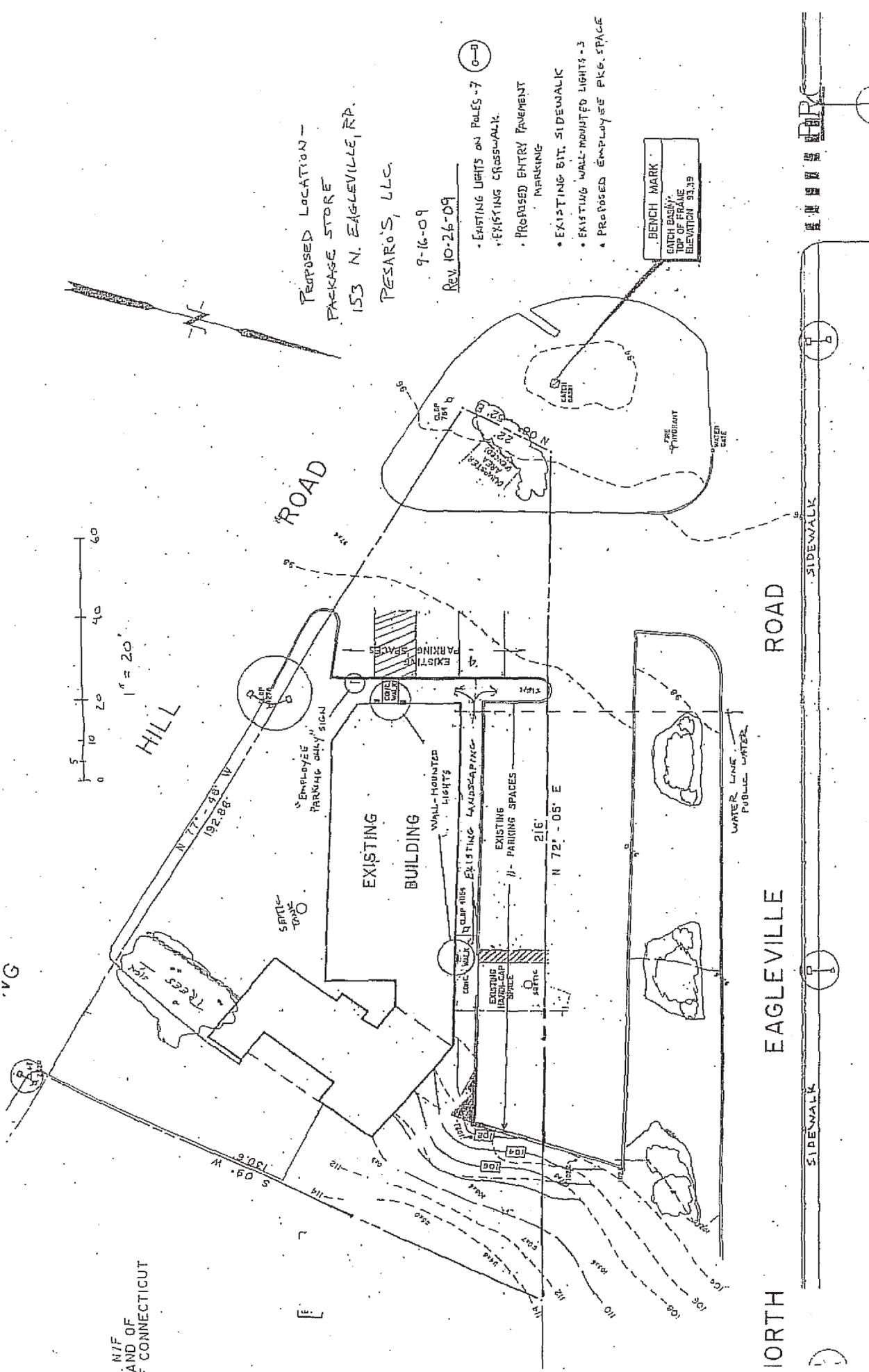
PROPOSED LOCATION -
PACKAGE STORE
153 N. EAGLEVILLE, RP.
PESARO'S, LLC.

9-16-09

REV. 10-26-09

- EXISTING LIGHTS ON POLES - 7
- EXISTING CROSSWALK
- PROPOSED ENTRY FAVEMENT MARKING
- EXISTING BIT. SIDEWALK
- EXISTING WALL-MOUNTED LIGHTS - 3
- PROPOSED EMPLOYEE PKG. SPACE

BENCH MARK
GATCH BASIN
TOP OF FRAME
ELEVATION 83.39



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Areg P.
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October 14, 2009

To: Finance Director
From: Brandon Childers
Fax: (860) 429-6863
Subject: Request for Release of Refundable Deposit

Dear Finance Director,

We are requesting the release of a Refundable Deposit in the amount of \$15,000.00 on behalf of our client, Hellenic Society Paideia Inc..

DETAILS:

- Deposit Date: 2006
- Site - Amphitheatre, Submitted by Hellenic Society, File # 1049-7

Please refund the deposit held by Mansfield to:

Hellenic Society Paideia Inc.
Attn: Ilias Tomazos
28 Dog Lane
Storrs Mansfield, CT 06268

Please inform me of the date of refund/re-issue and forward any other documentation relevant to the release of the deposit. If you have any questions concerning the above, please feel free to call me at (800) 910-5820 Ext. 102.

Sincerely,

Brandon Childers

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October 14, 2009

To: Finance Director
From: Brandon Childers
Fax: (860) 429-6863
Subject: Request for Release of Refundable Deposit

Dear Finance Director,

We are requesting the release of a Refundable Deposit in the amount of \$5,000.00 on behalf of our client, Hellenic Society Paideia Inc..

DETAILS:

- Deposit Date: 1992
- Site - Education Center, Submitted by Hellenic Society, File # 1049

Please refund the deposit held by Mansfield to:

Hellenic Society Paideia Inc.
Attn: Ilias Tomazos
28 Dog Lane
Storrs Mansfield, CT 06268

Please inform me of the date of refund/re-issue and forward any other documentation relevant to the release of the deposit. If you have any questions concerning the above, please feel free to call me at (800) 910-5820 Ext. 102.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon Childers". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brandon Childers

FROM :

Letter of Authorization

This Letter will serve as formal authorization to Professional Finders Inc. to serve as the limited agent in fact of Hellenic Society Paidela Inc., with respect to the recovery of funds which are subject to that certain agreement entered into by Professional Finders Inc. and Hellenic Society Paidela Inc..

Professional Finders Inc. authorization is limited to submitting the requests to release the said funds, and submitting all pertinent release documents.

All Payments shall be paid directly from the governmental entity to Hellenic Society Paidela Inc..

Refund Address:

Hellenic Society "Paidela", INC.
(Payable To)

ILIAS TOMAZOS
(Attention To)

28 Dog Lane
(Address 1)

(Address 2)

Storrs, CT 06268-0818
(City, State, Zip)

ILIAS TOMAZOS
(Printed Name)

President
(Title)

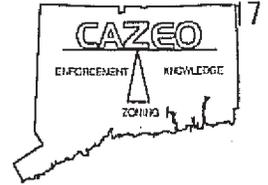
Ilias Tomazos
(Signature)

10/7/09
(Date)

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Town of Mansfield



CURT B. HIRSCH
ZONING AGENT
HIRSCHCB@MANSFIELDCT.ORG

AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3341

Memo to: Planning and Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: October 29, 2009

MONTHLY ACTIVITY for October - 2009

ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Chase	34 Circle Dr.	12 x 16 deck
Bill	952 Stafford Rd.	reconstruct 1 fm dw
Pfeffer	20 Britony Dr.	house addition
Crosby	920 Storrs Rd.	ground PV system
Sandall	84 Crane Hill Rd.	second floor addition
Hallock	Wormwood Hill	common driveway work
Paulson	521 Middle Tpke.	ground PV system

CERTIFICATES OF COMPLIANCE

Wert	580 Warrenville Rd.	house addition
Forand	17 Cedar Swamp Rd.	house addition
Carberry	27 Beech Mtn. Rd.	deck
Town of Mansfield	Commonfields/Storrs Rd.	bird blind
Veilleux	48 Puddin La.	house add. & efficiency unit
Riquier	151 S. Bedlam Rd.	gazebo
Evans	67 Circle Dr.	shed

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TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Planning and Zoning Commission
From: Gregory Padick, Director of Planning
Date: October 29, 2009
Re: Request for Permitted Use Determination Property in a Planned Business-5 Zone



Background

The attached 10/21/09 letter from Mr. Bruce Brossard, President and COO of IMCORP, provides information about IMCORP and a proposed expansion project in Mansfield. IMCORP is investigating potential locations for a new facility and is seeking a PZC determination that the proposed use would be considered a permitted use in the Planned Business-5 Zone. Currently, the IMCORP use is located within a University of Connecticut building within the Depot Campus. It is understood that numerous sites are being considered.

Article XI, Section A specifies that the PZC should be consulted regarding any interpretation of the Zoning Regulations. The primary elements of the IMCORP use are considered professional office but due to the uniqueness of this use, the fact that there is research, testing and secondary circuit board assembly and the fact that there is a significant cost to prepare a Special Permit application for a new facility, I advised Mr. Broussard to prepare a Statement of Use for PZC review. Mr. Broussard intends to be present at the PZC's 11/2/09 meeting to address any questions.

Review Comments

The following review comments are offered for the PZC's consideration:

1. The Planned Business-5 Zone is located in southwesterly Mansfield along Routes 31 and 32. This zone allows, with special permit approval, a variety of commercial uses ranging from retail uses and professional offices to automotive and small engine sales and repair businesses.
2. IMCORP's described use has a number of inter-related elements. The proposed facility in Mansfield would primarily be used for office space, the parking of test vehicles that are used off-site and the storage of equipment. Approximately twenty (20) percent of the building would be used for a "laboratory for research and equipment testing, assembly and repair activity". Mr. Broussard's letter provides a comprehensive description of the proposed facility operations.
3. The nature of professional offices, particularly in high tech areas, has evolved in recent decades. It is not uncommon for engineering firms to have testing and assembly elements within their office headquarters. Within Mansfield, there have been two related interpretations involving professional office use.

In 1985, the PZC determined that AV Associates, which designed and installed "sophisticated audio-visual systems" was a professional office use and could be located in a Professional Office Zone on Storrs Road. The AV Associates use included a workshop to fabricate racks of audio and video equipment. In 1996, the PZC approved a significant expansion of the AV Associates Use.

A second related interpretation was made by the PZC in 1988. The PZC approved Material Testing Inc within an existing commercial building at 873 Stafford Road (Route 32) within a Neighborhood

- 20 Business Zone. This use involved office space and a “commercial testing laboratory” for construction material including concrete, soil and steel.
4. Article VII, Section U.2. identifies uses permitted in the Industrial Park Zone. Subsection 2.e lists “research and development labs and related facilities.” This section makes specific reference to genetic or bio-engineering research but otherwise does not define research and development. Based on Mr. Broussard’s description of the IMCORP use, the proposed R&D activities are certainly an important component of the business but the use also includes “corporate management, . . . marketing, project management, data analysis, application engineering and administration”. In the staffs opinion the proposed use is not primarily research and development.
 5. The Special Permit submission and approval criteria contained in Article V of the Zoning Regulations, will allow the PZC to appropriately review a specific application with respect to potential traffic, neighborhood and environmental impacts.

Summary/Recommendation

Based on Mansfield’s existing regulations, any interpretations of permitted use categories necessitate PZC review. In the subject case, INCORP has provided a comprehensive explanation of a proposed new facility. Based on the nature of the proposed use, the amount of space used for each component of the proposed use and previous PZC interpretations of professional office uses, it is staffs recommendation that the subject use, as described, be considered a professional office use, which will necessitate Special Permit review and approval. If the PZC is in agreement with this recommendation, the following motion should be considered:

That the proposed IMCORP use, as described in an October 21, 2009 letter from Mr. Bruce Broussard, is considered a professional office use and, subject to compliance with all special permit submission requirements and approval criteria, is considered a permitted use in the Planning Business-5 Zone.

October 21, 2009

Gregory J. Padick, Mansfield Director of Planning
4 South Eagleville Road
Storrs, CT 06268

RE: IMCORP – Statement of Use and Purpose

Company Background

IMCORP is an electrical engineering firm that performs power cable diagnostics for the emerging sustainable energy markets and infrastructure renewal effort with utilities throughout the world. Through the use of its exclusive license with the University of Connecticut, IMCORP has established itself as the technology leader in this rapidly growing market. In fact, IMCORP is currently the 24th fastest growing engineering firm in the United States according to *INC* magazine. IMCORP's major current activities include (a) research and development (no products are produced for direct sale); (b) secondary assembling of circuit boards and other equipment and outfitting of test vehicles; (c) performance of on-site tests throughout the world. IMCORP has strong ties to UCONN where its founder, Dr. Matthew Mashikian, Professor Emeritus, developed the technology currently being used by IMCORP and where most of the engineering staff has been recruited.

Major Factors Contributing to New Facility

- The current facility, The UCONN White House on Route 44, is no longer adequate due to rapid growth in employment.
- The existing lease expires in the summer of 2010.
- Larger space is needed to insure worker safety and productivity.
- Desire to invest in the local Mansfield economy.
- Goal of creating a world class work environment, including the use of solar energy.

Description of Property

One of the properties that IMCORP is considering is the 9.44-acre track located at 266 Stafford Road (Hwy 32 near Hwy 31). This property is in a Planned Business-5 zone, and Professional Offices are a permitted use subject to obtaining Special Permit approval. The current plan is to build a facility no larger than 10,000 sq. ft. The building usage will be made up of approximately 50% professional office space, 20% laboratory for research and equipment testing, assembly and repair activity, 30% indoor garage and storage area. The employment of the site will initially be under 30 associates expanding to 50 over the next 3 years. Of these employees, 50% will not be on site daily due to extensive travel requirements. Adequate parking for at least 30 cars including 2 handicap parking spaces will be included. In addition, a portion of the land will be used to lay power cable used in our R&D effort. To the extent possible, it would be desired to include solar panels for water heating and for other facility electrical needs.

Operations within Facility

Functions within the facility space will include corporate management, research and development, marketing, project management, data analysis, application engineering and administration. Our field supervisors and field technicians, when not traveling, will work in the laboratory and the facilities where our specialized electronic equipment is assembled, instrument repair and upgrades are implemented and our mobile diagnostic units outfitted. There should not be any particularly noisy activity at the facility at any time.

Expected Site Preparation

An effort will be made to maintain a tree line along the perimeter of the property as well as the large hardwood trees existing on the property. The site appears to be fairly flat and the foundation appears to be solid with adequate drainage. These issues will be addressed in accordance with the appropriate regulations and requirements.

The entrance will be designed in accordance with State Department of Transportation sight-line requirements. It would be desired to include a low profile lighted sign at the front of the drive near the highway entrance.

Conclusion/Permitted Use Confirmation

IMCORP maintains a strong desire to locate near UCONN in order to enable the necessary ongoing technical exchange and engineering recruitment channel. It is felt that by locating within Mansfield it will positively impact the community and the university while offering our associates the quality of life desirable by those entering the workplace today.

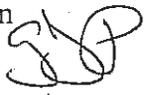
Please review INCORP's proposed use and confirm that the use would be considered permitted in the Planned business-5 zone. INCORP needs this confirmation before moving forward with the potential selection of this property and preparing the necessary special permit application materials.

Best Regards,

Bruce Broussard
President and COO
860.427.7620
IMCORP

TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Planning and Zoning Commission
 From: Gregory Padick, Director of Planning 
 Date: October 29, 2009
 Re: Proposed Signage and Landscaping 454 Storrs Road, File #1279

This memo updates my 10/15/09 report. Since the 10/19/09 PZC meeting, I have met with the applicant's representatives and revised and more detailed plans have been submitted depicting signage, landscaping and a needed handicap access ramp. The following improvements have been proposed:

- Along the Storrs Road side of the building a new landscape bed will be established adjacent to the building. This bed will include the proposed free standing identity sign. Within this bed, six (6) Boxwood shrubs, three (3) Gold Mop Cypress shrubs, three (3) Knockout rose plans, two (2) Magic Carpet Spirea shrubs, one (1) Viburnum shrub, one (1) Berryific Holly shrub and ten (10) Day Lilly plants have been proposed. The area between this landscape bed and the roadway will have a grass surface.
- Along the Bassetts Bridge Road side of the building, a retaining wall will installed. The applicant has proposed a "Roman Pisa" texture with "Quarry Blend" grey color. A colored brochure has been provided but black and white prints have been included in the packet. It is understood that the wall will vary somewhat in height but will be around three (3) feet high. This should be verified with the applicant. 1 ¼ inch crushed stone will be placed between the wall and Bassetts Bridge Road.
- A new planting area will be created between the new retaining wall and the access ramp. The applicant has proposed eight (8) Techny Arborvitae shrubs and two (2) rose plants for this planting bed.
- The new plans for the ramp are represented both in plan and elevation view. Pressure treated wood is proposed for the ramp, railings and lattice that will extend from the bottom of the ramp to the ground.
- The applicant has indicated a different railing system for the easterly side of the northerly entry and for the easterly delivery door which necessitates a new stairway. It has been verbally related that these railings will be metal.

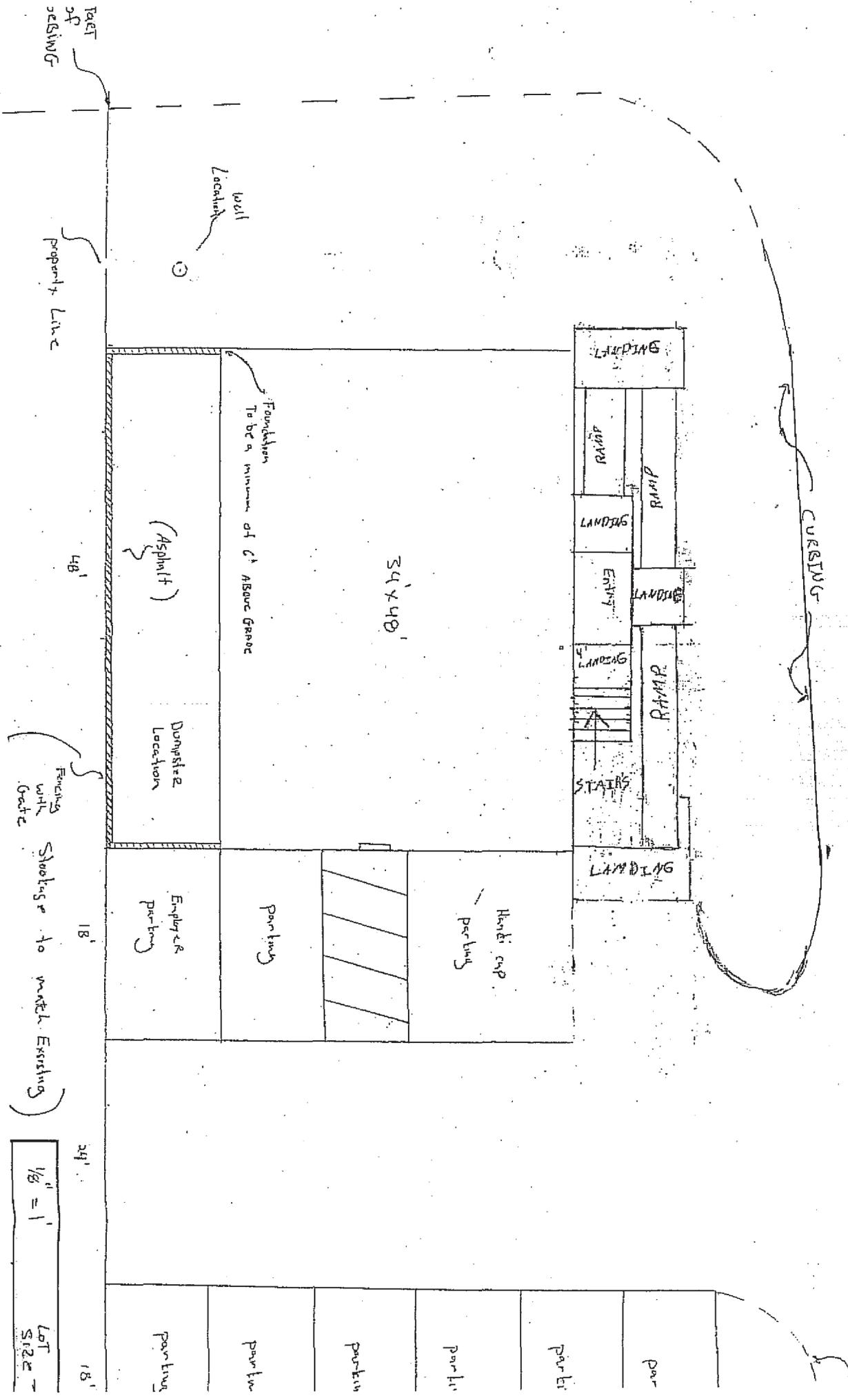
Review Comments

1. The new information provides a more complete plan for finishing this project. In general, the overall plan is considered acceptable but the applicant should be asked to clarify a few elements of the plans. The following supplemental information should be provided:
 - The proposed height of the retaining wall and distance it will be from both Bassetts Bridge Road and from the edge of the access ramp.
 - The materials that will be used for the two sets of stairs. Based on the way the stairs are depicted, it appears that concrete steps are planned but this should be confirmed.
 - The proposed color of the ramp and all railings.
 - The planned timing of plant installation and the need to bond elements of the landscape plan.
2. The plantings identified in the current plan differ from the previous submission and the recommendations included in my 10/15/09 report have not been fully addressed. It would be helpful to have the project landscaper, Stix N' Stones, explain their proposal and the basis for selecting the subject plants. I do not know if a representative from Stix N' Stones will be present at Monday's meeting.

