

MEETING NOTICE AND AGENDA

MANSFIELD PLANNING AND ZONING COMMISSION

Regular Meeting

Monday, October 7, 2013 ▪ 7:05 PM

Or upon completion of Inland Wetland Agency Meeting

Audrey P. Beck Municipal Building ▪ 4 South Eagleville Road ▪ Council Chambers

1. Call to Order
2. Roll Call
3. Approval of Minutes
 - a. September 16, 2013 Regular Meeting
4. Zoning Agent's Report
 - Monthly Activity Update
 - Enforcement Update
 - Other
5. Public Hearings
 - a. 7:05 p.m.
Live Music Special Permit Renewals
Memo from Zoning Agent
 - b. 7:10 p.m.
Modification to Special Permit, Regional School District #19, Athletic Facilities Renovation Project, PZC File #1117-2
Memo from Director of Planning and Development
 - c. 7:30 p.m.
Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA) and Pleasant Valley Commercial/Agriculture Regulations, PZC File #907-40
Memo from Director of Planning and Development
6. Old Business
 - a. Application to Amend the Zoning Regulations; Storrs Center Alliance, LLC, applicant, (File #1246-14)
 - b. Application to Amend the Zoning Map; Storrs Center Alliance, LLC, applicant, (File #1246-15)
 - c. Approval Request: Revised Plans for Paideia Greek Theater Project Exhibit Building, 28 Dog Lane (File #1049-7)
Tabled-awaiting revised plans
 - d. Live Music Special Permit Renewals
 - e. Request for Site Modification, Regional School District #19, Athletic Facilities Renovation Project, PZC File #1117-2

Binu Chandy ▪ JoAnn Goodwin ▪ Roswell Hall III ▪ Katherine Holt ▪ Gregory Lewis ▪ Peter Plante
Barry Pociask ▪ Kenneth Rawn ▪ Bonnie Ryan ▪ Alex Marcellino (A) ▪ Vera Stearns Ward (A) ▪ Susan Westa (A)

f. **Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA) and Pleasant Valley Commercial/Agriculture Regulations, PZC File #907-40**

g. **Other**

7. New Business

a. **Stearns Farm Gravel Removal: Review of Historical Use**

(Staff memo to be distributed on 10/7/13)

b. **Request for Building Modification, Dollar General Store, 591 Middle Turnpike, PZC File #221-4**
Memo from Zoning Agent

c. **8-24 Referral: North Hillside Road Bikeway Easement**

Memo from Director of Planning and Development

d. **Storrs Center Zoning Permit Application: Educational Playcare (VS-11)**

Memo from Director of Planning and Development

e. **Other**

8. Mansfield Tomorrow | Our Plan ▶ Our Future

9. Reports from Officers and Committees

a. **Chairman's Report**

b. **Regional Planning Commission**

c. **Regulatory Review Committee**

d. **Subcommittee on Infrastructure**

e. **Planning and Development Director's Report**

f. **Other**

10. Communications and Bills

a. 9-26-13 Email from L. Dyson Re: Stone Mill Kennel

b. **Other**

11. Adjournment

DRAFT MINUTES
MANSFIELD PLANNING AND ZONING COMMISSION
Regular Meeting
MONDAY, September 16, 2013
Council Chamber, Audrey P. Beck Municipal Building

Members present: J. Goodwin (Chairman), B. Chandy, R. Hall, G. Lewis, P. Plante, K. Rawn, B. Ryan
Members absent: K. Holt, B. Pociask
Alternates present: A. Marcellino, V. Ward, S. Westa
Staff Present: Linda Painter, Director of Planning and Development
Curt Hirsch, Zoning Agent

Chairman Goodwin called the meeting to order at 7:00 p.m. and appointed Ward and Westa to act in the absence of Holt and Pociask. Ryan was appointed as Acting Secretary.