²⁴**Summary/Recommendation**

It is expected that at least one of the applicant's representatives will be available at Monday's meeting. Hopefully, the supplemental information requested in this report will be provided and the plant selections will be explained. Subject to the appropriate addressing of these issues, the following motion is provided for the PZC's consideration:

That the PZC Chairman with staff assistance be authorized to approve final plans for signage, landscaping and associated site work at 454 Storrs Road. The final plans shall be based on the applicant's most recent submissions as supplemented, revised or otherwise discussed at the PZC's 11/2/09 meeting.



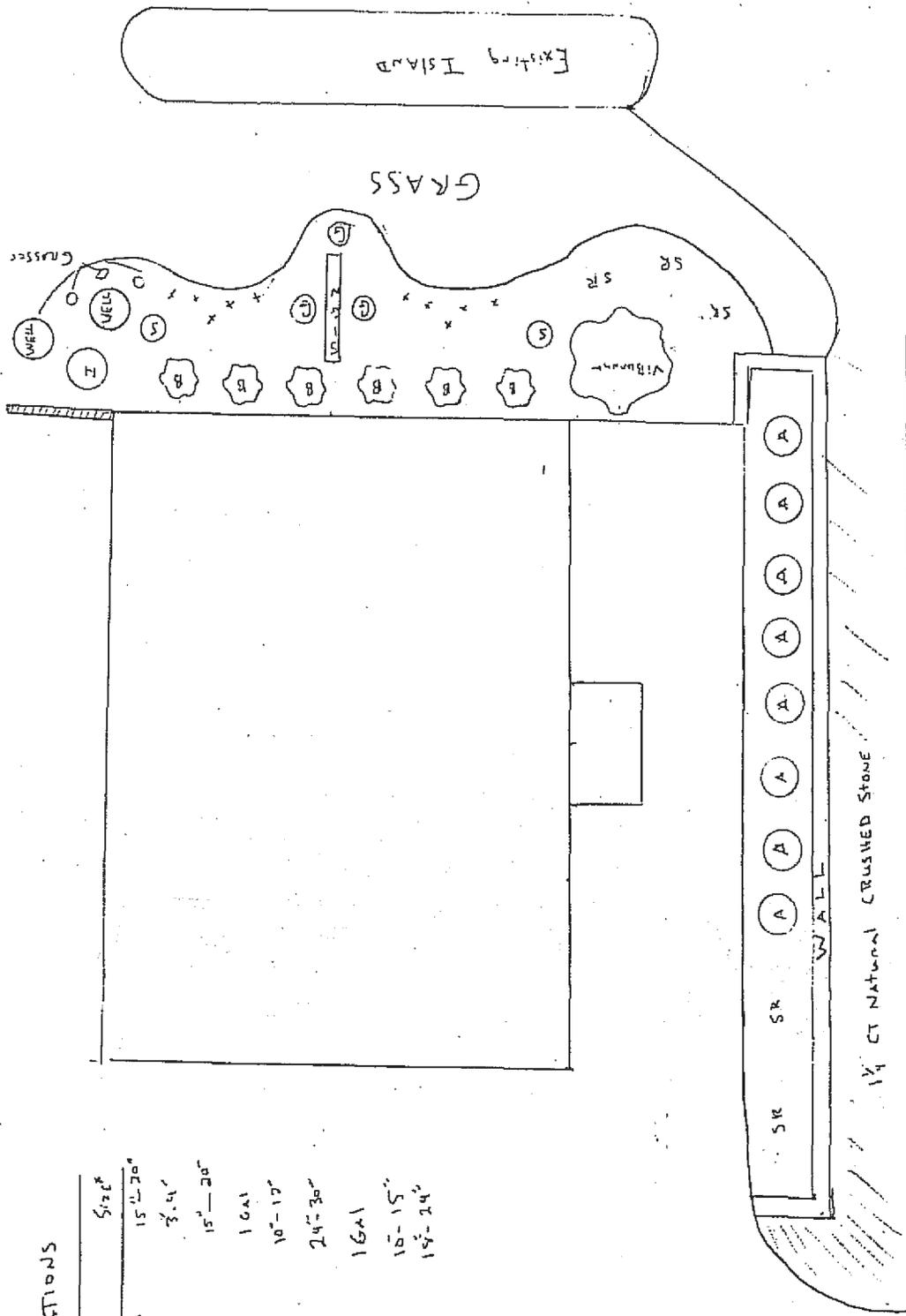
Reduced - Not to Scale

454 Storrs Rd

Scale 1/4" = 1'0"

PLANT SPECIFICATIONS

Quantity	Name	Size
6	Borlands GreenBeauty	15" - 20"
1	Viburnum Cuneata	3.4'
5	Kumquat Rose	15" - 20"
3	Hamelia Foli Grass	1 Gal
3	Gold Moor Cypress	10" - 12"
8	Techy Arborvitae	24" - 30"
10	Happy Returns Daylily	1 Gal
2	Magic Carpet Spirea	10" - 15"
1	Berrylic Holly	15" - 24"



Reduced not to
Scale

BRIDGE VENT

ARCHITECTURAL
SECTION

12
10

Sticks Rd

VINYL SIDING

TOP RAIL 36" ABOVE RAMP

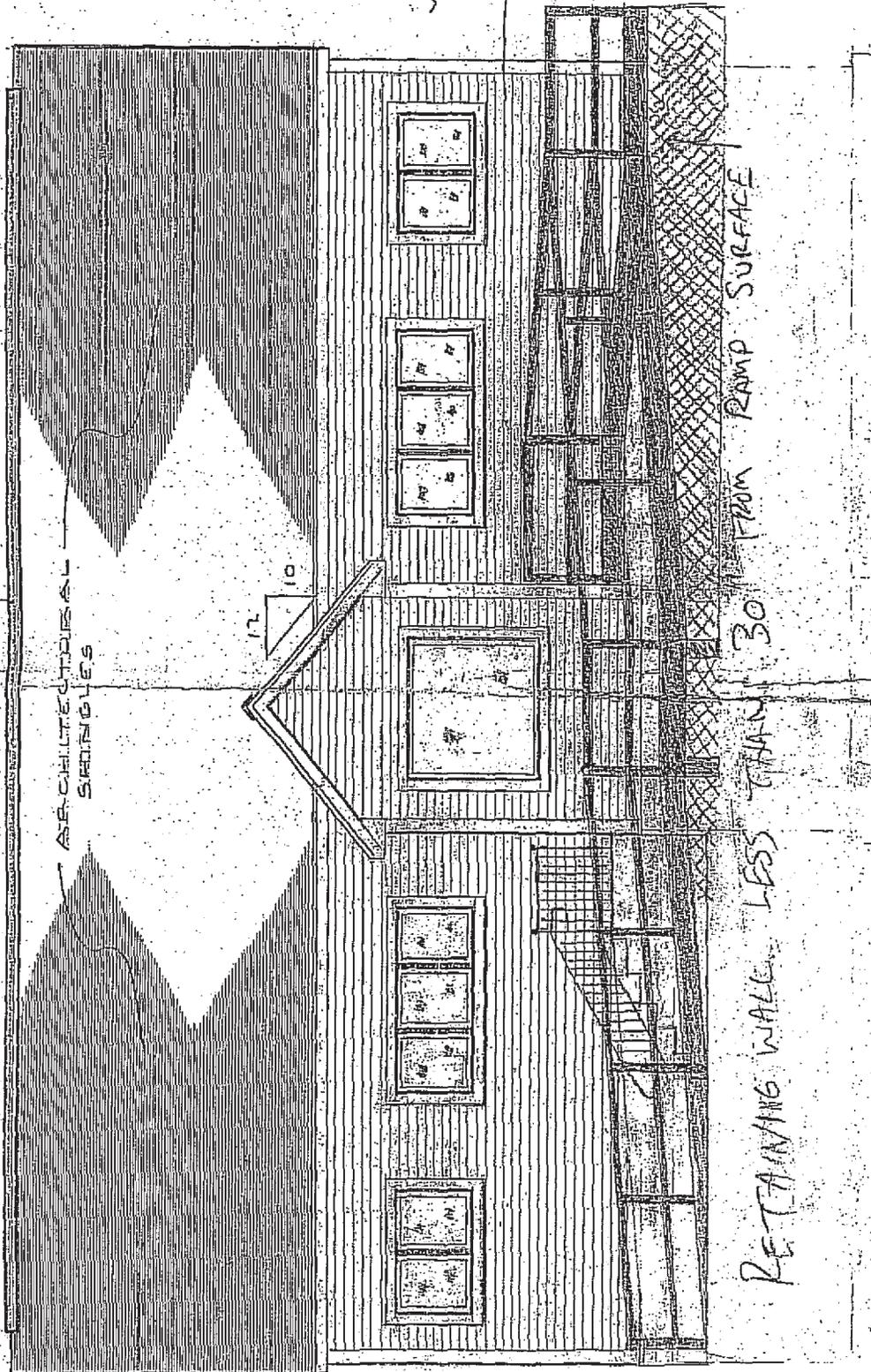
INTERMEDIATE RAIL 10" ABOVE RAMP
CONTINUOUS GRABBLE HANDRAIL
RAMP & RAILS ARE PRESSURE TREATED
LATTICE UNDER RAMP TO GRADE

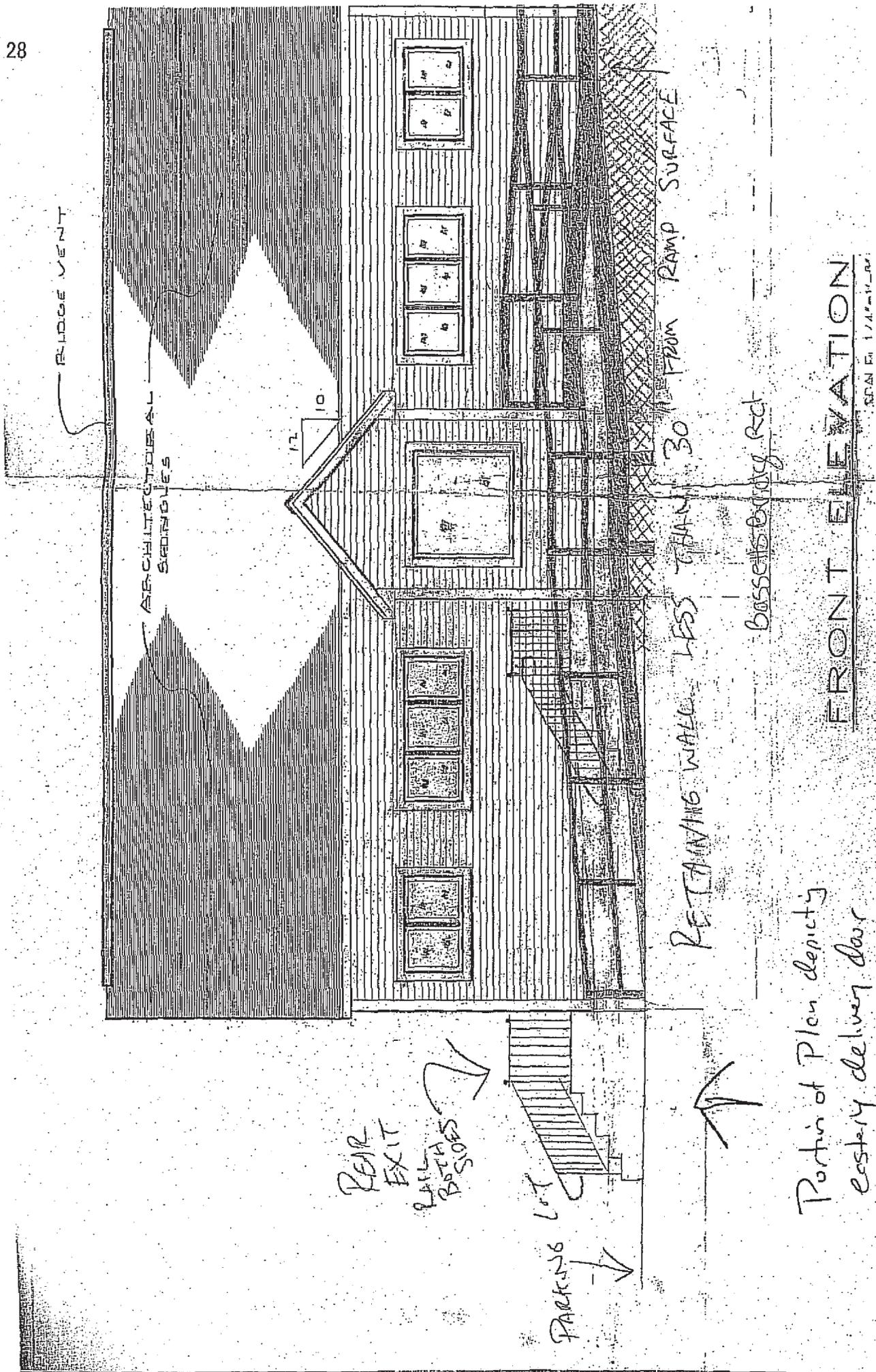
GRADE

RETAINING WALL LESS THAN 30" FROM RAMP SURFACE

Bassetts Bldg & Rd

FRONT ELEVATION





FRONT ELEVATION

SCALE 1/4" = 1'-0"

Portion of Plan depicting eastery delivery door area

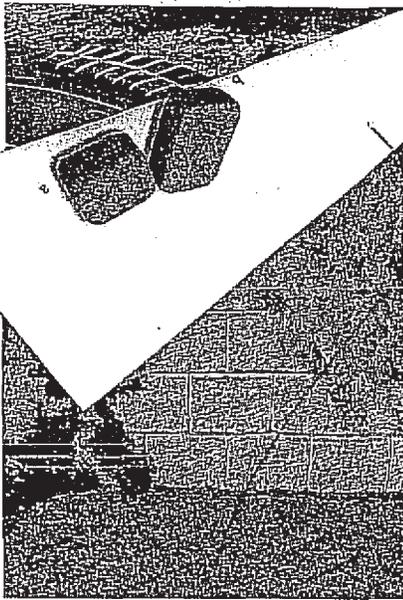
REAR EXIT WITH BOTH SIDES

PARKING LOT

RETAINING WALL LESS THAN 30"

Bassett Brady, Inc.

FROM RAMP SURFACE



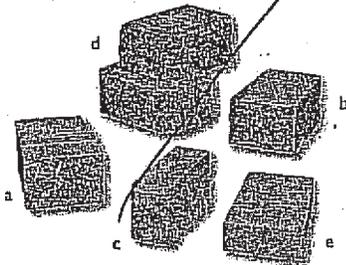
Granite Gray

Pisa 2®

Pisa 2 is a full component system with a textured straight face that complements any setting with an elegant simplicity that gracefully conforms to the natural contours of the landscape. Subtle chamfers molded into its face create a wall with distinct horizontal lines that accentuate the shadows of the day's changing light.

An off-set tongue and groove connection is continuous throughout the wall and securely couples the units together, creating a strong, solid interlock with automatic set-back. We mold a convenient handgrip into the back of each stretcher unit making Pisa 2 easy to lift and position in place.

Use your imagination and creativity to design classic style walls, curves, terraces, tiers, stairs, and 90° corners. With proper engineering, Pisa 2 walls over 20' in height can be constructed.



DIMENSIONS/COVERAGE/WEIGHT

a) Stretcher Tapered	6" h x 8" w x 12" d	■	3 pcs/sq ft	■	43 lb
b) Full Cap Tapered	6" h x 8" w x 12" d	■	3 pcs/sq ft	■	43 lb
c) Half Unit	6" h x 4" w x 12" d	■	6 pcs/sq ft	■	22.5 lb
d) Corner - Right & Left	6" h x 8" w x 12" l	■	---	■	32 lb
e) ReversaCap®	3" h x 8" w x 14" d	■	1.6 pcs/lin ft	■	22.5 lb

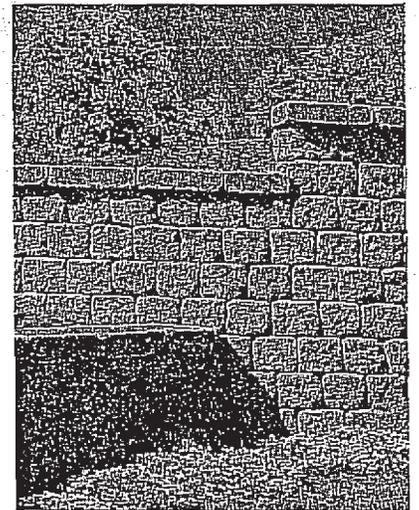
Proposed retaining wall →



The distinctive look and warm, rich texture of Roman Pisa is reminiscent of the hand-crafted stone walls built by the New England craftsmen of yesteryear. Its time-weathered appearance makes a Roman Pisa wall fashionable in any landscape setting. We use the same process as our "stone-rocked" pavers to produce Roman Pisa's rustic character, while preserving the structural stability of its tongue and groove connection.

As with our Pisa 2, you can construct virtually any type of wall, however, Roman Pisa also features a Jumbo unit that can be used to create a variety of appealing Ashlar patterns, as well as several running bond combinations.

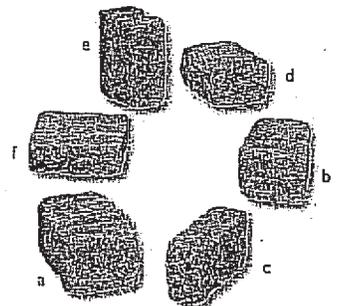
Roman Pisa has the same patented features as Pisa 2 and utilizes the same user-friendly construction techniques.



Vineyard Blend

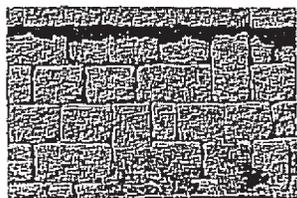
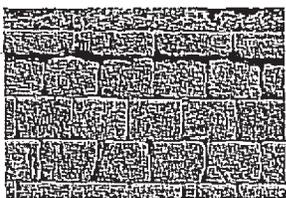
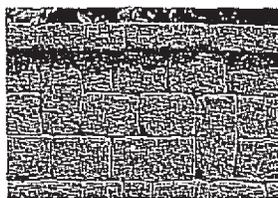
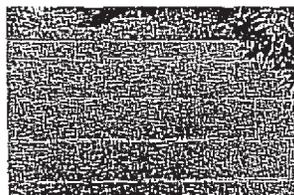
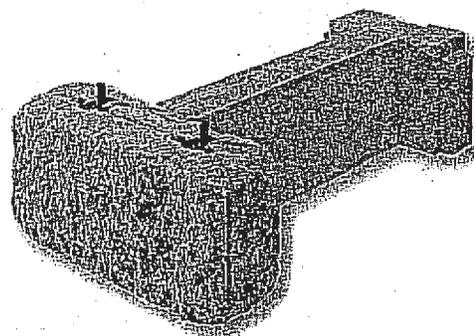
DIMENSIONS/COVERAGE/WEIGHT

a) Stretcher Tapered	6" h x 8" w x 12" d	■	3 pcs/sq ft	■	42 lb
b) Full Cap Tapered	6" h x 8" w x 12" d	■	3 pcs/sq ft	■	42 lb
c) Half Unit	6" h x 4" w x 12" d	■	6 pcs/sq ft	■	22 lb
d) Corner - Reversible	6" h x 8" w x 12" l	■	---	■	32 lb
e) Jumbo Unit	6" h x 12" w x 8" d	■	2 pcs/sq ft	■	32 lb
f) Coping Stone	3 1/2" h x 16" w x 13" d	■	1.33 lf/ft	■	61 lb



RETAINING WALL COLORS

↓ Proposed Color

VINEYARD BLEND
Roman Pisa™QUARRY BLEND
Roman Pisa™ROSEWOOD BLEND
Roman Pisa™GRANITE
Pisa 2™RUSTIC BROWN
Stonewall™ROSEWOOD BLEND
Stonewall™Gray
Color
=GRANITE GRAY
GravityStone® Tumbled Face
Single Cell

Choosing Colors – A Picture is Worth a Thousand Words!

How true this saying is - a picture conveys an image that no words can ever describe. It is why we choose to use pictures generously throughout this catalog to depict our products. And yet, one's perception of images is influenced by what the eye sees and how the image is processed. There are many factors that influence how we perceive pictures and color.

The colors of our products shown in this catalog may appear different from one photo to another due to the angle of light and the time of day when the photo was taken. In some cases, the pavers may have been sealed; in others, the pavers may have weathered with time. The hues, pattern, shape, and texture of our pavers and walls also may affect how they look. In addition, colors printed in ink cannot exactly match the actual concrete product colors. *The point we are trying to make is that the images shown in this catalog are only your first step in selecting colors.* Once you've narrowed down your choices, obtain actual samples from your dealer or contractor. View them in the setting where they will be installed before making your final color selection.



Colors – Our Beauty is More Than Skin Deep!

We color our pavers and walls with the highest quality pigments for long-lasting colors. We blend pure granules of pigment with a rich mixture of concrete and saturate our pavers and walls throughout, not just at the surface. If a chip does happen to occur, it will hardly be discernable.

Our Process – It's Only Natural!

Our pavers and walls are made with natural ingredients. Look closely and you will find a unique character to each and every paver and wall unit. In fact, no two look exactly alike. You will find subtle variations in color and texture for a truly natural appearance. Our color blends contain two or more pigments to achieve a random variegation and even our solid colors have shade variations. Please remember that, unlike a painted or stained surface, concrete products have inherent texture and shade variations. The product you receive may vary in color and texture from samples, and cubes of product may contain a different percentage of colors and textures than shown in this catalog. Smaller size units offer a greater distribution of color range compared to larger units. *As with dye lots in fabric or carpet, you should try to purchase your pavers and walls all at one time. When installing, product should be selected randomly from several cubes to obtain uniform color distribution.*

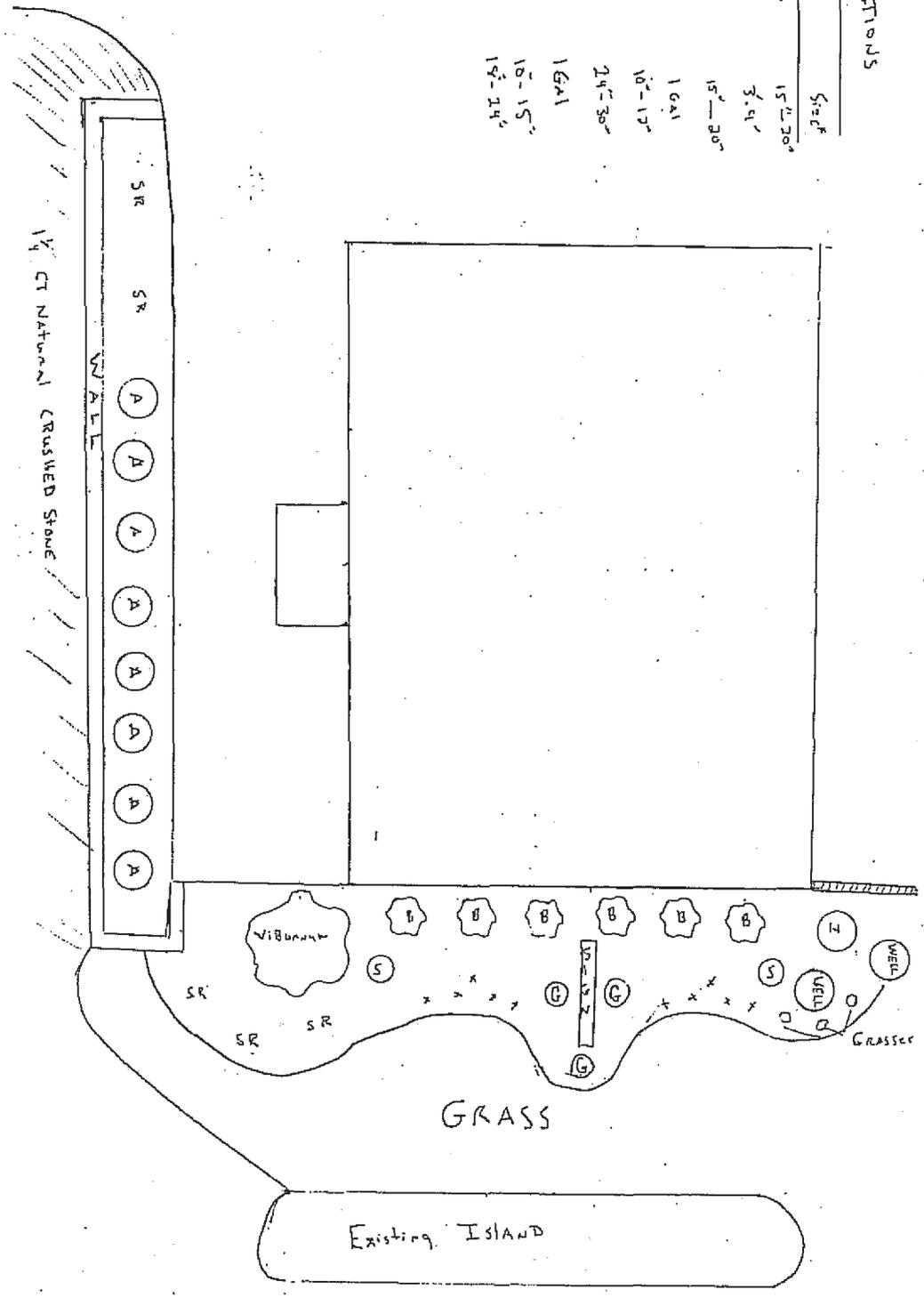
LANDSCAPE

454 STORRS RD

Scale 1/4" = 1'0"

PLANT SPECIFICATIONS

Quantity	Name	Size
6	Borubds Greenleafy	15" x 20"
1	Viburnum Calless	3' x 1'
5	Kusnot Rose	15" x 20"
3	Hamelu Fat Grass	1 Gal
3	Gold wrap CyPacss	10" x 15"
3	TECHNY AKBDRVITAE	24" x 30"
10	HAPPY RETURNIS DAYLILY	1 Gal
2	Magic Carpet SPIREA	10" x 15"
1	BERRYFRIC. HALLY	15" x 24"



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TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Planning and Zoning Commission
From: Gregory Padick, Director of Planning
Date: October 29, 2009
Re: Chuck's Margarita Grill, 1498 Stafford Road, File #303



This memo updates my 10/15/09 report. Since the 10/19/09 PZC meeting, the applicant has obtained the names and addresses of neighboring property owners and it is understood that these neighbors have been notified as per zoning provisions. This should be confirmed with the applicant. One letter from a neighboring property owner has been submitted and is included in the packet. The following additional information is provided for the PZC's consideration:

- No additional information has been submitted by the applicant.
- I have discussed the need for an outside deck access with the Fire Marshal. He related that until final plans are submitted, it cannot be determined if a second means of entry/exit will be required.
- I have reviewed recent PZC actions regarding restaurant decks or patio areas. In 2007 the PZC approved a deck for the Stonewall Tavern on Route 32. This deck was proposed with "no speakers outside". In 2006 the PZC approved a patio for the Asian Bistro Restaurant at the Eastbrook Mall. There were no conditions regarding outside speakers. In 2006, the PZC also approved a new live music permit for the Coyote Flaco restaurant on Route 32. A deck had previously been approved. The live music permit prohibited any outside speakers or use of the deck for live music performances.
- As previously recommended, no PZC action should take place until the State DEP has approved the plans. No additional information regarding the Status of the DEP review has been received.

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David Morse
64 Birchwood Hts.
Storrs, Connecticut 06268
(860) 429-6803
dmorse@david-morse.com

October 29, 2009

To Mansfield Planning & Zoning Commission,

Re. proposed site modification to Chuck's Margarita Grill by GAL Associates, LLC.

Dear members of the P&Z Commission:

In my opinion the addition of a 1,050 square-foot deck to Chuck's Margarita Grill would compromise the quality of life of the abutting residential properties. My own properties, #1472 and #1478 Stafford Road, consisting of two duplexes just south of Chuck's, would be adversely impacted by noise during summer months.

I have just returned from a visit to San Francisco where my wife and I stayed at a small hotel, in a room overlooking a restaurant patio where people carried on at a volume several times that of indoor diners. I have no reason to suppose that a deck added to Chuck's, an already large restaurant and drinking establishment, would function any differently. Such a deck would be the logical place for restaurant staff to send its noisiest parties on summer evenings, and the patrons would respond in kind.

What I have to offer the four households who rent from me is a rural setting, prompt attention to any problems that arise, and quiet. They cannot enjoy such quiet in large apartment complexes. I can offer it chiefly because the surrounding residences to the south and east are owner-occupied and quiet and because Chuck's, to the north, is an indoor facility. The addition of a deck would be a serious encroachment.

Thank you.

Yours truly,

David Morse

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TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Mansfield Planning and Zoning Commission
From: Gregory Padick, Director of Planning
Date: October 29, 2009
Re: Request to Eliminate Trail Easement-Lot #23 Maplewoods Section 2 Subdivision



The attached 10/26/09 letter from Attorney Schragger seeks approval to eliminate hiking trail easement rights across a segment of an Algonquin Gas Transmission Company Easement that crosses Lot #23. The subject trail easement was a requirement of the Maplewoods Section 1 Subdivision that created Fieldstone Drive. This trail easement was noted on Section 2 plans that created Max Felix Drive and the subject lot 23 (see attached maps).

The subject easement was approved in association with the Maplewoods Section I open space requirements. I do not recall any discussion of this easement during the processing of Maplewoods Section 2. It simply was labeled on the plans. As part of the Maplewoods Section 2 approval, a trail segment between the Max Felix Drive cul-de-sac and neighboring Dunhamtown Forest trails was constructed and the former Old Bennet Road right of way was deeded to the Town for a potential trail connection to Maple Road. The need to retain a trail easement along the Algonquin Gas line was not discussed.

To eliminate the subject trail easement, authorization by the Town Council may be necessary. I have advised Attorney Schragger that the Town Council would not act without referral to the PZC and suggested that he start the review process with the PZC. It is recommended that the PZC refer this issue to the Open Space Preservation Committee, the Parks Advisory Committee, the Conservation Commission, the Director of Parks and Recreation and the Parks Coordinator for review and comment.

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**THE LAW OFFICE OF
SAMUEL L. SCHRAGER & ASSOCIATES, LLC**

1733 Storrs Road, P.O. Box 534, Storrs, Connecticut 06268
860-487-0350 / FAX 860-487-0030

October 26, 2009

Mansfield Planning & Zoning Commission
Town of Mansfield
4 South Eagleville Road
Storrs, Connecticut 06268

Re: **Hiking Trail Rights
Maplewoods Subdivision**

Dear Commissioners:

I represent Robert and Lucinda Weiss of Maxfelix Drive in Mansfield. The Weiss' residence is situated on Lot 23 of the Maplewoods Subdivision which was approved in two (2) sections.

The first section of Maplewoods included the development of lots off of Fieldstone Drive. As a part of the approval of this section a hiking trail was included along portions of the Algonquin Gas Transmission Company right of way.

The second section of the subdivision created lots along Maxfelix Drive. The subdivision plan provided for a hiking trail along portions of the former Old Bennet Road and with the development of Maxfelix Drive, pedestrians have an easier access to those areas they enjoy in hiking this area. My clients inform me that they have never seen hikers in the Algonquin Gas Transmission Company right of way.

Mansfield Planning and Zoning Commission
Maplewoods Subdivision
10/27/2009
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SAMUEL L. SCHRAGER

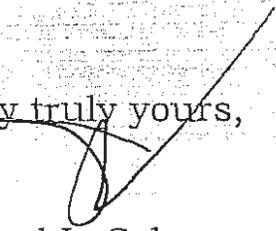
The Weiss' are attempting to sell their home and are experiencing concern by prospective purchasers due to the presence of the hiking trail through the middle of their lot.

The purpose of this letter is to seek a termination of the hiking trail rights in this particular portion of my clients' lot. Such an action would require approval by the Town Council and certain agencies, including the Planning and Zoning Commission.

I respectfully request your consideration and approval of the termination of the hiking trail rights within the boundaries of the Weiss' property, Lot 23.

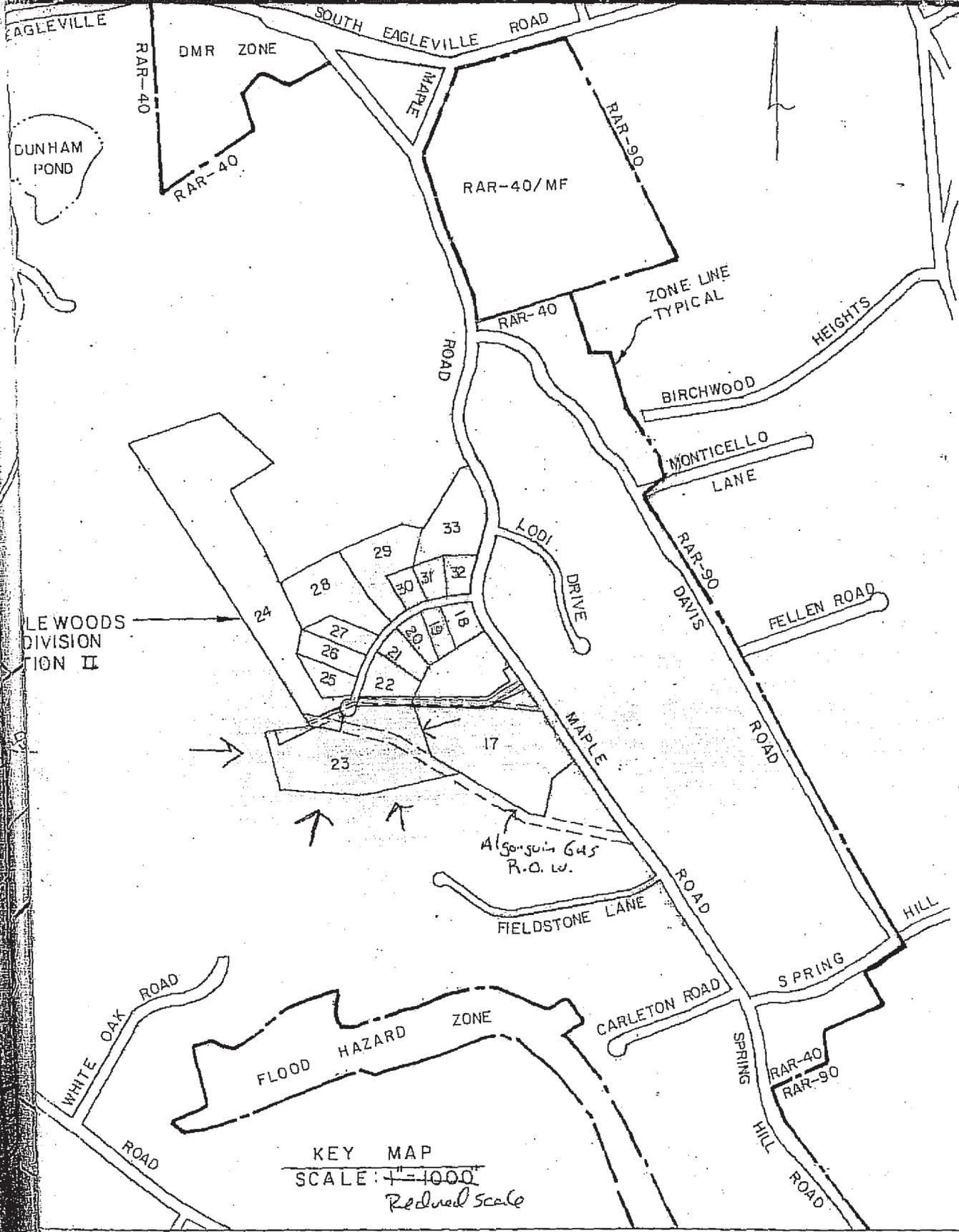
Should you have any questions, please feel free to contact me.

Very truly yours,



Samuel L. Schrager

cc: Mansfield Open Space Committee
Matthew Hart, Town Manager



LE WOODS DIVISION SECTION II

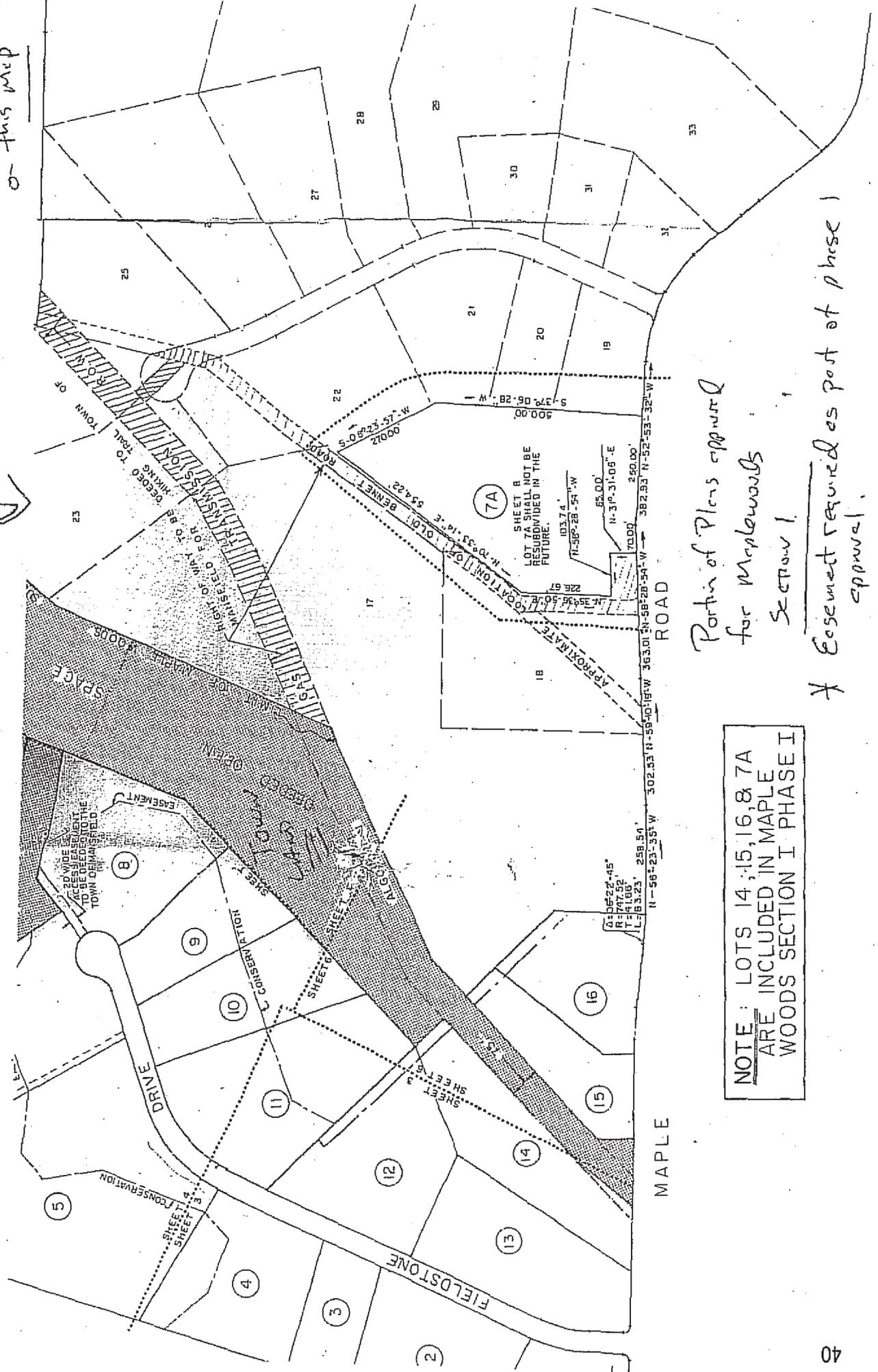
Algonguin Gas R.O.W.