Minutes:

September 3, 2013 Regular Meeting: Ward MOVED, Ryan seconded, to approve the 9/3/13 Meeting Minutes as presented. MOTION PASSED with all in favor except Plante who disqualified himself. Ward noted for the record that she listened to the recording of the entire meeting since she left before adjournment.

Zoning Agent's Report:

Noted

Public Hearings:

a. Storrs Center Alliance Applications:

- **Application to Amend the Zoning Regulations; Storrs Center Alliance, LLC, applicant, (File #1246-14)**
- **Application to Amend the Zoning Map; Storrs Center Alliance, LLC, applicant, (File #1246-15)**

Chairman Goodwin opened the Continued Public Hearing at 7:02 p.m. Members present were Goodwin, Chandy, Hall, Lewis, Plante, Rawn, Ryan and alternates Marcellino, Ward, and Westa; Ward and Westa were seated. Painter noted the following communications received and distributed to all members of the Commission: A 9/16/13 email from Matt Rusconi; a 9/16/13 email from Richard and Kristin Schwab; a 9/16/13 email with attached letter from George Jones; a 9/16/13 email from Jo-Anne Waide-Wunschel; a 9/16/13 email from Barry Schreier; a 9/6/13 email from Manny Haidous;

Attorney Thomas P. Cody, of Robinson & Cole, LLP, represented the applicant, Storrs Center Alliance, LLC. Cody responded to three issues raised at the last public hearing; traffic, water consumption and the market for another hotel. He confirmed that water usage figures provided at the last meeting for three purportedly comparable hotels included on-site laundry facilities, a breakfast bar and a pool, all amenities which are proposed at this site. He contends that 80 gallons per day is approximately half of the water usage "budgeted" per apartment, below the potential usage and 170,000 gallons per day contracted with the University of Connecticut.

Hall asked what percent of the entire project is currently built. Cody said currently 414 of the 590 apartment units are built and occupied and currently the water usage is 13,800 gallons per day.

Geoffrey Fitzgerald, BL Companies, re-stated that the hotel will not generate any more traffic than already reported in the Master Traffic Study and approved by the State. He represents that the evening peak will actually be less with a hotel than apartments.

Attorney Cody opined that the Mansfield zoning regulations do not require the submission of a market study as Attorney Hollister, representing the Nathan Hale Inn, contends.

Howard Kaufman, President of Storrs Alliance, said he has frequently stayed at the Nathan Hale, but he has been turned away on occasion because it is at full occupancy. He also stated that the Nathan Hale has several amenities, such as a catering service, restaurant, banquet and meeting facilities, which the proposed hotel would not. He also reported that presently the Inn is using about thirty rooms for students, a use he believes is incompatible with business travelers. He noted that almost every use in Storrs Center is competing with another local business.

Attorney Cody summarized stating that the hotel use will bring additional vitality to the Storrs Center and will complement the existing and incoming businesses.

Ward questioned if the Marriott can guarantee that it won't use its rooms for student housing.

Chandy questioned Kaufman since the actual water use is so much less than projected, could more apartments potentially be added in the future?

Ward asked if the garage beneath the hotel is not a specific part of the present plan, will it be added in the future if feasible?

Bikhu Gahndi, Best Western, expressed his opposition and feels that it is unfair competition because of grant funding, and feels the applicant has asked to change the zone to suit itself and has concerns that the parking for hotel is offsite.

Attorney Tim Hollister, representing the Nathan Hale, submitted a room occupancy chart and requested a market study.

Noting no further comments or questions, Rawn MOVED, Hall seconded, to close the Public Hearing at 7:42 p.m. MOTION PASSED UNANIMOUSLY.

Old Business:

a. Special Permit Application, Retail and Retail Sale of Automotive Fuels, 1659 Storrs Road/625 Middle Turnpike; OMS Development LLC, Owner and Applicant (File #1319)

Plante disqualified himself. Chairman Goodwin appointed Marcellino to act in his place.