KEY MAP
 SCALE: 1" = 1000'
 Reduced Scale

General Location Map -

Easement area in question

Lot 18 to 33
Preliminary layout
on this map



Portion of Plans approved
for Maplewoods
Section I

* Easement required as part of phase I approval.

NOTE: LOTS 14, 15, 16, & 7A
ARE INCLUDED IN MAPLE
WOODS SECTION I PHASE I

PAGE
BREAK

**INLAND WETLANDS AGENCY
AND
PLANNING ZONING COMMISSION**

MEETING SCHEDULE 2010

(IWA-1st Monday of each month, PZC-1st and 3rd Monday of each month, unless otherwise noted)

JAN	4 19 (TUES due to Martin Luther King Jr Day)	JULY	6 (TUES due to 4th of July) 19
FEB	1 16 (TUES due to Presidents Day)	AUG	2 16
MAR	1 15	SEPT	7 (TUES due to Labor Day) 20
APR	5 19	OCT	4 18
MAY	3 17	NOV	1 15
JUNE	7 21	DEC	6 20

ALL MEETINGS UNLESS OTHERWISE NOTED MEET AT 7:00 PM IN THE
COUNCIL CHAMBERS
AUDREY P. BECK BUILDING
4 SOUTH EAGLEVILLE ROAD
STORRS, CT 06268

**TOWN OF MANSFIELD
OFFICE OF PLANNING AND DEVELOPMENT**

GREGORY J. PADICK, DIRECTOR OF PLANNING

Memo to: Planning and Zoning Commission
From: Gregory Padick, Director of Planning
Date: 10/30/08
Re: 2010 Draft Meeting Schedule



Please review the attached 2010 draft meeting schedule for the Planning and Zoning Commission and Inland Wetland Agency. Also note that several meeting dates are on Tuesday due to a Monday Holiday.

The following motion has been prepared if members deem it appropriate. That the Planning & Zoning Commission approve the 2010 meeting schedules for the Planning and Zoning Commission and Inland Wetlands Agency.

UCONN STUDENTS LIVING ON-CAMPUS AT STORRS, 1989-2009
 UPDATED AS OF OCTOBER, 2009

<u>Acad. Year</u>	<u>Undergrad./ Non-Degree</u>	<u>Grad.</u>	<u>Total</u>
Spring, 1989	8,911	437	9,348
Fall, 1989	8,772	432	9,204
Spring, 1990	8,067	425	8,492
Fall, 1990	8,655	433	9,088
Spring, 1991	7,915	405	8,320
Fall, 1991	8,191	441	8,632
Spring, 1992	7,437	430	7,867
Fall, 1992	7,628	424	8,052
Spring, 1993	6,889	428	7,317
Fall, 1993	7,152	465	7,615
Spring, 1994	6,390	456	6,846
Fall, 1994	6,702	421	7,123
Spring, 1995	6,100	414	6,514
Fall, 1995	6,567	390	6,957
Spring, 1996	6,020	410	6,430
Fall, 1996	6,675	414	7,089
Spring, 1997	6,089	372	6,471
Fall, 1997	6,473	418	6,819
Spring, 1998	5,969	378	6,347
Fall, 1998	7,212	414	7,626
Spring, 1999	6,635	417	7,052
Fall, 1999	7,818	430	8,248
Spring, 2000	7,142	411	7,553
Fall, 2000	8,259	440	8,699
Spring, 2001	7,952	421	8,373
Fall, 2001	9,247	543	9,790
Spring, 2002	8223	425	8,648
Fall, 2002	9,868	449	10,317
Spring, 2003	9,409	560	9,969
Fall, 2003	10,567	423	10,990
Spring, 2004	10,257	485	10,742
Fall, 2004	10,658	497	11,155
Spring, 2005	10,323	509	10,832
Fall, 2005	11,010	514	11,524
Spring, 2006	10,731	416	11,147
Fall, 2006	11,135	512	11,647
Spring, 2007	10,749	490	11,239
Fall, 2007	10,751	556	11,307
Spring, 2008	10,322	519	10,841
Fall, 2008	11,427	523	11,970
Spring 2009	11,025	492	11,517
Fall, 2009	11,912	403	12,315

**These numbers include Mansfield Apartments as well as Northwood Apartments, Charter Oak and Hilltop Apartments. Since Fall of 2007 these numbers include all complexes that are part of the Residential Life housing stock.

Source: Division of Student Affairs, Housing Services, University of Connecticut

UCONN STUDENTS ENROLLED AT STORRS CAMPUS, 1989-2009
UPDATED AS OF OCTOBER, 2009

Academic <u>Year</u>	Undergrad. <u>F/T</u>	Undergrad. <u>P/T</u>	Total <u>Undergrad.</u>	Total <u>Grad.</u>	<u>Total</u>
Spring, 1989	11,612	1,344	12,956	-----	
Fall, 1989	12,276	1,399	13,675	6,591	20,266
Spring, 1990	11,286	1,397	12,683	-----	
Fall, 1990	12,307	1,265	13,572	7,001	20,573
Spring, 1991	11,220	1,416	12,636	-----	
Fall, 1991	11,321	1,249	13,128	4,329	17,457
Spring, 1992	10,838	1,329	12,167	4,131	16,298
Fall, 1992	11,321	1,170	12,491	4,399	16,890
Spring, 1993	10,353	1,228	11,581	4,206	15,787
Fall, 1993	10,830	1,075	11,905	4,549	16,454
Spring, 1994	9,849	1,149	10,998	4,229	15,227
Fall, 1994	10,328	1,058	11,386	4,503	15,889
Spring, 1995	9,546	1,144	10,690	4,118 (est.)	14,808
Fall, 1995	10,271	1,059	11,330	4,405	15,735
Spring, 1996	9,475	1,184	10,629	4,068	14,697
Fall, 1996	10,271	1,059	11,330	4,405	15,735
Spring, 1997	9,557	1,106	10,663	3,882	14,545
Fall, 1997	10,362	956	11,318	3,863	15,181
Spring, 1998	9,567	1,142	10,709	3,287	14,355
Fall, 1998	10,740	942	11,682	3,646	15,328
Spring, 1999	9,894	732	10,626	3,187	13,813
Fall, 1999	11,411	576	11,987	3,347	15,334
Spring, 2000	10,662	718	11,380	3,152	14,532
Fall, 2000	12,234	728	12,962	3,246	16,708
Spring, 2001	11,309	728	12,037	3,222	15,259
Fall, 2001	13,017	571	13,588	3,367	16,955
Spring, 2002	12,103	928	13,031	2,867	15,898
Fall, 2002	13,688	525	14,213	3,705	17,918
Spring, 2003	13,136	869	14,005	3,539	17,865
Fall, 2003	14,318	845	15,163	3,927	19,090
Spring, 2004	13,642	899	14,541	3,815	18,507
Fall, 2004	14,752	508	15,722	3,692	19,857
Spring, 2005	14,170	937	15,107	3,807	19,073
Fall, 2005	15,277	814	16,091	4,031	20,122
Spring, 2006	14,482	843	15,325	3,851	19,176
Fall, 2006	15,594	745	16,339	3,834	20,173
Spring, 2007	15,027	1,056	16,083	3,408	19,491
Fall, 2007	15,607	733	16,340	3,845	20,185
Spring, 2008	15,693	776	16,469	3,790	20,259
Fall, 2008	16,073	681	16,754	4,009	20,763
Spring, 2009	16,135	785	16,920	3,795	20,715
Fall, 2009	16,325	671	16,996	4,019	21,015

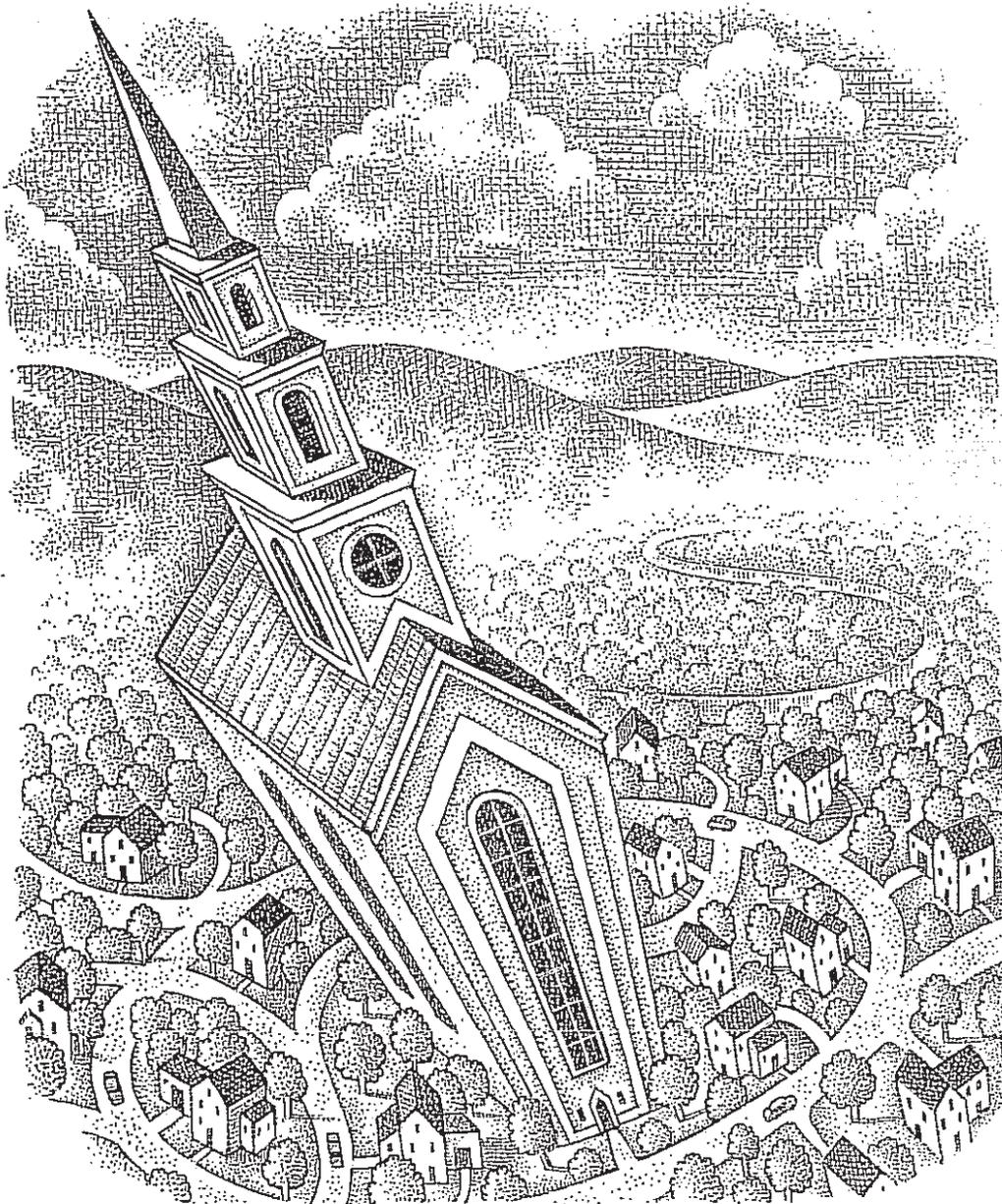
**These numbers include Mansfield Apartments as well as Northwood Apartments, Charter Oak and Hilltop Apartments.
 Since Fall of 2007 these numbers include all complexes that are part of the Residential Life housing stock.
 Source: Division of Student Affairs, Housing Services, University of Connecticut

PLANNING
COMMISSIONERS

Journal

NEWS & INFORMATION FOR CITIZEN PLANNERS

Zoning for Religious Institutions



PLANNING COMMISSIONERS JOURNAL / NUMBER 76 / FALL 2009

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Generally Speaking

One of the things that draws many to planning is the fact that it covers such a wide array of subjects. It's a field where "generalists" still abound.

The breadth of what we deal with is perhaps most evident when we're working on a comprehensive or long-range plan. Not only are we covering a broad range of substantive issues, but we're using our skills to deal with "process" concerns, such as finding ways of involving the public and various stakeholders in the planning process. Of course, we're also spending much time as fact gatherers and data analyzers.

The range of topics you'll find inside this issue of the *PCJ* reflects what I'm talking about. You'll read about such diverse topics as:

- developing and implementing the comprehensive plan;
- planning for sustainable development;
- public transportation issues facing rural areas and small towns;
- ways of reusing vacant land;
- issues in zoning for religious institutions;
- planning for trails and green spaces in industrial areas; and
- whether local planning decisions need to – from an ethical perspective – take into account regional concerns.

And if that's not enough variety, flip to the back page and read about the link between planning and art!

Over the years, I've found planning commissioners, if you allow me to generalize a bit, to be inquisitive people with a very broad range of interests. But closest to the heart of most citizen and professional planners is one very specific interest: doing what they can to make their communities better places to live and work. ♦



Wayne M. Senville
Wayne M. Senville,
Editor

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by Elaine Cogan

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by Eric Damian Kelly, Esq., FAICP

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Ten tips to help you better prepare and implement your community's long-range plan.

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It's rare that art is considered relevant to planning – and that's unfortunate.

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The Role for Planning in Sustainable Communities

by Elaine Cogan

Communities throughout the country are witnessing an onrush of citizen interest and support for the concept of sustainable development. People have an almost intuitive understanding that our profligate ways of using our land, water, air, and human resources need to be reconsidered.

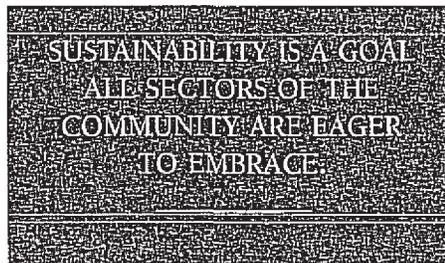
Although there is not a single, universally accepted definition of sustainable development, a good description is that it is a way of life that provides benefits to the economy, environment, and community livability without sacrificing one for the other. Achieving energy efficiency and utilizing green technology are common goals.

Planning, and the strategies, ordinances, rules, and regulations that carry out planning initiatives, can be among the most effective ways to create a sustainable community.

Regulatory reform is a major issue in many communities as they consider being more sustainable. Planners can contribute to that effort by reviewing their building and zoning codes to ascertain any unreasonable barriers to architects and developers interested in using the latest green techniques in building design, materials, and systems. Small turbine wind systems, eco-roofs, solar panels, and rainwater retention are just some of the many ways new and remodeled buildings can be more sustainable. When reexamining your rules and regulations, ask yourselves, "Do we reward or punish designers and developers who bring these and other new ideas to the permit counter?"

I live and work in Portland, Oregon, a city that has been called by some one of the most sustainable in the U.S. As a sure signal of our aspirations, the name and function of our planning department has recently been changed to the Bureau of Planning and Sustainability.

Not coincidentally, we also are cited as the most bicycle-friendly city in the country, with many who use this non-motorized means to commute to and from work every day. Although there are conflicts between motorists and bicyclists, most would agree that the latter contribute to our sustainability by not using precious fossil resources to fuel their journeys.



To encourage this sustainable activity, Portland's transit system has racks for bikes, the city provides bicycle storage bins on sidewalks, and many businesses do the same in their buildings. We have special bicycle lanes on major thoroughfares, though proponents say we should have more and some motorists are annoyed we have so many. Planners are considering creating bike boulevards, providing less-traveled streets with a combination of traffic calming, intersection treatments, and signage that slow traffic while encouraging bicycling.

If your community seems to agree that encouraging alternative transportation is a worthwhile, sustainable goal, planners can aid that effort by championing public transit and considering how bicycles can be accommodated more readily on your existing street system. In addition, you can consider providing transit passes to employees to encourage them to leave their cars at home.

What types of vehicles do you have in your planning department fleet? Are they hybrids? Electric? Can the planning department be the proponent for city use

of more efficient, sustainable vehicles?

When you plan for new or replacement street lights, do you require the most efficient, low energy fixtures?

These are just some of the many ways the planning commission and staff can take sustainability practices into consideration as you make decisions.

Our planning and communications consulting firm is engaged in an increasing amount of work helping communities and organizations become more sustainable. We have facilitated the work of "Green Ribbon" committees, bringing together businesses and local governments to discuss how they can collaborate to attract sustainable industries. We also have consulted with city agencies to recommend strategies to substitute local green building products for imported items and encourage energy efficient transportation alternatives. We see a growing awareness that sustainability is a goal all sectors of the community are eager to embrace.

If sustainability is of interest to you and others on your planning board, you and your staff can be the leaders in such initiatives. It is not hyperbole to note that few other governmental bodies affect the lives and livelihoods of neighborhoods, businesses, environmentalists, community leaders, and others ... the many entities important to the well-being of their communities.

All will benefit if you are willing to take the lead in creating the sustainability vision and acting on it. ♦

Elaine Cogan, partner in the Portland, Oregon, planning and communications firm of Cogan Owens Cogan LLC, has worked for more than thirty years with communities undertaking strategic planning and visioning processes.

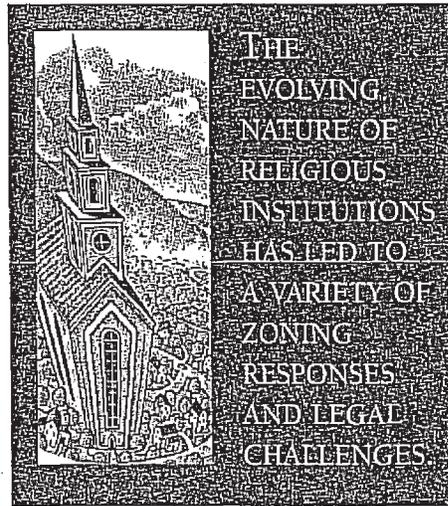


Zoning for Religious Institutions

by Eric Damian Kelly, Esq., FAICP

THE LAW

Religious freedom is, of course, one of the core values on which the United States was founded. The first words of the First Amendment to the Constitution read: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ..."



Many communities have long allowed "churches" in most or all zoning districts. Such an approach worked well when many people walked to services and when many religious institutions were built to accommodate residents of a neighborhood, not those of a whole community.

Today, a reference to "churches" is not adequate to conform with the U.S. Constitution. Moreover, there are a number of religious institutions that bear little resemblance to the typical "neighborhood church." With facilities that can seat 2,000 or 3,000 people and include bookstores, coffee shops, movie theaters, gymnasias, and broadcasting facilities, a number of communities have prohibited religious institutions in some zoning districts and/or have imposed new restrictions on them.

The evolving nature of religious institutions has also led to a variety of zoning responses and legal challenges, including:

- limitations on the expansion or remodeling of religious institutions under local historic preservation ordinances.¹
- prohibitions against the use of houses of worship for such social service activities as soup kitchens and temporary sleeping space for the homeless.²
- limitations on such religious practices as animal sacrifices³ or the activities of a particular religious facility because of cultural and language differences between members of the group and the dominant population in the community.⁴

Those words also limit states and local governments, through the effect of the Fourteenth Amendment in extending the basic freedoms of the Bill of Rights to address all government action. It has long been clear that the First Amendment prohibits a local government from granting a preference to one religion over another. The "free exercise" clause has also consistently been interpreted to provide relatively broad protection for the establishment of facilities in which to worship.

Beginning in the 1980s, however, a series of (largely unrelated) federal court decisions upheld local zoning regulations that excluded churches and other religious institutions from one or more zoning districts in particular communities. Reacting in part to those decisions and in particular to a peripherally related decision of the U.S. Supreme Court, Congress intervened in the field. Its first attempt, the Religious Freedom Restoration Act, was struck down by the Supreme Court as unconstitutional.⁵

Congress subsequently adopted the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. 2000cc. To date, all courts that have considered the constitutionality of RLUIPA have upheld it.

There are two relevant parts of the law. The first part establishes a very heavy burden of proof for a "substantial burden" imposed on the practice of religion by requiring that such a burden be justified by a "compelling governmental interest." Part of the definition of "substantial burden," however, specifies that the "substantial burden" test applies only to a land-use regulation "under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved."

The second part of RLUIPA contains provisions prohibiting governments from discriminating in their land use

1 *City of Boerne, Petitioner v. P.F. Flores, Archbishop of San Antonio, and United States*, 521 U.S. 507, 117 S. Ct. 2157, 138 L. Ed. 2d 624 (1997). The Supreme Court held the Religious Freedom Restoration Act (RFRA) unconstitutional and upheld the city's denial (under its historic preservation ordinance) of a church's plans for expansion. Congress then replaced RFRA with RLUIPA, as discussed in this article.

2 *Stuart Circle Parish v. Board of Zoning*

Appeals of the City of Richmond, 946 F. Supp. 1225 (E.D. Va. 1996): The court granted an injunction against the zoning board, thus allowing the church to expand a meal program for the homeless beyond what was apparently allowed by the zoning ordinance.

3 *Church of the Lukumi Babalu Aye, Inc., v. City of Hialeah*, 508 U.S. 520, 113 S. Ct. 2217, 124 L. Ed. 2d 472 (1993). The Court found that an ordinance prohibit-

ing animal sacrifices was targeted at the Santeria religious group and struck it down as unconstitutional. This was a complex decision dealing with a complex subject, and it is difficult to draw major conclusions from the holding.

4 *Ira Iglesia de la Biblia Abierta v. City of Chicago and Banks*, 949 F. Supp. 637 (N.D. Ill. 1996), reversed 129 F.3d 899 (3rd Cir. 1997), reh'g denied. Here the City of Chicago, led by a district alder-

man, changed the zoning ordinance to prohibit the use of specific property for religious purposes after the church had acquired it. The zoning was ultimately upheld, after much litigation. For later proceedings, see *C.L.U.B. v. City of Chicago*, 2001 U.S. Dist. LEXIS 17213 (N.D. Ill. Oct. 17, 2001), motions denied, at 2001 U.S. Dist. LEXIS 17213 (N.D. Ill. Oct. 17, 2001).

5 *City of Boerne* (see footnote 1).

regulations against religious institutions. The law's non-discrimination provisions read (in full):

"(b) Discrimination and Exclusion. (1) Equal terms. No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution. (2) Nondiscrimination. No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination. (3) Exclusions and limits. No government shall impose or implement a land use regulation that – (A) totally excludes religious assemblies from a jurisdiction; or (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction."

IMPLICATIONS AND RECOMMENDATIONS

1. Basic Terminology

"Church" is a term generally applied to institutions of the Christian religion. Thus, a provision in an ordinance allowing churches but not allowing other types of religious institutions on its face could be construed to violate both the First Amendment and the non-discrimination provisions of RLUIPA.

As a practical matter, most zoning administrators seem to have allowed mosques, temples, and other institutions in the same locations where churches are allowed. Some local governments have adopted new definitions of "church" that include other types of religious institutions.

The safer course is to use a phrase like "house of worship," "place of worship," or "religious institution," and to define it as follows: "Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque."

2. Excluding Religious Institutions from Zoning Districts in General

As the case law under RLUIPA is evolving, it is clear that a local government can exclude religious institutions from some zoning districts, but not from the entire community. In regulating uses that have Constitutional protection, it is always wise to document the governmental interest involved in a particular regulation, even if that governmental interest does not rise to the level of "compelling."

Thus, one can imagine excluding religious institutions from:

- an industrial park zone (to protect the availability of land for uses that will build the economic base),
- an exclusive agricultural zone (to protect farming and limit sprawl),
- a densely populated residential area with narrow streets (to prevent parking and congestion problems), or
- a downtown district (to prevent storefront churches that are used only a day or two a week from creating large dead spaces along major downtown sidewalks).

It seems more difficult to make the case to exclude religious institutions from multi-family residential districts and from most commercial districts, although a few communities have done so.

3. Distinctions Based on a Religious Institution's Size

Some local governments may want to recognize the land-use differences between the traditional neighborhood place of worship and some of today's mega-institutions by continuing to allow only the smaller, more neighborhood-scale institutions in residential districts. There are three different ways that a local government might make such a distinction without violating RLUIPA or the Constitution:

1. By distinguishing between the types of institutions based on the seating capacity of the principal worship space. Traditional neighborhood institutions seat between 100 and 250 people in that space; so institutions with seating capacity in that range could be allowed

continued on next page

"Storefront" Religious Institutions

Some communities have dealt with concerns about "storefront" religious institutions. Start-up and other small congregations often seek under-used spaces that are available for relatively low rents; such spaces can range from vacant downtown retail buildings to closed supermarkets.

The reuse of closed supermarkets or "big box" stores as places of assembly typically causes few public concerns. Such facilities are usually found along arterial or collector roads with good access and lots of parking. Use of such a building for worship space one day and a couple of nights a week generally has less impact on the neighborhood than the former retail use.

Storefront facilities in downtown or other older retail areas, however, raise a different set of issues. Communities that adopt revitalization plans for such areas typically try to encourage a streetscape that is lively and interesting for pedestrians. If a religious institution takes over a 150-foot storefront and uses it only on Saturdays or Sundays and just one or two evenings a week, that storefront becomes a relatively long dead space along the sidewalk during the prime hours for downtown shopping, dining, and entertainment.

This concern can be addressed without violating RLUIPA's provisions against discrimination. Along a specific street corridor designated for redevelopment, a local government could legitimately prohibit any place of public assembly – including religious ones – from occupying more than 25 (or 30 or 35) feet of first-floor space fronting on the street.

Many small-town downtown theaters once had similar frontage on main streets, with only a lobby and a hallway fronting on the sidewalk, and the main part of the theater at the back of the building, tucked behind retail stores. Many fraternal organizations occupy the upper floors of downtown buildings, with only a main entrance sharing space with retail on the first floor. Those provide good models for integrating places of assembly into lively pedestrian streets.

in all residential zoning districts, while taking a more restrictive approach to the larger ones.

2. By basing the distinction on the total floor area of buildings located on the site (probably excluding the residence of the principal worship leader).

3. By significantly limiting the accessory uses to a house of worship in less intensive residential districts (see separate discussion in Section 6).

An ordinance making distinctions like those suggested here should allow the larger institutions either in commercial and multi-family districts or where they have direct access to an arterial road, or direct access to a major collector, adjoining an arterial. Most of the modern mega-institutions recognize the marketing value of such locations and actively seek them out. It would be very unusual for a congregation to propose to build a major institution in a quiet residential neighborhood.

Conflicts sometimes arise, however, when an existing neighborhood religious institution grows, gradually buying and tearing down nearby homes to build new facilities. A local government that attempts to limit such growth may face a backlash from the institution's members, but allowing such an institution to grow without restraint can lead to significant neighborhood protests.

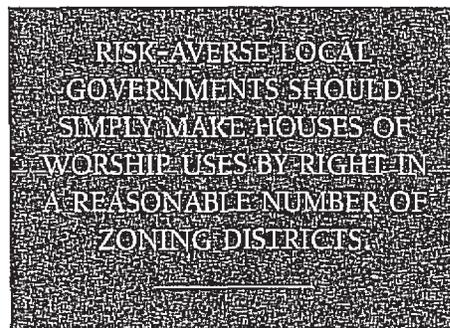
4. Non-Discrimination Regulating Religious Institutions & "Places of Assembly"

In our work consulting with local governments, we often find commercial districts that allow theaters but do not allow places of worship. We also sometimes find residential zoning districts that allow community centers but do not allow places of worship. Theaters, arenas, auditoriums, community centers, civic centers, fraternal lodges, and many types of clubs fall under a general category of use considered "places of assembly."

Regardless of whether a local ordinance uses that phrase, the concept is familiar to the courts. A community with an ordinance that allows a theater, civic center, or fraternal lodge

in a location where it does not allow a house of worship is likely to face a major problem defending the limitation on religious institutions under the non-discrimination provisions of RLUIPA.

A New Jersey community, however, raised an interesting issue and succeeded in prohibiting religious institutions in a downtown district where it allowed theaters and nightclubs.⁶ The City of Long Branch had adopted a redevelopment plan that called for making its downtown "Broadway corridor" an entertainment center. The concern was that if a religious institution were to locate within this corridor, it would trigger a state law limiting the issuance of liquor licenses



within specified distances of churches and other religious institutions – in effect, undermining the city's goals in creating the district.

To avoid this outcome, the City prohibited religious institutions in the corridor district. The city persuaded a federal court of appeals that it was not discriminating between *similar types* of places of public assembly – it was allowing only those places of assembly that would not trigger the provision of state law limiting the issuance of liquor licenses.

This issue has not arisen frequently, and local governments should not assume that other courts will reach the same conclusion. There are, however, two important lessons that can be drawn from the court's *City of Long Branch* ruling. First, the city's decision was based on a carefully considered plan. Second, both the plan and the ordinance showed

the rationale for the city's unique treatment of houses of worship under the ordinance. Any local government considering such an unusual distinction should include in the ordinance clear statements of purpose, ideally with references back to a planning or policy document.

5. Regulating Religious Institutions as Special or Conditional Uses

The "substantial burden" test of RLUIPA expressly applies to local regulations that involve an "individualized assessment." A requirement that a religious use obtain a special use permit, conditional use approval, or special exception is clearly an "individualized assessment." Thus, risk-averse local governments should simply make houses of worship uses by right in a reasonable number of zoning districts. A local government that fails to do so will find its ordinance tested under the "compelling governmental interest" test imposed by the "substantial burden" clause of the act.

It would seem to be a fair reading of the law that if a local government does allow such uses by right in a number of districts, it could allow them as uses by review (special uses) in one or more other districts – particularly if there are clear guidelines for when the special use will be approved.

6. Accessory Uses & Religious Institutions

Religious institutions in all zoning districts should certainly be allowed to include such traditional accessory uses as: reasonable signage; housing for a principal worship leader; classrooms for accessory religious education; and a separate assembly hall for social and educational gatherings. But local governments may want to consider limitations on other types of accessory uses in certain residential zoning districts.

For example, some religious institutions today run fleets of buses, and both store and repair the buses at the main worship centers. Large religious institutions may also include bookstores, gyms, movie theaters, and recreational and activity centers. The full range of such

⁶ *Lighthouse Inst. for Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253 (3d Cir. N.J. 2007)

uses are certainly appropriate at religious institutions located in business zoning districts, but because of their traffic, noise, or other impacts, may not fit within single-family and, possibly, some other residential districts.

As a result, accessory uses that local governments might want to prohibit in some residential districts might include: storage of more than one or two buses; bus maintenance and repair; bookstores; coffee shops; digital electronic signs; broadcasting studios; television and radio broadcast towers; movie theaters; gymnasiums; and bowling alleys or other kinds of recreation facilities typically offered by commercial establishments.

Accessory uses that ought to be considered carefully are soup kitchens and homeless shelters. Many religious institutions have a theological commitment to helping others, and some want to do it on their home turf. Although neighbors are unlikely to object to a church or synagogue opening its doors to the homeless on the very coldest nights of the year or offering an occasional food give-away or dinner, establishing permanent facilities that attract large numbers of those in need day after day and week after week is likely to lead to conflicts, particularly in exclusively residential areas.

The law on limiting accessory uses at religious institutions is not entirely settled, but at this time it appears that two rules would explain many of the decisions:

First, if the local ordinance says nothing about accessory uses, a court is likely to accept an argument from a religious institution that any sort of accessory use is a part of its normal pattern of worship and thus should be allowed.

Second, if, on the other hand, the local ordinance clearly allows religious institutions with only limited accessory uses in some locations, while allowing those institutions with a full range of uses in others, the courts appear willing to enforce the ordinance as written.

Thus, any effort to update a zoning ordinance dealing with religious institutions should include a serious discussion of what accessory uses are appropriate

and acceptable for them – in each zoning district. The fleet of buses and maintenance garage will hardly be noticed in a highway-oriented business district, but may lead to many complaints in a single-family residential district.

7. Parking, Landscaping, and Signs

Remember that the “substantial burden” rule under RLUIPA imposes the “compelling governmental interest” test only on local regulations that involve an “individualized assessment.” The corollary of that principle is that laws of general applicability will not be considered substantial burdens.

Requirements for off-street parking, landscaping, buffering, site lighting, and other amenities are, in almost all communities, rules of general applicability. Limitations on flashing signs and on building heights are also rules of general application and thus are not subject to the “substantial burden” test.

There has been some litigation over the theological significance of steeples and similar vertical extensions of religious buildings. The law is not clear on that, but some zoning ordinances allow a religious institution to exceed height limits otherwise applicable to the zoning district with “non-habitable” space or something similar.

The fact that it is probably both lawful and Constitutional to impose a full-range of site development restrictions on religious institutions does not necessarily mean that it is appropriate to do so, however.

For a small, neighborhood institution with no significant accessory uses, it may make more sense to allow most people to park on the streets than to add an acre or two of paved parking to the neighborhood. Where off-street parking is necessary, a community should consider requiring that only a portion of it be paved, allowing people to park on grass or other porous surfaces during the four or five busiest hours a week.

Most residential districts include significant restrictions on signs. Those rules make perfect sense for residences, but it is unreasonable to expect a church or school to operate without

signs. The ordinance, however, should not provide for “church” signs – R⁵³ should provide for “accessory signs at institutional uses permitted in residential districts.”

Many local ordinances have some sort of provision for at least one freestanding sign, but they often miss other important issues. For example, if a religious institution or school does not have some changeable copy space on its sign, it will probably make extensive use of banners and temporary signs to promote vacation religious schools, pot luck dinners, and other events; and religious institutions need wall signs, as well as freestanding signs, to provide information on worship schedules and contact information.

SUMMING UP:

Churches, synagogues, temples, and mosques are all subject to reasonable local zoning regulations. A community updating its regulations or facing a potential controversy over such an institution, however, should check its ordinance to be sure that:

- the ordinance on its face and local practice treat religious institutions in the same way, regardless of denomination or name of the building,
- houses of worship are allowed in all zoning districts that allow other places of assembly, unless there are very unusual and well-documented circumstances justifying a particular distinction,
- religious institutions are allowed in many districts by right and do not require special use permits or other discretionary reviews, and
- site development requirements – which are generally enforceable against religious institutions – are reasonable and practical for those institutions. ♦

Eric Damian Kelly, Ph.D., FAICP, a lawyer and planner, is a professor of urban planning at Ball State University and vice president of Duncan Associates, a consulting firm. He is a past president of the American Planning Association and General Editor of *Matthew Bender's 10-volume Zoning and Land Use Controls*.



Stand By Your Plan

by Jim Segedy and Lisa Hollingsworth-Segedy

Our friend and predecessor in writing "The Planning Commission at Work" column, Mike Chandler, is widely-known for his excellent planning commissioner training. One of the techniques he often employed was a skit in which participants use a humorous script to role-play a fictitious planning commission meeting. The audience can get a laugh, but also easily see many common situations in which planning commissioners might find themselves.

One of situations featured in the skit is the planning commission's inability to stand their ground and make plan-consistent recommendations. This is so common that we'd like to devote this column to giving you Jim and Lisa's Top Ten List (with apologies to David Letterman) for strategies to help you Stand By Your Plan. You'll note from several of the points in our list that it can be tough to Stand By Your Plan unless the process of putting together your community's plan has taken implementation into account.¹

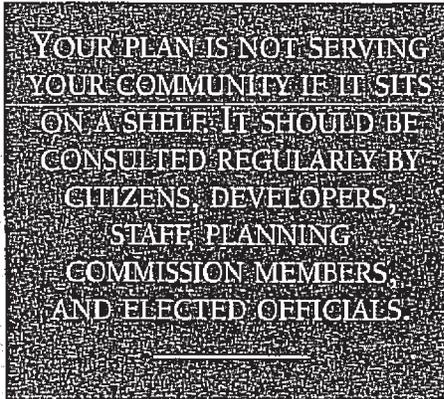
1. Make sure your plan is doable. Many times, through the long process of preparing a plan, the goals and strategies get broadened in an attempt to make as many people happy as possible. This may help the plan "get through" all the hurdles, but it often makes it less effective. You must ask yourself:

- "Is your plan readily available to, and understandable by, elected officials, planning commission, staff, and the public?"
- Does it contain photographs and illustrations to show exactly what the recommended outcomes should look like?

¹ As we noted in our last column, we use the term "community plan" to encompass the kind of local comprehensive plan common in many parts of the country. We recognize that the local planning process, and what plans cover, varies from state to state – so please take that into account in considering our suggestions.

- Does it contain goals with links to specific action items (these links are critical)?
- Does it provide straightforward guidance on what the end results will be?
- Is it a realistic plan that guides the community step-by-step towards the vision you identified?"

The answer to all of these questions should be "yes." If not, we recommend that you look back at our last column that explores the question "how do we get there?" (PCJ #75, Summer 2009).



2. Make implementation a priority. A community's plan is not an end product. It is the roadmap to your city or town's future. When any development decision is contemplated, the plan should be the "go-to" resource for direction.

3. Know who's driving the bus. This is a two-parter (with point 4. Delegate). It's important to assign responsibility for specific parts of the plan implementation. This can be an individual or a department. It is also important to determine who's in charge of comparing development permit requests against the plan. Some communities have a check box (or similar system) on their permit review form to serve as a reminder of this part of the process.

These tasks are a critical responsibility you take on as a member of your planning commission. While your position is

mostly advisory, you are in a position to keep the plan at the center of local decision-making.

4. Delegate. As we mentioned above, no one entity should be responsible for implementing your plan, nor should all plan implementation activities rest with the local government. Many smaller projects can and should be delegated to civic organizations, neighborhood associations, or other appropriate groups.

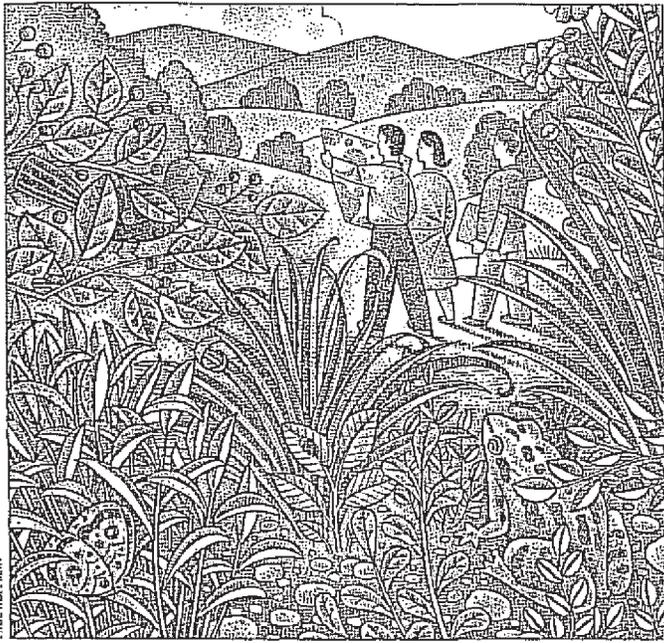
This kind of participation builds strong communities and strengthens public support of local planning. When you're developing your plan your goal should be to get someone in the community to take ownership of a part of the plan and say "Yes, I'll do that." The local elected officials should help, not "do" the plan.

5. Follow up. Periodic reviews of plan implementation progress are important, as we discussed in the last column. In addition to tracking completed projects, the plan can be evaluated and fine-tuned as necessary to keep the community's future vision sharply in focus. This can be done through something as simple as a checklist.

6. Rely on relevant data for decision-making. Planning commissioners can simplify their development permit recommendations by having clearly defined standards for decision-making. These should be an integral part of the process that is documented.

Developing clear and objective standards that truly assess the appropriateness of proposed development and address the potential impacts (both positive and negative) of the development on community infrastructure, facilities, and services will help insulate you from personalities, politics, and the influence of special interests.

7. Learn to adapt. Missouri is known as the "Show Me" state, but we think



PAUL DIEFENBACH

missioners: "We are so frustrated because our decisions are routinely overturned by the elected officials. Why do they even bother appointing us if they don't listen to our recommendations?"

An effective plan is developed with the entire community's input, including that of elected officials. If your elected officials are also part of the planning process, rather than remaining aloof until a copy of the draft plan is

put in their mailbox, they will share a greater stake in the plan and its policies. In turn, this will lead to greater support for your recommendations related to implementing the plan's policies.

Michael Chandler also pointed to the importance of this on the pages of the *Planning Commissioners Journal*: "The planning commission should seek to involve the governing body at various stages of the plan development process. For example, the elected body might be asked to participate in the development of the plan's goals and objectives ... The planning commission can both inform and learn from the governing body ... Designing a strategy that places a premi-

um on communicating with the governing body will substantially enhance the likelihood that the plan will be adopted."⁵⁵

10. Celebrate successes. When each task of the plan is complete, call attention to the results and the participants. Nothing breeds success like success, and the best incentive for people to do good things is to make sure that there's plenty of recognition to go around. "Neighborhood of the Year," "Honorary Community Planner," whatever it takes. It doesn't have to cost much. Celebrate what they've done.

These ten steps can help you as a planning commissioner maintain your personal resolve and your community's priority to "Stand By Your Plan." Show them, help them make good decisions, and celebrate with them. ♦

many communities can lay claim to that sentiment in one way or another. A little research will produce many examples related to ideas or programs your community may be considering (or things not much different). Check out APA Planners Bookstore, Island Press, *Planning Magazine*, and (of course) the *Planning Commissioners Journal* for some reference materials. Look at the communities they feature and see which seem most comparable to your own. Things you find and like are things to build from. But don't copy directly; instead, adapt them to your community's unique situation.