Ryan MOVED, Hall seconded, to approve with conditions the special permit application (File #1319) of OMS Development LLC., to expand an existing convenience store including addition of a pick-up window, changes to the site layout and vehicular access and associated site work including $\pm 1,007$ cubic yards of fill material. This approval is based on the project as described in the application dated May 29, 2013 and subsequent information submitted by the applicant, and as shown on plans dated May 28, 2013 as revised to August 27, 2013 and as presented at a Public Hearing on August 19 and September 3, 2013.

Pursuant to Article X, Section A.11, the design standards contained in Sections A.11.a, A.11.c and A.11.d for the Four Corners area are waived due to existing site conditions which preclude full compliance with the design standards and the finding that the approved plan addresses the intent of these standards to the maximum extent possible.

Pursuant to Article X, Section H.4, the information required by Article X, Section H.3.b and H.3.c is waived as such information was not needed based on the type of fill and re-grading proposed as part of the application.

Pursuant to Article X, Section A.4, the setbacks for the proposed building addition are hereby approved as shown on the site plan.

This approval is granted because the application is considered to be in compliance with Article V, Section B and other provisions of the Mansfield Zoning Regulations, and is granted with the following conditions:

1. **Extent of Approval.** This approval is specifically tied to the applicant's submissions and the conditions cited in this motion. Unless modifications are specifically authorized, the proposed uses and site improvements shall be limited to those authorized by this approval. Any questions regarding authorized uses, required site improvements and conditions cited in this approval shall be reviewed with the Zoning Agent and Director of Planning and Development, and, as deemed necessary, the PZC.
2. **Permits.** No Zoning Permits shall be issued and no construction shall commence until all applicable state and federal permits have been obtained.
3. **Final Plans.** Final plans shall incorporate the following revisions:
 - a. Proposed easement areas shall be identified on the layout plan.
 - b. The pedestrian pathway shall connect to the sidewalk and not the driveway on Route 44.
 - c. The landscape plan shall be updated to add a Thundercloud Plum to the island separating the drive-through lane from the parking area and to the Route 195 streetscape between the Katsura trees provided the locations do not conflict with the septic system.
 - d. A note shall be added to the Site Layout Plan authorizing the Director of Planning and Development and Assistant Town Engineer to require changes to the striping and signage plans if pedestrian and vehicular conflicts arise in the future.
4. **Signs.** Sign details and locations shall be submitted for Commission approval prior to issuance of a Zoning Permit.
5. **Documentation.** The applicant shall provide draft copies of deeds, easements, Certificates of Title and mortgage releases for review and approval from staff prior to recordation.
6. **Validity.** This permit shall not become valid until the applicant obtains the special permit form from the Planning Office and files it on the Land Records.

MOTION PASSED with all in favor except Plante who was disqualified.

- b. **Application to Amend the Zoning Regulations; Storrs Center Alliance, LLC, applicant, (File #1246-14)**
Item tabled, to be discussed at the next meeting.
- c. **Application to Amend the Zoning Map; Storrs Center Alliance, LLC, applicant, (File #1246-15)**
Item tabled, to be discussed at the next meeting.
- d. **Approval Request: Revised Plans for Paideia Greek Theater Project Exhibit Building, 28 Dog Lane (File #1049-7)**
Item tabled-awaiting revised plans.
- e. **Proposed Revisions to the Pleasant Valley Residence/Agriculture (PVRA) and Pleasant Valley Commercial/Agriculture Regulations, PZC File #907-40**
Item tabled pending 10/7/13 Public Hearing.

New Business:

a. Request for Site Modification, Regional School District #19, Athletic Facilities Renovation Project, PZC File #1117-2

Ryan MOVED, Chandy seconded, seconds to receive the request to modify the Special Permit for E.O. Smith High School (File Number 1117-2) submitted by Bruce Silva, Region 19 Superintendent of Schools, to allow the installation of four light poles for athletic field lighting as shown on plans dated March 10, 2011 and July 11, 2013 and as described in other application submissions. The property is located at 1235 Storrs Road and is owned by the Region 19 Board of Education. Said application is referred to staff for review and comments and a Public Hearing is scheduled for October 7, 2013. MOTION PASSED UNANIMOUSLY.

b. Live Music Special Permit Renewals

Ryan MOVED, Hall seconded, the PZC receive the requests for the renewal of special permits for the use of live music, from Huskies Restaurant, Pub 32 and Ted's Restaurant, and schedule a public hearing for October 7, 2013. MOTION PASSED UNANIMOUSLY.

c. 8-24 Referral: North Eagleville Road Walkway Easements

Hall MOVED, Ryan seconded, that the PZC notify the Town Council that the proposed acquisition of easements for construction of a sidewalk along the north side of North Eagleville Road between Hunting Lodge Road and Northwood Road is consistent with the 2006 Plan of Conservation and Development. MOTION PASSED UNANIMOUSLY.

d. Request for Filing Extension, Beacon Hill Estates II, PZC File #1214-3

Ryan MOVED, Ward seconded, that the Planning and Zoning Commission, pursuant to Section 6.5 of the Subdivision Regulations, grant a second ninety-day extension for filing final subdivision plans for the Beacon Hill Estates II, PZC File #1214-3, expiring on January 4, 2014. MOTION PASSED UNANIMOUSLY.

e. Storrs Center Zoning Permit Application: Town Square

Linda Painter, Director of Planning and Development, as a courtesy to the PZC, reviewed the Zoning Permit Application for the Town Square the Downtown Partnership intends to take to Public Hearing and request approval for from the Director of Planning. She noted that pursuant to the Storrs Center Special Design District regulations, the Mansfield Downtown Partnership Inc., will hold a public hearing on Tuesday, September 17, 2013 at 7:00 pm at the Audrey P. Beck Building Town Council Chambers Room, 4 South Eagleville Road, to hear comments on the Zoning Permit application by the Town of Mansfield to develop a ±0.53 acre town square in Storrs Center at the intersection of Storrs Road (Route 195) and Dog Lane.

New Business: None.

Mansfield Tomorrow | Our Plan ▶ Our Future: Ward volunteered to be on a subcommittee to review the revisions to the Zoning Regulations and Chandy, Rawn and Westa volunteered to be on a subcommittee to review the revisions to the Plan of Conservation and Development.

Reports from Officers and Committees: None.

Communications and Bills: None noted.

Adjournment: The Chairman declared the meeting adjourned at 8:20 p.m.

Respectfully submitted,
Bonnie Ryan, Acting Secretary



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: September 30, 2013

MONTHLY PERMIT ACTIVITY for September, 2013

ZONING PERMITS

<u>Name</u>	<u>Address</u>	<u>Purpose</u>
Xtra Mart	2103 Storrs Rd.	LP-tank exchange
Marshall	47 Bundy La.	enclose/enlarge breezeway
Simpson	29 Chaffeeville Rd.	10 x 12 shed
Doran	95 Hanks Hill Rd.	second floor addition
Dorwart	Mulwood West Subdivision	lot-line revisions
Beach	Lot 4 Hanks Hill Rd.	1 fm dw
Chatham Hill LLC	10 Meadowbrook La.	lot-line revision
Russel	17 Hunter's Run	house addition
Biggs	301 Gurleyville Rd.	grnd. Solar array
Mansell	101 Woodland Rd.	12 x 16 shed
Willis	240 Baxter Rd.	12 x 20 shed
Gerent	197 Pleasant Valley Rd.	deck & 3-season room
Berthelette	11 Lodi Dr.	12 x 16 shed
Noone	1428 Stafford Rd.	24 x 24 garage
Leyland Storrs	TS-2	loading lift roof
Ouelette	290 Browns Rd.	ground solar array
Koehler	115 Wormwood Hill Rd.	above pool
Tedford	511 Woodland Rd.	12 x 20 deck
Lair	115 Coventry Rd.	12 x 16 deck