8. Provide incentives. The quickest way to kill an idea is to say "no."

Give the community and developers and all the other change agents incentives to "do the right thing." Financial incentives such as a fast-tracked development process or differential fees for development proposals that implement the plan are a great place to begin. You may still have to say no every once in a while, but use that not as an end, but a beginning to move forward in a better direction. As noted in point 7, showing examples of how it can work helps.

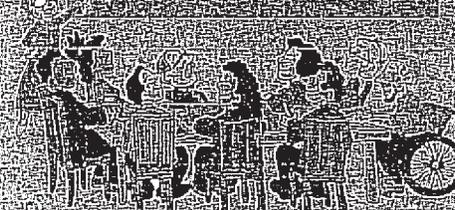
9. Convert them. We have heard this story all too often from planning com-



Jim Segedy, Ph.D., FAICP, is the Director of Community Planning at the Pennsylvania Environmental Council and Lisa Hollingsworth-Segedy, AICP, is Associate Director for River Restoration for American Rivers. They've both acted in skits at planning commissioner training workshops!

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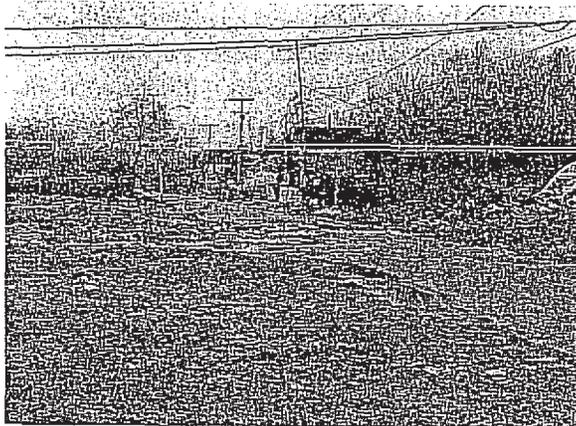
For more information and to order call our office 802-864-9083, or go to plannersweb.com/onboard.html

² Michael Chandler, "Developing the Comprehensive Plan: Part III" (PCJ #12, Fall 1993).



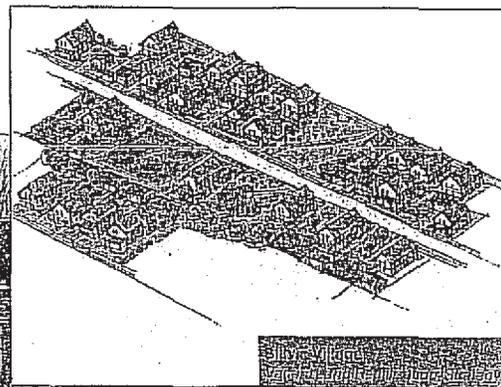
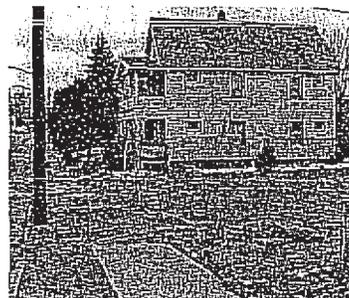
56 Circle the USA → Ohio → Michigan → Indiana

Note from PCJ Editor Wayne Senville: On the next four pages you'll find three of the more than one dozen reports I posted during the second leg of my "Circle the USA" travel. To access all of the trip reports, and to follow future legs, go to: www.CircleTheUSA.com.



ALL PHOTOS BY WAYNE SENVILLE

Vacant land and abandoned properties dominate in Cleveland's "Forgotten Triangle," (left) and Slavic Village (below).



Rendering of future Slavic Village.

Audacious... or Realistic?

- Cleveland, Ohio, as home to farms supplying a quarter of local food needs.
- Cleveland, Ohio, as a green oasis, with interconnected trails and parkland accessible to all.
- Cleveland, Ohio, as a city managing its stormwater while reducing environmental contaminants.
- Cleveland, Ohio, as a healthy city with thriving commercial & residential centers.

Those are some of the goals of Cleveland's planners, as they seek to steer the city's land use pattern towards what they term a more sustainable direction.

Trends in past decades have been grim. The city's population has been steadily dropping from 915,000 in 1950 to 478,000 in 2000, to 438,000 (2007 estimate), to a projected 387,000 in 2016. Blighted areas can be found in many parts of the city, with some 15,000 vacant buildings and 3,300 acres of vacant land.

In fact, Cleveland Planning Director Bob Brown told me that the City will be demolishing some 2,000 houses this year, a staggering number

for a city this size.

Yet at the same time, there are a number of strong neighborhoods. In fact, as Terry Schwarz, AICP, of the KSU Cleveland Urban Design Collaborative, explained, many times these neighborhoods are close by distressed areas. That was vividly demonstrated as we drove from the vibrant Ohio City commercial district to the nearby "Slavic Village" (hard hit by foreclosures) and then on to what's known locally as "the Forgotten Triangle" neighborhood.

Take a look at a typical scene in Slavic Village today with vacant lots and boarded up housing (top center) then compare it to a rendering of how the vacant land could become a mix of housing and usable green space (top right). The drawing is from *Re-Imagining A More Sustainable Cleveland: Citywide Strategies for Reuse of Vacant Land*, a report initiated by the Cleveland City Planning Commission and Neighborhood Progress, Inc. (NPI), a nonprofit that works with the city's community development corporations.

Schwarz, who worked on *Re-Imagining Cleveland*, pointed out that in the past "new housing

had always been the goal for vacant land." But the new approach outlined in the report focuses on implementing a variety of "green" initiatives instead. As Schwarz explains it, there are many advantages in developing hundreds of community gardens, along with larger scale urban farms; planting vacant lots with native turf grasses; establishing green areas for use in retaining and filtering stormwater; and putting in place an interconnected network of recreational paths and trails.

One is the simple fact that the current situation, with thousands of vacant houses and empty lots is corrosive not just to particular neighborhoods, but to the city as a whole. Not only does it foster drug-dealing and other crime, but it's daily evidence of failure and abandonment that only inspires a feeling of hopelessness.

There are also serious health impacts. As the *Re-Imagining Cleveland* report notes, "vacant sites with exposed soil contribute to airborne lead levels in the city's neighborhoods... in many neighborhoods, over 30 percent of children test positive for lead poisoning each year."

In addition, Schwarz offers

several practical, financial advantages to the strategy being advocated:

For one, it will allow the city to concentrate its long-term commercial revitalization and housing efforts in fewer areas, rather than spreading them out through a city's whose population is shrinking.

Second, by using already vacant land to serve as an extensive "green" network for treating stormwater (and the City is under EPA requirements to address stormwater-related pollution) the City will avoid having to spend enormous sums on laying down new infrastructure and building new treatment facilities.

Third, less infrastructure in the form of water and sewer lines, and even streets, will need to be maintained and might even be removed. Schwarz acknowledges, however, that the latter is not on the immediate horizon, and would only be done if it could be shown to actually result in cost savings.

The big challenge lies in implementing this huge change in direction. Schwarz sees using a series of environmental, soil, and other overlay maps to identify areas most suitable for agri-

cultural use, those which might work best for managing stormwater, and those where development makes most sense.

According to Brown, the City Planning Commission supports the vacant land strategy set out in *Re-Imagining Cleveland* and has officially adopted the report. Moreover, zoning amendments are being considered to allow overlay zones in certain areas that would permit the kind of agricultural uses needed for large-scale farms.

Interestingly, Brown also pointed out that the Cleveland Clinic, the city's largest employer, has committed to buying a greater proportion of locally grown food.

Bobbi Reichtell, Senior Vice President for Programs for NPI, told me there's strong interest in local, and even national, foundations in helping support Cleveland's approach. NPI has helped coordinate efforts to raise \$1 million to support up to one hundred vacant land projects in various Cleveland neighborhoods. Some \$600,000 has already been committed.

Also about to be released is the *Re-Imagining Cleveland Pattern Book*. As Reichtell notes, it will include "plans, budgets and resources for vacant land reuse strategies." According to Reichtell, "2,000 copies will be printed and distributed to CDCs, block clubs, urban farming advocates and other non-profits to stimulate imaginative

thinking about what vacant land can become."¹

Is what Schwarz, Brown, Reichtell, and others have in mind audacious or realistic – or perhaps a mix of the two?

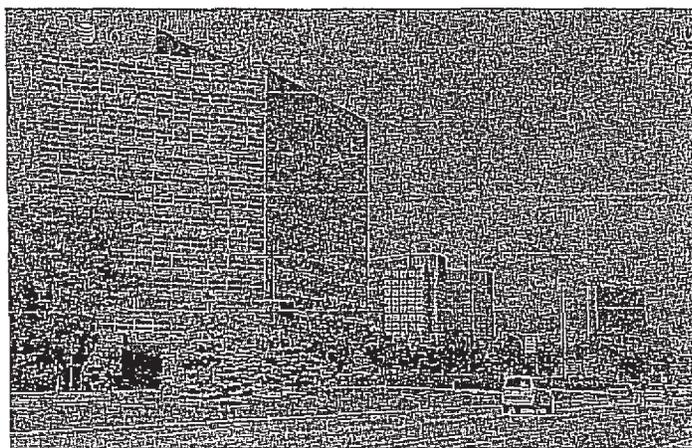
Related Link:

- Download both the *Re-Imagining Cleveland* report and the *Pattern Book* from the Cleveland Urban Design Collaborative web site: www.cudc.kent.edu/shrink/landlab.html.
- contact Terry Schwarz: tschwarz@kent.edu

A Suburb Plans for Change

Troy, Michigan, is a 6 x 6 mile suburb (population 100,000) about 19 miles northwest of downtown Detroit. You'll find many elements typical of the suburbs that boomed in the 1970s and '80s: corporate office parks, wide arterial roadways, pleasant single-family residential neighborhoods, ample parks, high-quality schools, commercial strip malls, and large auto dealerships.

Over the last few decades Troy has thrived. But as Planning Director Mark Miller pointed out to me, the growth curve has flattened. With the sharp decline of the automotive industry in Michigan, Troy has felt the impact. Much of the city's economic prosperity has been based on automotive-related business,



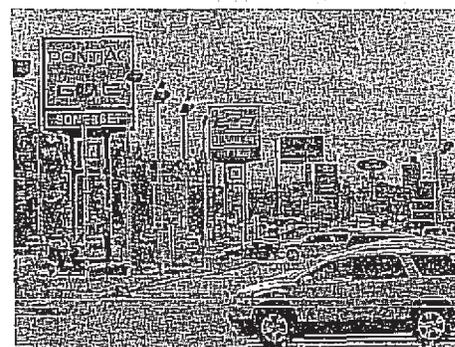
Above: Office buildings along Big Beaver Road; below: Troy's Auto Mall.

especially small-scale manufacturing and supply operations.

In driving through Troy with Miller and Principal Planner Brent Savidant, we passed building after building with "For Lease" or "For Sale" signs. Some were large office buildings, but most were modest industrial facilities, "Mom and Pop" type, Miller noted.

The city's evolving economy, with a reduced role for manufacturing, has provided Troy an opportunity to rethink its future. Indeed, the new City of Troy Master Plan 2008 sets out the framework for a major shift in direction. Especially striking is the Plan's emphasis on increased transit and walkability, and on mixed-use development. As Miller explained, in Troy today "everything is designed for the car." Yet, he noted, one of the priorities residents expressed during input sessions on the Plan was having more places to ride bikes and walk.

The Plan does not call for developing a town center or downtown for Troy. Instead, the focus is on reconfiguring some 21 "nodes" – each with an area of 40,000 square feet or more

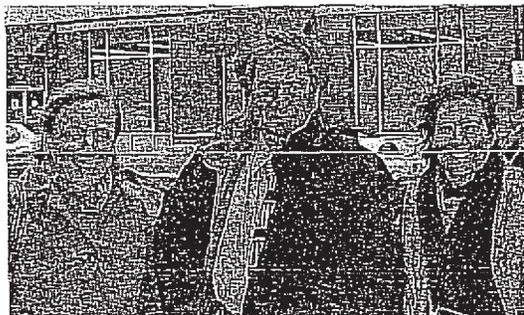


encompassing a key intersection and adjoining land (the regular rhythm of the city's arterial roadways explains the large number of major intersections).

As the Troy Master Plan explains: "Neighborhood Nodes are the concentrated, commercial and mixed-use centers situated at major intersections of Troy thoroughfares that serve as the center of the City's Economic Neighborhoods ... Economic Neighborhoods are destinations created as 'go to' places that take on a social role, serving both as a place to meet basic needs of the community and as 21st century village centers."

Part of the reason for favoring mixed-use is its tax advantages. As the Master Plan notes, "one of the many advantages of mixed-use development is its ability to help offset residential development's impact on the tax base by integrating it with commercial development."

continued on next page



From left, Terry Schwarz, Bob Brown, and Bobbi Reichtell

¹ PCJ readers may recall our recent article on the use of pattern books. See Amy Souza, "Pattern Books: A Planning Tool" (PCJ #72, Fall 2008); www.plannersweb.com/wfiles/w210.html.



Some of the space for sale or lease along just one block of Troy's light industrial district.

continued from previous page

Implementation will involve developing a form-based optional overlay zone for each node, seeking to encourage mixed-use development. Euclidean, hierarchical zoning will fade, Miller believes, as developers see that the optional overlay "will be creating value for the properties."

Obviously, it's going to be a tall order to change Troy's existing, auto-oriented land use pattern. As Miller put it, "it's going to be a real long-term endeavor." But over time, he believes that changes will come.

Related Links:

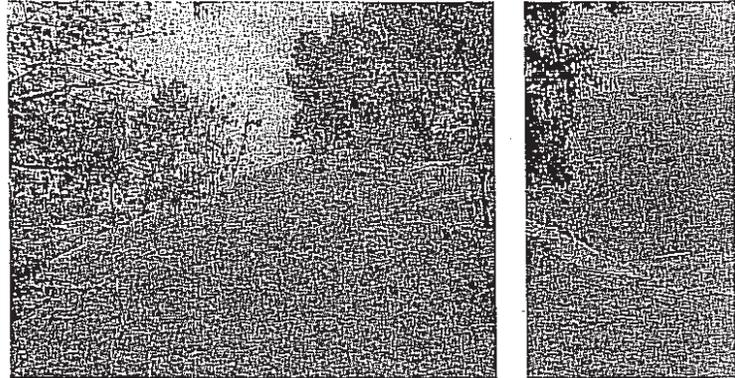
- City of Troy: www.troymi.gov/Planning/
- contact Mark Miller: MillerMF@troymi.gov

Planning for 46 Miles of Lakeshore

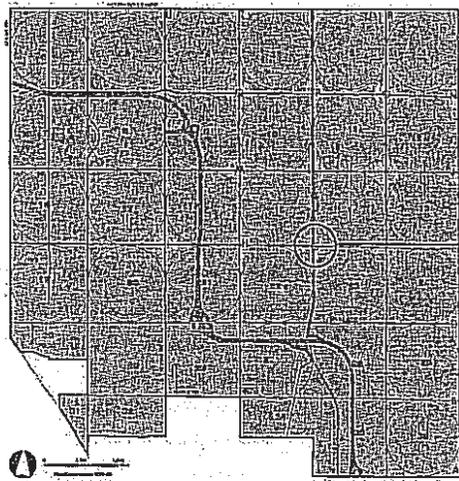
The sign warned it would be a strenuous climb. Could this really be the case in flat, northwestern Indiana? And for a trail just a few hundred feet long? But that's what you face in

implement – a comprehensive plan for the lakeshore.

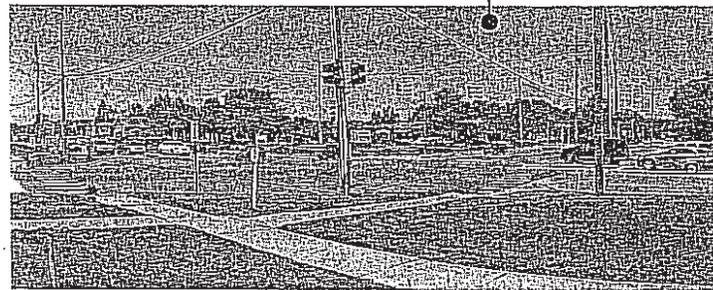
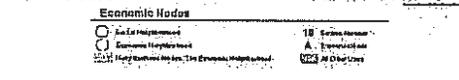
Phase I of the Marquette Plan, completed in 2005, covers some sixty square miles of land, much of it close to the Lake Michigan shoreline. Phase II extended the study area eastward from Portage to the Indiana/Michigan state line. Many of the Plan's recommendations underscore the



Trail heading up Mt. Baldy in Indiana Dunes National Lakeshore.



From Troy's Master Plan, a map of the nodes at key intersections; they're designated by the letters A-U. The numbers indicate the city's mile square sections.



The intersection of Rochester and Wattles Roads (node G). The Master Plan describes the desired build out of this node: "A careful blend of commercial uses and office uses, effectively transitioned into the adjoining residential neighborhoods, should be the main uses at this intersection. Recent residential development in the area has taken pedestrian access to the intersection into consideration with effective pathways and sidewalks, and any new development at the intersection must continue this positive trend."

climbing Mt. Baldy, a magnificent 126 foot high sand dune that's part of the Indiana Dunes National Lakeshore.

When you reach the top you're rewarded with a remarkable view of a dune landscape, framed by a man-made industrial landscape. What you see to the east are the cooling towers of the large coal-fired power plant in nearby Michigan City.

Indeed, what's most striking along the 46 mile stretch of Indiana bordering Lake Michigan is the intermixing of natural beauty and industry.

Northwestern Indiana is the heart of America's steel industry. But it's an industry that's been steadily shrinking, from 66,400 jobs in 1979, to 34,500 in 1990, to 16,900 in 2007.

What is less well known about northwest Indiana is the natural beauty of the lakeshore area. One of the priorities of the Northwestern Indiana Regional Planning Commission (NIRPC) has been developing – and now starting to

shift in focus from an industrial-based economy to one featuring recreational and natural resource based amenities.

To achieve this, the Plan calls for a series of recreation-based actions aimed at creating a large-scale, linked network. As the Plan puts it, "At the heart of this effort is a green ribbon of connected dune and swale landscapes, river corridors, lakes, beaches, reclaimed industrial canals and a range of diverse habitat that provides the natural counterpart to the industrialized brownfield setting that has dominated the past century ... green space linkages, improved infrastructures and resulting community enhancements [will] lay a framework for reinvestment."

I spent part of the day with John Swanson, NIRPC's Executive Director. The challenges facing the regional planners at NIRPC are multiple. To begin with, they're dealing with 41 municipalities in three counties. Add to that an incredibly diverse population, both economically

and ethnically, and an economy still largely based on heavy industry.

Swanson spoke of how the planning process has engaged a very diverse "public," including groups often "not in the loop," such as low-income advocates from cities like Gary. The process has also involved local elected officials, industry repre-

U.S. Representative Pete Visclosky. Not surprisingly, Visclosky has remained involved in work on the plan – an important plus.

The Plan's overarching goal, Swanson said, "is to create a unified vision for the entire 46 miles of shoreline." At the same time, however, plan implementation priorities are largely

determined by the individual jurisdictions. As Swanson explained, "each community was asked to identify a catalytic project."

sentatives, and members of the Save the Dunes Council, the area's principal environmental advocacy organization.

There's also close coordination with the National Park Service, which manages 15,000 acres of federal holdings in the Indiana Dunes National Lakeshore. The Park Service not only provides management and visitor interpretation services, but it brings a "cachet" to the region, something especially beneficial in bringing in visitors who might not otherwise associate industrial northwest Indiana with natural resources and beauty.

The Marquette Plan was first conceived back in the mid-1980s by then newly elected

We visited one of the priority projects, the just completed 57-acre Portage Lakefront and Riverwalk Park, located on a former brownfields site. It includes a dramatic new structure (holding classroom/meeting space) and a 900 foot breakwater/fishing pier jutting out into Lake Michigan.

While at Lakefront Park we met with Olga Velazquez, Portage's mayor. Portage has a population of just under 40,000 and, as Velazquez put it, "is mainly a blue-collar city, with reasonable housing prices." Velazquez, who also serves on the NIRPC Board, fully supports the Marquette Plan's aim of providing, as she puts it,

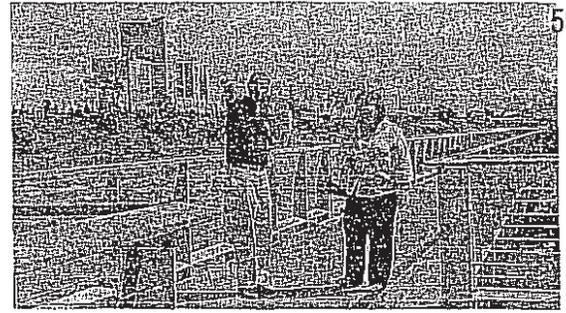
"opportunities to develop around natural resources." Velazquez stressed the importance of connecting natural areas along the lake-shore, and looks forward to trails linking Chicago to Portage and beyond.

Velazquez also described the special arrangement behind Lakefront Park, with the National Park Service owning the land, but the City managing the facility. Funding for the improvements also came from a novel source; more on this in a moment. There's also a walkway built along the channel that borders both the huge U.S. Steel Plant (on the east) and Portage Lakefront Park and Riverwalk (on the west). It was quite a sight.

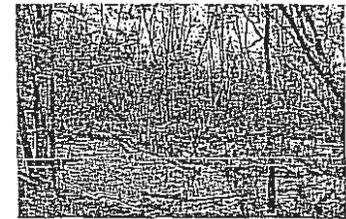
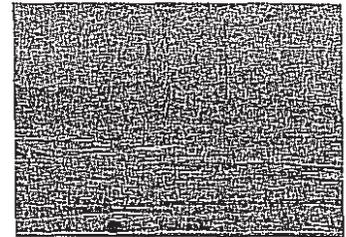
It's too early to say how well the Plan will be implemented. Phase II of the Plan calls for a state-enabled (but not yet operational) Shoreline Development Commission "to continue leading the planning process through implementation and establish a consistent 'Waterfront District' for the entire Indiana lakeshore." Till this happens, NIRPC will take the lead.

I asked Swanson how the Plan and the many projects called for were to be financed. Preparation of the Plan itself was largely funded through NOAA's Coastal Zone management program, which provided 80 percent of the funding for Phase I of the planning process, and 50 percent for Phase II.

Development of projects identified in the Plan benefit from a unique source of funding:



John Swanson with Mayor Olga Velazquez on the riverwalk at Lakefront Park, in Portage, Indiana.



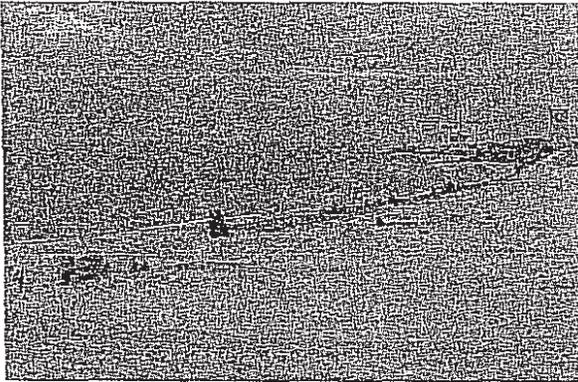
View from Dunbar Beach within the Indiana Dunes National Lakeshore in the town of Beverly Shores; below that: inland marshes nearby.

revenues from the Indiana Toll Road. About \$10 million a year of toll revenues for the next ten years will go to the Northwest Indiana Regional Development Authority (a partner in developing the Marquette Plan), and will help fund the Plan's priority projects.

To NIRPC and others, thinking green is the way to rebuild the region's economy. Citizens, planners, and local officials in Indiana and elsewhere are increasingly recognizing that what's good for the environment most often corresponds to what's good for the economy.

Related Links:

- Indiana Dunes National Lakeshore: www.nps.gov/indu/
- NIRPC: www.nirpc.org/
- Contact John Swanson at: jswanson@nirpc.org ♦



The U.S. Steel plant is visible across the channel from Lakefront Park.

Planning for Public Transportation in Rural Communities

by Hannah Twaddell

According to the Community Transportation Association, "More than one-third of America's population lives outside of urbanized areas. Nearly 40 percent of the country's transit dependent population – primarily senior citizens, persons with disabilities and low-income individuals – resides in rural areas. Yet in many of these communities, public and community transportation are limited or absent."¹

Taking the First Step: Gauging Potential Transit Markets

Chances are that your community already has some type of transit service in place, whether it's a federally-funded public transit system, a church-sponsored volunteer driver program, shuttle buses run by retirement communities, or vans operated by human service agencies. These services may be working pretty well as is, but your community can probably get more mileage out of them by figuring out ways to coordinate routes and leverage resources.

Below are a few questions and ideas you could explore just to begin conversations about your community's potential markets for new or expanded transit services. This isn't a full-fledged needs assessment by any means, but it might help you form a base of information and find some champions who can launch a real planning process with assistance from the U.S. DOT Rural Transit Technical Assistance Program (RTAP).²

1 CTAA home page, August 2009; www.ctaa.org.

2 Along with partner organizations such as the CTAA, the RTAP (www.nationalrtap.org) provides fact sheets, resource guides, and on-site technical assistance to help rural communities assess opportunities, identify appropriate services, and assemble the resources to implement and maintain their programs.

3 "Moving Rural Residents to Work: Lessons Learned from Implementation of Eight Job Access and Reverse Commute Projects," Eileen S. Stommes, Dennis M. Brown, and Capree M. Houston, Economic Research Service, U.S. Dept. of Agriculture, December 2002.

1. Is a growing percentage of your population disabled and/or moving into its golden years?

One in five rural Americans is disabled, and 14 percent of the country's rural population is elderly. Rural older adults (and their families) worry about how they will manage if they become unable to drive. Few families have the time or money required to chauffeur their aging parents and relatives to all the places they need or want to go. Moreover, without other transportation options, older adults can deteriorate quickly due to isolation, depression, and



health problems that are exacerbated by difficulty getting to places like grocery stores and medical appointments.

2. What is the transportation status of your community's low-income households and those who are unemployed?

Many low-income people in rural areas have trouble getting or holding onto jobs because they don't have adequate, reliable transportation to get to work. Nearly 57 percent of the rural poor do not own a car. This equates to about one in every 14 households in rural America.³

You can't phone in for jobs like bagging groceries, cleaning hotels, and waiting tables. If your car breaks down or your ride fails to show up on a regular basis, your employer will have to look for someone to take your place (the resulting employee turnover is hard on businesses, too). What's more, as fuel prices

rise, those who can drive need to spend a far greater percentage of their small paycheck on gas than people who live closer to work and/or have higher-paying jobs.

3. Where do potential transit riders live in relation to jobs, shopping, health care, and other important destinations?

Try overlaying some key destinations on your map, such as major employers, colleges, hospitals, and shopping centers. You can enrich the information with Census data about your county's commuting patterns.

Once you've assembled your maps, look for "pockets" of these demographic groups and/or activity centers that might serve as focal points for shared transit services. Or the pattern may be quite dispersed, in which case door-to-door "demand response" services may be more feasible for older adults and people with disabilities, along with "transportation demand management" (TDM) commuter strategies such as park and ride lots for carpoolers.

MOVING FORWARD: SOME KEYS TO SUCCESS

1. Share Resources

Successful transportation initiatives in rural areas require coordination among a variety of partners, from government agencies at local, regional, state, and federal levels to nonprofit organizations, private businesses, and residents. In addition to learning how services are planned and funded, advocates must figure out each organization's mission and how it can be advanced by investing in transit. In other words, what's in it for them? But the most important element of a rural transit program is a team of enthusiastic, dedicated, and savvy advocates.

"There are varied approaches to pooling resources and using economies of scale to everyone's advantage:

- it may be as simple as sharing information on transportation.
- it may be joint training or maintenance efforts.
- it could be creating a centralized dispatching operation.
- it might be the selection of a lead agency to oversee the transportation efforts of several agencies.
- it could be creating a brokerage to broker transportation services among separate providers.
- it might mean creating an independent agency to provide all transportation for a community."⁴

2. Coordinate Services

Rural human service agencies have the challenge of serving a widely dispersed group of people who often have difficulty reaching a central location for the help they need. Many agencies can arrange transportation for their target population, but funding restrictions may prevent them from transporting others. So, the social service agency can transport a low-income rural child to its Head Start program at the community center, but cannot also take his mother to work across the street, nor his grandmother to the doctor's office next door. Agencies and clients find this type of situation frustrating, confusing, and inefficient.

Some 3,700 urban and rural transit services for older adults and people with disabilities are funded by the Section 5310 program of the Federal Transit Administration (FTA), which is working to improve coordination with other federal agencies that support transit for target populations.

Check with your state transit agency or the Community Transportation Association to see if your county's federally-mandated "coordinated human services

plan" is underway, or already done. You can help move it forward by encouraging dialogue among staff from local and regional human services and transportation agencies.

"In some non-urban communities, school districts are transporting students – particularly in high school – via public transit. In other areas, the general public is being transported on school buses when the buses are not in use for student transportation. And, in a few communities, students and the general public are riding on school buses at the same time."⁵

3. Tout Transit's Economic Benefits

In an article published by the Rural Assistance Center, "Transportation Needs in Rural Communities" (March 2004), Pamela Feldman noted that, "improving access to public transportation in rural areas can stimulate economic development, thereby increasing employment opportunities. It can attract jobs and businesses to the community and provide better access to business and other community facilities."

A comprehensive Transportation Research Board study of America's 1,200 rural public transportation systems found that they netted their counties more than \$1 million in annual earnings, eleven percent more than earnings in rural counties without public transit.⁶ For every additional dollar spent on transit (typically by a transit agency), rural areas derived, on average, about \$3.10 in benefits. The highest cost-benefit ratios were achieved by expanding access to jobs, fostering independent living, and providing transportation to critical health services.

Given the costs of high employee turnover, the businesses in your region may well be interested in helping to create or expand carpools, vanpools, shuttles, or other alternatives to private automobile travel for their employees, students, or customers.

Transit agencies that have successfully implemented services to support economic development, such as FTA's Job Access and Reverse Commute program,

emphasize the importance of involving employers at every stage of the planning and implementation process. Your state DOT or regional planning council may also have a TDM program that can help you organize these discussions and put together strategies.

SUMMING UP

Despite efforts by local, state, and federal agencies to expand resources and cut down on red tape, developing a rural transit system is still a major undertaking. But transit services are not only vital for older adults, people with disabilities, and low-income families, they can also strengthen the local economy. It's worth investing some creative energy and resources to help rural people get where they need to go. ♦

Hannah Twaddell is a Principal Planner in the Charlottesville, Virginia, office of Renaissance Planning Group. Her articles on transportation planning topics appear regularly in the *Planning Commissioners Journal*.



What's Rural?

Obviously, there are a wide range of rural communities, and transportation issues will vary depending on geographic, demographic, and income differences among communities. My aim in this short article is to provide you with a general overview of rural transportation planning-related issues.

In terms of federal transit grant programs, rural areas are defined in the negative: that is, they are all areas that are not "urbanized." An urbanized area (often referred to as an UZA) in turn, is a geographic area (designated by the Census Bureau) consisting of a central core and adjacent densely settled territory that together contain at least 50,000 people, generally with an overall population density of at least 1,000 people per square mile. According to the 2000 U.S. census, there are some 465 urbanized areas.

4 "Getting Started – Creating A Vision & Strategy For Community Transit," FTA Rural Transit Assistance Program, Technical Assistance Brief No. 21, Spring 2009; www.nationalrtap.org.

5 TCRP Report 56, *Integrating School Bus and Public Transportation Services in Non-Urban Communities*. Multisystems, Inc., et al., Transportation Research Board, 1999; www.trb.org.

6 TCRP Report 34, *Assessment of the Economic Impacts of Rural Public Transportation*, Jon E. Burkhardt, James L. Hedrick, Adam T. Magavock, Transportation Research Board, 1998; www.trb.org.

Considering the Regional Implications of Your Actions

by C. Gregory Dale, FAICP

We're all familiar with concerns about conflicts of interest and ex-parte contacts in local planning decision-making.

But do ethical considerations also come into play in other aspects of decision-making? Some years ago, I discussed whether planners and planning commissioners have an ethical obligation to consider the impacts their actions may have on the provision of affordable housing within their community. *Choice & Opportunity*. In this column, I want to discuss a related question: whether there's an ethical obligation to take into account the regional impacts of local actions.

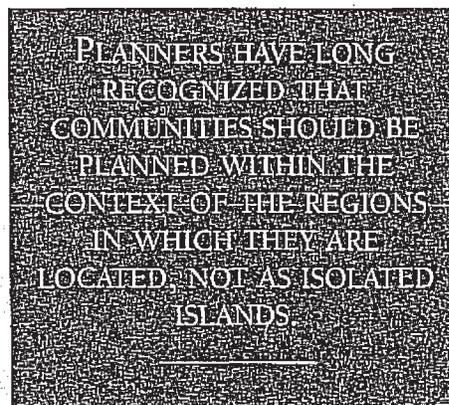
Suppose your community is updating its comprehensive plan. Your planning commission is being diligent in considering a wide range of issues and elements, including land use, housing, natural resources, transportation, and others.

As part of the planning process, you expected to hear from a diverse group of local citizens, but you are surprised to hear from individuals and organizations from *outside* your community. These include environmental groups urging you to consider certain water management policies, transportation groups urging you to plan for regional transit, and regional housing advocates urging more affordable housing.

How do you weigh these demands relative to local planning issues? More to the point, what are the ethical considerations, if any, of whether your plans are consistent with regional goals?¹

Planners have long recognized that communities should be planned within the context of the regions in which they are located, not as isolated islands. This is an easy concept in theory, but what does it mean for planning commissions? This column explores the ethical dimensions involved in considering the impacts of your decisions as planning

commissioners on adjacent communities or the larger region. For guidance, we'll be turning to the American Planning Association's "Ethical Principles in Planning." It is intended to provide guidelines for ethical conduct by both professional and citizen planners.



When you were appointed to your planning commission, you were charged with a leadership role for your community and given certain decision-making responsibilities related to planning and (often) the review of development proposals. Most of these responsibilities relate to what happens within the boundaries of your community. Yet, your community exists within a larger regional context, usually with other communities either adjacent or nearby. Clearly, many decisions that you make have implications for that larger region and nearby communities.

There are several dimensions of this regional context consideration.

First, your community is part of numerous *systems* that extend well beyond its boundaries:

- Perhaps the most obvious of these are the *natural environmental systems*. Natural resources know no jurisdictional boundaries. Water networks and

systems, wildlife corridors, biological networks, and air transcend all manmade boundaries or jurisdictions. Your decisions about stormwater runoff and encroachment of development into sensitive stream corridors, among other issues, have an impact on those systems that extend far outside of your borders.

- *Transportation* is another classic example of a system that transcends local boundaries. Your decisions about individual developments or transportation improvements may have a significant effect outside your community.

- Similarly, many planners argue that *affordable housing* is a regional issue, and that individual communities should consider their housing markets and policies within the context of the regional housing market.

Second, your community makes decisions about individual developments that may have a direct and tangible *land use impact* on adjacent or nearby communities. This is particularly true for those that are either of such a size and magnitude that they impact areas outside the community, or that are proposed to be located at or near your border. For example, a large retail facility is likely to generate traffic and other impacts on adjacent communities, particularly if it is located near your jurisdiction's borders.

What then are the ethical considerations, if any, associated with these types of issues?

For better or worse, there is little in the APA's "Ethical Principles in Planning" that *directly* addresses regional or extra-territorial impact considerations. So, are you out of the woods? Not so fast. The guidelines do provide some *indirect*

¹ For purposes of this article I'm focusing only on ethical considerations, not on whether state law may require a community to take into account regional impacts or impacts on neighboring localities.

guidance, and like many ethical considerations, a good bit of balancing and common sense comes into play. So, let us drill down deeper.

First, the guidelines provide that the planning process must "serve the public interest" – admittedly, a very broad and vague guideline. The obvious question then is how does one define the public interest? Is it the interest of just your community, or does it also include the interest of the broader region?

The APA's guidelines go on to set out some more specific considerations involved in serving the public interest. Two of these are of particular interest. One provides for the need to protect the "integrity of the natural environment." No one can reasonably argue that the environment can be adequately protected without consideration of systems that go beyond jurisdictional boundaries.

Another guideline encourages special attention to the "inter-relatedness of decisions and the long-range consequences of present actions."

These statements imply the need to think about broader systems and the way in which your decisions are related to other communities and the region.

The APA ethical guidelines also note that its principles derive in part from "the general values of society." Being a good neighbor is certainly a general value of society and could easily be applied to the community and regional planning context. The guidelines further note that these ethical judgments require a "conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles."

Virtually all professional planners would agree that communities should consider both regional impacts and the impacts decisions may have on adjacent communities. We understand that it is hard enough to worry about keeping our own house in order, let alone think about the wider impacts of our decisions. However, planning commissions are uniquely positioned to provide leadership and advice to elected officials that goes beyond the parochial interest of a particular community and consider the impacts of our decisions outside our communities.

It is your job as a planning commissioner to balance your local concerns with regional concerns in a conscientious manner. Not only will you be more closely adhering to ethical principles, but you'll be engaging in good planning practice. ♦

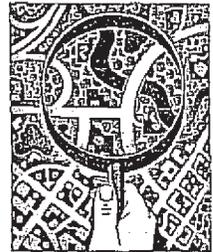
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C. Gregory Dale, FAICP, is a Principal with the planning and zoning firm of McBride Dale Clarion in Cincinnati, Ohio. Dale manages planning projects and conducts training for planning officials.



Taking a Closer Look: Ethics

Short articles focusing on key ethical situations planning commissioners, zoning board members, and others involved with land use development often encounter.



• **Setting the Stage.** Commissioners play an important role as decision-makers, weighing the often conflicting interests of those who appear before the commission.

• **Personal Responsibility.** Commissioners must always strive to maintain the highest personal standards of conduct.

• **The Community.** Planning commissioners have an obligation to consider the implications of their decisions on the broader community.

• **Public Perception.** Citizens must have every confidence that the commission has acted fairly and without improper influence.

Written in jargon-free language for citizen planners, this collection of articles from the *Planning Commissioners Journal* will be useful to both new and experienced members of planning commissions and zoning boards.

Attractively bound, and delivered by first-class mail, you'll receive this 42 page booklet within a few days.

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Choice & Opportunity

Suppose you are on a planning commission that is considering a draft revision to your zoning code. During the course of public hearings on the proposed code, representatives of a low income housing advocacy group appear and argue that the proposed zoning does not allow for the development of affordable housing, and is therefore preventing low income residents who may want to live in your community from being able to do so. On the other hand, you know there is a great deal of sentiment within your community opposed to the development of low income housing.

How do you balance these interests? Are there any ethical considerations involved?

The APA's "Statement of Ethical Principles for Planning" addresses this issue directly. Planning officials ought to

strive to expand choice and opportunity for all persons.

As a planning commissioner, you have an ethical responsibility to consider the impact of your community's regulations and planning practices on housing opportunities for all persons. Even the most well-intentioned regulations designed to protect the environment and character of your community can result in added costs that create barriers to affordable housing.

Providing for affordable housing is generally not a popular position. Keep in mind, however, that you were not appointed simply to carry out popular sentiment. Taking steps to ensure an adequate supply of affordable housing is one of those difficult ethical obligations that each planning commissioner ought to shoulder.

Excerpted from Greg Dale's "Choice & Opportunity," in PCJ #31 (1992).

Planning Perspectives

City similarities run wide and deep. So when faced with problems, citizen planners don't have to look far for guidance. Practitioners and experts regularly discuss city problems and solutions on Planetizen, the web's leading urban planning news website. The three pieces below are excerpts from recent Planetizen op-eds and blog posts that offer new ideas and ways of thinking about common planning problems.

SMALL TOWN SUSTAINABILITY: PROSPECTS FOR COLLABORATION IN A GLOBAL AGE

by Heike Mayer and Paul L. Knox

New York City may still compete fiercely with Tokyo and vie for corporate investment and a better spot in global city rankings, but small towns across the world recognize that such competition does not help them – and indeed hinders their progress towards achieving a more sustainable future.

While large cities are still engaged in zero-sum competitions, small towns have recognized the limitations of such an approach especially when it comes to solving complex, multi-scalar public issues such as global warming, climate change, economic recessions, social inequities, and the recent global financial “meltdown.” Small towns are instead spearheading efforts to improve their quality of life and sustainability by forming collaborative, transnational networks that facilitate information exchange and help disseminate best practices.

There is, for example, the town of Littleton in Colorado, where locals devised a new approach to economic development. They call it “economic gardening,” and their efforts focus on growing the economy from the “inside-out” through the support of entrepreneurs and small businesses. Littleton's policymakers do not spend a dime on tax breaks and other types of zero-sum competitive strategies. So far the approach has worked: Littleton doubled the number of jobs since the beginning of the program.