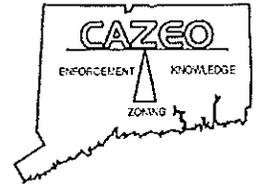
CERTIFICATES OF COMPLIANCE

Lawrence	16 Pinewoods La.	house addition
Guzowski	507 Woodland Rd.	inground pool
Mansell	101 Woodland Rd.	shed
Castiglio	111 Dunham Pond Rd.	garage
Manning	41 Stafford Rd.	deck
Lapointe	63 Wormwood Hill Rd.	deck
Turner	123 Dog La.	deck
Simpson	29 Chaffeeville Rd.	shed
Warren	357 Wormwood Hill Rd.	pavillion

PAGE
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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

To: Planning & Zoning Commission
From: Curt Hirsch, Zoning Agent
Date: September 19, 2013

Re: Live Music Permit Renewals (PZC # 895)

Special permits for the use of live music expire on November 1st of each year. The following three restaurants have active live music permits and have submitted applications indicating a desire to renew their permits.

Huskies Restaurant	28 King Hill Rd.	PZC #780-2
Pub 32	847 Stafford Rd.	PZC #595
Ted's Restaurant	16 King Hill Rd.	PZC #1107

The use of live music is permitted with special permit approval under Article VII of the Zoning Regulations, as accessory to a permitted restaurant use. Any special permit for live music shall expire on November 1st of each year and may be renewed upon application and public hearing. All three of the active live music permit holders have requested a renewal of their permits and paid a renewal fee.

I have reviewed the current special permit approvals granted by the Commission on 11/5/12 for the three restaurants noted above. A copy of each approval is included in your packet for the scheduled 10/7/13 public hearing. My records show that there have not been any complaints filed with me in connection with the use of live music at any of the permit premises. As much as I am aware, each has been operating in compliance with the regulations and any conditions attached to the separate permits. Each permittee received a copy of their 2012 approvals and have indicated that they are not requesting any changes in the conditions imposed with the permits. It is noted with respect to Pub 32, that the nature of the approval conditions is more controlling upon the permittee than the other two uses. While the restaurant use is a permitted use within the sites NB-1 zone, the neighborhood has a significant mix of residential properties and the additional conditions have been imposed to help shield the residences from the commercial use of the property.

I recommend that the Commission approve the special permit renewals for the use of live music for Huskies Restaurant, Pub 32 and Ted's Restaurant, until November 1, 2014. The renewals are conditioned upon compliance with the current conditions for each, which shall be attached to this motion.

PAGE
BREAK

TOWN OF MANSFIELD
PLANNING & ZONING COMMISSION

SPECIAL PERMIT RENEWAL APPLICATION
LIVE MUSIC

The use of live music is permitted with special permit approval as accessory to a permitted restaurant use. Any special permit for live music shall expire on November 1st of each year and may be renewed upon application and public hearing.

Circle one:

I do not wish to renew my Special Permit for Live Music.

Applicant: W.H.B.R. Inc dba Huskies Rest. Phone # 860-429-2330

Mailing address: P.O. Box 417
Storrs Ct 06268

Name of restaurant: Huskies Restaurant + Bar

Address of restaurant: 28 King Hill Rd

Are you requesting any changes in your operation or changes to the conditions of approval upon which you are required to operate? If yes, please explain:

Return this renewal application prior to September 13 2013. A public hearing will be held in October for all those permittees seeking renewal.