Economic gardening approaches are proliferating across the United States and the movement is growing.



Economic gardeners across the country regularly meet at annual conferences and engage in lively debates in online forums.

Other examples include the more than 80 small towns across the world that are certified as so-called “Slow Cities.” The movement refers to itself as “Cittaslow” and is a spinoff of the Slow Food movement, which was formed in Italy in 1989 in response to the expan-

sion of fast food. Slow Cities pledge to improve quality of life and sustainability by adhering to a charter with a 54-point criteria list. They also submit to ongoing certifications thereby ensuring that they meet the demands of the movement and do not rest on their laurels.

Small town networks are also forming in areas that struggle with processes of economic and political transformation. Small towns account for a significant fraction of the total population in many regions of Europe, North America, Australia, New Zealand, and Japan. In the United States, more than 97 percent of cities have less than 50,000 residents.

These movements illustrate how small towns can collaborate to achieve a better future. Small towns typically neither have the resources nor the capacity to engage in large scale projects. But they do have unique opportunities, assets, and strengths that they can lever-

age, especially if they engage citizens and develop grassroots efforts that involve neighboring jurisdictions. The various movements, including Slow Cities, Beacon-Towns, Transition Towns, Creative Cities, etc., show us that there is much more value in collaboration than in competition.

Heike Mayer and Paul L. Knox are professors in the Urban Affairs and Planning program at Virginia

Tech. Their latest book, *Small Town Sustainability: Economic, Social, and Environmental Innovation, examines how small towns can meet the challenge of a fast-paced, globalized world.*

THE WORK OF NEIGHBORHOOD STABILIZATION

by Charles Buki

While the U.S. economy continually adjusts to a housing market yet to hit a firm bottom, billions of dollars are set to flow into communities across the country in an effort to stabilize neighborhoods imperiled by predatory lending, ill-informed borrowing, and subsequent foreclosure.

Resources heading into communities – federal dollars funneled through states in most cases – will flow under the guise of neighborhood stabilization. But based on the history of local use of federal dollars for housing and community development, there are reasons to pause and think carefully about just how this money will be spent, by whom, towards what ostensible aims, and with what potential set of results. Indeed several questions surface and ought to get a fair hearing before final deployment decisions are made.

The unavoidable question is this: if we can't address every property in trouble on every imperiled street in every at-risk neighborhood, then which ones should we address and where?

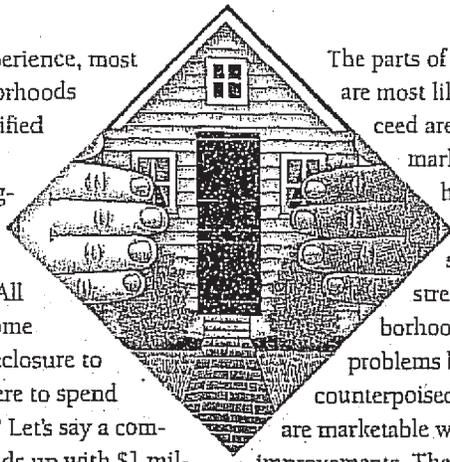
Based on past behaviors over 25 years of community development history, the prototype response to such a challenge will have two likely tendencies. One will be to put deep resources into those communities hurting the most. Another will be to put a little bit everywhere.

In my experience, most city neighborhoods can be classified into market "types" ranging from healthy to distressed. All will have some level of foreclosure to tackle. Where to spend the money? Let's say a community winds up with \$1 million. Should it spend \$1 million to fix ten problems in a pretty healthy neighborhood, or \$1 million fixing five problems in a greatly distressed area?

The past tendency in our field was to deploy the \$1 million across the city thinly, or to concentrate resources where there is greatest need at the bottom. The first approach is decried as politically driven, scatter shot, and very low impact. The second approach designates qualified neighborhoods and has given us public housing towers and tax credit investments skewed to the most at-risk households in neighborhoods where market conditions will hardly ever improve as the result of more subsidies.

How does this happen? For starters the right question isn't commonly enough asked at the local or state level. Housing and neighborhood policy tends to get crafted by asking where is the area of greatest need. Political decisions tend to get made by asking where is the area of greatest support by the community and by officials. Resources usually follow questions, but are the right questions being asked?

The question at the center of the challenge of neighborhood stabilization – now amidst the current fiasco or at any other time – is not where is the area of greatest need, but which area has the greatest chance for success?



The parts of a city that are most likely to succeed are the middle market neighborhoods still showing signs of strength, neighborhoods with problems but with counterpoised assets that are marketable with minor improvements. These are the neighborhoods where pocket blight can be wrestled to the ground before it takes root. These are the neighborhoods where social norms provide running room for improvement.

In my experience, because the residents of these neighborhoods are lower middle income and the working poor, and because these neighborhoods are not yet completely distressed, they are apt to be passed over or receive glancing attention. The argument will be that there are other neighborhoods of greater need, in greater distress. This will be true. But the recovery costs will almost always exceed the resources available and while these neighborhoods are trying to recover, truly savable neighboring submarkets will have turned, and failed.

Charles Buki is principal of czb, a Virginia-based neighborhood planning firm specializing in deep dive analysis, strategy development, and implementation of revitalization plans.

LOW IMPACT DEVELOPMENT

by Eric Damian Kelly

A grad student in our program at Ball State told me several months ago that he wanted to do his creative project (a thesis alternative) on "low impact development." His particular interest was in what we called "natural drainage systems" back when I was working on similar

projects 30 years ago. I told him that it was a great topic and suggested some resources. I also told the student that the big issue with such systems is maintenance.

My comment did not dampen the student's enthusiasm and he has worked diligently on the project. We have talked about his research and findings. We met recently and I asked him how it was going. He said, "the big issue is maintenance, and nobody seems to have good answers to it."

I took no pleasure in being right about his major obstacle and about a probable major conclusion of his paper. The first time a city engineer or public works director told me that "maintenance is a problem" with such systems, I assumed that this was in the same league with "fire trucks need 100-foot radii on cul-de-sacs" and that there were a range of solutions. As I have worked with local governments in writing development codes over the last 20 years, however, I have recognized the depth and complexity of the problem, particularly in residential areas.

Local governments are typically not enthusiastic about accepting dedication of such facilities, in part because they are not staffed to maintain them. Concrete, underground stormwater pipes need little routine maintenance. The streets and gutters used as the collection system primarily need sweeping, a job that most cities accomplish easily and regularly with big equipment.

On the other hand, swales and ponds need occasional patrols to pick up trash and debris, periodic mowing (particularly in wet climates), and regular monitoring and occasional maintenance on filters, controlled outflow points and other

critical elements. None of it is high-tech and none of it is particularly expensive – and none of it fits the job description of anyone in the typical public works or streets department. Sure, parks departments mow lots of things – but they mostly do it with large tractors that mow six or eight feet at a swatch, equipment that is ill-suited to narrow, gradually sloped swales.

So what is my message today? As planners, we need to think through all of the implications of our proposals. Most of us are not engineers and cannot fully design engineered solutions to complex infrastructure problems – but as we propose new planning concepts, we should at least be thinking about how they might work, or not, in a real community, over time, in good budget times and bad.

Eric Damian Kelly is a professor of urban planning at Ball State University and a vice president of Duncan Associates. Kelly is also author of the article, "Zoning for Religious Institutions," on page 4 of this issue. ♦



Illustrations on pages 18 and 19 by Paul Hoffman; copyright Planning Commissioners Journal

Where's Art in Planning?

by Ric Stephens

"Art is the Queen of all sciences communicating knowledge to all the generations of the world."

— Leonardo da Vinci

We are immersed in the "art" of our times – the fine art, music, literature, commercial design, symbolism, and patterns of human activity that define our communities. Art, in all its various forms, helps give our lives meaning and enjoyment.

Yet you will rarely find art referenced in a development code or zoning ordinance, and very few comprehensive plans will even mention it. In the rare occasions where public art is included in planning, it is often more of an afterthought.

Why Has Planning So Often Ignored Art?

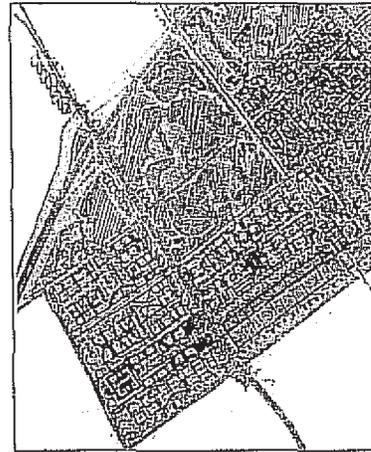
I believe planners have ignored art for three principal reasons:

1. *Consideration of art does not match our traditional approach to planning.* Our basic tool is a map or site plan – an orthographic perspective of a place that is never experienced by anyone. Music, sounds, scents, movement, and other personal experiences cannot be depicted. We regulate noise, glare, and so on, but do not consider a broader spectrum of environmental experience that would include art.

Technical planning is often a collaboration of planners, urban designers, architects, engineers, and landscape architects, but seldom if ever includes artists. That need not be the case. I recently participated in a project in Rijswijk, Holland, where we used a Mondriaan painting as the inspiration for a community plan. Master planning for the City of Poznan in Poland highlighted the analogy to music to inspire its citizens in planning for their city. The cover of the plan document is not a traditional city view, but a sheet of music! Regional planning



The patterns in Dutch artist Piet Mondriaan's paintings (such as *Broadway Boogie Woogie*, above left) provided insights for planners in developing a concept plan (above right) for a network of streets and canals for the City of Rijswijk. For more: www.isocarp.org/index.php?id=154.



for Tokyo included a series of haiku that were presented in meetings to engage the public.

2. *Planners have often ignored art because it cannot be easily quantified.* We can describe a building envelope or floor to area ratio, but how would we require and evaluate a cultural element? Is one performance stage equal to two fountains or three mosaics? Who is to say what kind of art is esthetic or appropriate? For these reasons, planning commissions are often uncomfortable when the hearing ventures into discussion of public art.

Yet despite the complexity of assessing the quality of public art, it can be measured in terms of increased property values, public participation, employee/visitor satisfaction, and many other indices.

3. *Planners exclude art because it implies emotion and subjectivity.* We believe planning must be rational and objective. We can describe a parking requirement as a function of commercial square footage, but we are uncomfortable, if not incapable of, describing how a place can contribute to our cultural experience.

As a relatively new field, planning

wishes to be recognized as a legitimate profession adhering to scientific principles. Instead of Part A connects to Part B, we have Zone R-1 is compatible to R-2. This model may build a functional machine, but will it yield a vital community?

Planning Should Embrace Art

Art is largely absent in planning. This need not be the case. Planning should broaden its scope to embrace art.

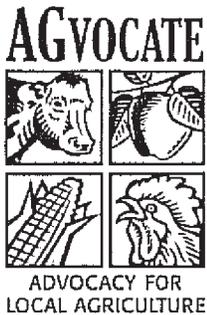
This can be as simple as asking for any given project: "Where is the art?" Is the lighting purely functional, or could it be dramatic? Does the signage provide basic way-finding, or could it help with the community's visual identity? Does the street merely meet the development code, or could an innovative paver treatment enhance the sense of place?

I am not advocating a nostalgic return to the era of the City Beautiful Movement, but the pendulum has swung far from this attempt to reshape and revitalize communities through infusing the built environment with art. Planning commissioners may have a new and more valuable view of planning if they view it as not only a technical exercise, but as community design art. ♦

Ric Stephens is Principal for Stephens Planning and Design in Beaverton, Oregon. His column appears regularly in the *Planning Commissioners Journal*.



Editor's Note: Do you know of other examples of art being used in planning? Visit our Resource page at: www.plannersweb.com/art.html and add your feedback.



Promoting Agricultural Viability Free Workshop

Monday, November 30, 2009 7 to 9 pm

Canterbury Town Hall

Is Your Town Farm Friendly? Are you an agricultural producer, agricultural based business, a municipal decision maker, or do you just have an interest in keeping Connecticut's working lands viable?

Join us on November 30 for a FREE workshop, sponsored by the AGvocate program, to learn about the tools your town can implement to promote farm viability. Learn about the experiences of other Connecticut towns as they:

- Implement Right-to-Farm Ordinances
- Establish Agriculture Commissions
- Update town regulations to be more farm-friendly
- Develop educational and outreach programs about Agriculture

Share Ideas, Gather Resources

Monday, November 30, 2009

Town of Canterbury Community Center

1 Municipal Drive

Canterbury, CT

Free Registration begins at 6:30 p.m.

Workshop will run from 7 to 9 p.m.

Directions: The Canterbury Community Center at the Canterbury Town Hall, 1 Municipal Drive off RT 14 (Westminster Road), about 1 1/2 miles west of the RT 169 the intersection. www.canterbury-ct.org

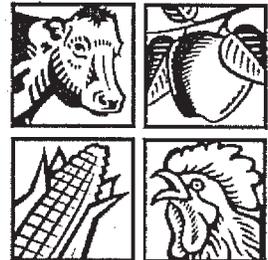
To assure adequate materials, contact Jennifer Kaufman, AGvocate Program Coordinator, 860-450-6007 or AGvocate@yahoo.com to reserve your space.

Promoting Agricultural Viability

Workshop Agenda

- 6:30 p.m. **Registration & Light Refreshments**
*Meet AGvocate pilot town representatives from:
 Ashford, Brooklyn, Canterbury, Franklin, Sterling, Thompson*
- 7:00 p.m. **AGvocate Pilot Program Overview**
*Jennifer Kaufman, AGvocate Program Coordinator
 - And pilot town representatives*
- 7:20 p.m. **Municipal Tools for Agriculture**
--Ben Bowell, American Farmland Trust
- 8:00 p.m. **Refreshment Break**
- 8:15 p.m. **Experiences & Resources**
--Joan Nichols, Connecticut Farm Bureau
- 8:40 p.m. **Questions & Discussion**
- 9:00 p.m. **Adjourn**

AGVOCATE



ADVOCACY FOR
LOCAL AGRICULTURE

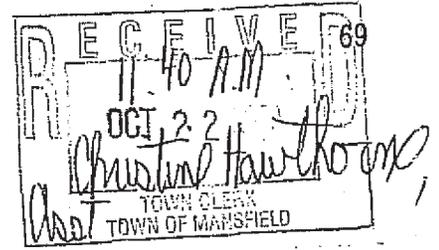
About the AGvocate Program

In 2009, the Town of Thompson was awarded a CT Department of Agriculture "Farm Viability Grant," to establish an AGvocate Pilot Program in six towns.

Jennifer Kaufman, AGvocate, is working with municipal leaders, agricultural producers, and supportive citizens in the towns of Ashford, Brooklyn, Canterbury, Franklin, Sterling, and Thompson to implement tools and create action plans to help promote farm viability in their towns.

AGvocate Steering Committee: Ben Bowell, American Farmland Trust • Lois Bruinooge, The Last Green Valley, Inc. • David Fuss, Town of Brooklyn • John Guskowski, Eastern CT Resource Conservation and Development Area, Inc. • Rick Hermonot, Ekank Hill Turkey Farm • Jennifer Kaufman, AGvocate Program • Kevin Kennedy, Town of Thompson • Joyce Meader, UCann Cooperative Extension • Dawn Pindell, Windham County Farm Service Agency • Norma O'Leary, The Last Green Valley Natural Resources & Agriculture Committee • Elizabeth Rogers, USDA Natural Resources Conservation Service

Notice of Certain
Planning and Zoning Matters
in Neighboring Municipalities



DATE: 10/20/09

TO: Town Clerks of: Andover, Tolland
Boston, Vernon
Columbia, Wallingford
Mansfield, Windham

FROM: Planning and/or Zoning Commission Zoning Board of Appeals
 Inland Wetland Commission

Town of Coventry

Pursuant to P.A. 87-307 which requires zoning, planning, and inland wetland commissions and zoning boards of appeals to notify the clerk of any adjoining municipality of the pendency of an application, petition, request, or plan concerning any project on any site in which:

- 1) Any portion of the property affected by a decision of such board is within five hundred feet of the boundary of the adjoining municipality;
- 2) A significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- 3) A significant portion of the sewer or water drainage from the project on site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or
- 4) Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

Notice is to be made by registered mail and mailed within seven days of the date of receipt of the application, petition, request, or plan.

No hearing may be conducted unless the adjoining municipality has received notice required by P.A. 87-307. A representative may appear and be heard at any such hearing.

This letter is to inform you of the pendency of such a project described as follows:

Description of application and location Delete Sec. 6-07-02-1
for sales of motor vehicles.

Scheduled hearing: Date: Nov. 23rd, 2009
Time: 7:00 pm
Place: Annex Building
1712 Main Street
Coventry, CT 06239

Date: SEPT 23, 2009

Application #: 09-227A

COVENTRY PLANNING AND ZONING COMMISSION

APPLICATION FOR:

PETITION FOR CHANGE OF THE ZONING REGULATIONS

The undersigned hereby petitions that the Zoning Regulations of the Town of Coventry be Changed as Described Below:

- SEC. 6.07.02.i - DELETE PROVISION FOR
SALES OF MOTOR VEHICLES
- SEE ATTACHMENT.

(Please attach additional information if necessary).

A fee of \$150.00 and a State fee of ~~\$10.00~~^{30.00} is herewith included.

AMOUNT RECEIVED: Ø

DATE RECEIVED: 9.23.09

AGENT: _____

APPLICANT: PZC
1712 MAIN ST.

ADDRESS: _____

ADDRESS: COVENTRY, CT 06238

PHONE: _____

PHONE: 742-4062

SIGNATURE: _____

SIGNATURE: 
BILL M. TRON PZC

DATE: _____

DATE: 9.23.09

020

* = SECTION TO AMEND

d. Housing, camps and dormitories for seasonal farm workers, not to exceed the ratio of two workers per cultivated acre. A group of farm owners or an association representing farm owners may seek a special permit jointly to provide housing for farm workers, not to exceed the ratio of two workers per cultivated acre. Special permits for this purpose must be renewed annually.

e. Storage, packaging, processing and bottling of farm products.

f. Retail trade, up to 7,500 square feet of gross building floor area per lot.

g. The raising of animals other than common domestic household pets on a lot less than two (2) acres, but no less than one (1) acre, in size.

Section 6.07 Commercial (C) Zone

Section 6.07.01 Generally Permitted Uses

a. Uses Not Requiring Site Plan Review By the Commission

The following uses are permitted in the Commercial Zone upon the issuance of a zoning permit by the Zoning Agent:

1. Philanthropic, educational, religious, cemetery and eleemosynary uses by non-profit organizations.
2. Finance, insurance, and real estate services.
3. Governmental services.
4. Historic sites and monuments that are open to the public, with or without an entrance fee.
5. Public parks, playgrounds, schools, museums and libraries.
6. Offices.
7. Personal services.
8. Professional services.
9. Studios for the creation, preparation, exhibition, demonstration and/or sale of photography, sculptures, paintings or other artwork, and/or crafts, but without artistic instruction or lectures.
10. Tourist homes and bed-and-breakfast facilities.
11. Agriculture, including a farm, but excluding nurseries, and greenhouses, and further provided (i) that any structures for the enclosure or feeding of poultry or swine are located no less

- f. Mortuaries and funeral homes.
- g. Motor vehicle gasoline and service stations.
- h. Motor vehicle repair and services.
- * i. ~~Motor vehicle and~~ Motor equipment storage and sales operations, excluding the ~~display or sale of heavy machinery, trucks, motor homes, or trailers, or motor vehicles,~~ *
- j. Retail trade, greater than 5,000 square feet of gross building floor area per lot.
- k. Restaurants and cafés.
- l. Catering facilities.
- m. Dance halls.
- n. Movie and performing arts centers and theaters.
- o. Railroad/rapid rail transit lines.
- p. Automobile parking lots.
- q. Motor vehicle transportation terminals.
- r. Power-generating facilities, substations or offices and other public utilities or similar, privately operated facilities.
- s. Nursery schools, and child and adult day care facilities.
- t. Private schools and colleges.
- u. Veterinary hospitals.
- v. Enclosed storage and warehouse facilities, excluding storage of hazardous chemicals, fuels or radioactive materials.
- w. Assembly, processing or machine operations on materials such as wood, metal, glass, fabrics, clay, stone, synthetics, plastics, and electronic components and appliances, including retail sales of products produced at the site and wholesale storage yards for such materials, but excluding motor vehicle wrecking areas and junkyards.
- x. Manufacturing and processing of foods; textiles, knitted goods, apparel and other fabric products; and lumber and wood products, including furniture; and retail sales of products produced at the site.
- y. Car wash facilities.