Applicants signature

9-2-13
Date

Please return application and \$100.00 permit renewal fee to:

Zoning Agent
4 S. Eagleville Road
Storrs, CT 06268

ck # 7281

TOWN OF MANSFIELD
PLANNING AND ZONING COMMISSION

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILL ROAD
STORRS, CT 06268
(860) 429-3330

Tuesday, November 13, 2012

Huskies Restaurant
Sean Scraba
28 King Hill Road
P.O. Box 417
Storrs, CT 06268

Re: Mansfield's PZC approval for Live Music Special Permit Renewal
PZC File # 780-2

Dear Mr. Scraba,

At a meeting held on 11/5/12, the Mansfield Planning and Zoning Commission adopted the following motion:

"to grant to WHGR, Inc. a special permit for the performance of live music at Huskies Fine Food & Drink Restaurant, 28 King Hill Rd. (file 780-2), pursuant to Article V, Section B and Article VII of the Mansfield Zoning Regulations, and testimony heard at Public Hearing on 11/5/12. This approval is granted with the following conditions; failure to comply with these conditions may result in revocation of the permit:

1. The parking area shall be maintained and litter removed on a weekly basis;
2. No music shall be audible outside the building. All performances shall be held inside;
3. This special permit shall become valid only after the applicant obtains the permit form from the Town Planning Office and files it on the Land Records, and it shall expire on November 1, 2013."

If you have any questions regarding this action, please call the Planning Office at 429-3330.

Very truly yours,


Katherine K. Holt, Secretary
Mansfield Planning & Zoning Commission

TOWN OF MANSFIELD
PLANNING & ZONING COMMISSION

SPECIAL PERMIT RENEWAL APPLICATION
LIVE MUSIC

The use of live music is permitted with special permit approval as accessory to a permitted restaurant use. Any special permit for live music shall expire on November 1st of each year and may be renewed upon application and public hearing.

Circle one:

I do / do not wish to renew my Special Permit for Live Music.

Applicant: Pub 32 LLC Phone # 860 487 9785

Mailing address: 847 Stafford Road Storrs, CT 06268

Name of restaurant: Pub 32

Address of restaurant: 847 Stafford Road Storrs, CT 06268

Are you requesting any changes in your operation or changes to the conditions of approval upon which you are required to operate? If yes, please explain:

No

Return this renewal application prior to September 13 2013. A public hearing will be held in October for all those permittees seeking renewal.

B. B.
Applicants signature

9.13.13
Date

Please return application and \$100.00 permit renewal fee to:

Zoning Agent
4 S. Eagleville Road
Storrs, CT 06268

clk # 979

**TOWN OF MANSFIELD
PLANNING AND ZONING COMMISSION**

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILL ROAD
STORRS, CT 06268
(860) 429-3330

Tuesday, November 13, 2012

Pub 32, LLC
Bryan Burney
847 Stafford Road
Storrs, CT 06268

Re: Mansfield's PZC approval for Live Music Special Permit Renewal
PZC File # 595

Dear Mr. Burney,

At a meeting held on 11/5/12, the Mansfield Planning and Zoning Commission adopted the following motion:

“to grant to Bryan Burney a special permit for the performance of live music at Pub 32, LLC, 847 Stafford Rd. (file 595), as presented at Public Hearing on 11/5/12, pursuant to Article V, Section B and Article VII of the Mansfield Zoning Regulations. Approval is granted with the following conditions; failure to comply with these conditions may result in revocation of the permit:

1. The restaurant owner and permittee shall be responsible for monitoring the emptying of the restaurant and parking lot at closing time to facilitate protection of adjoining properties and to prevent neighborhood nuisances;
2. A restaurant employee shall be utilized on Thursday, Friday and Saturday nights for the aforementioned purpose between the hours of 9:30 p.m. and closing, to monitor the parking lot for noise control and traffic safety;
3. The operators of the business shall be responsible for preventing the entry of additional cars once the lot is full;
 - a. The parking lot shall be plowed to allow full use of the total lot;
4. All noise and live music associated with the restaurant shall be contained within the building;
5. Identification checks shall be accomplished with the doors closed. In order to ensure that noise is contained, window sound baffles or air conditioners shall be employed and maintained and the business shall be operated so that doors, windows and skylights remain closed during times when live music or other loud amplified sound is played;
6. The area shall be kept clean and all litter shall be removed at least on a weekly basis;
7. All fencing, exterior signage, exterior lighting, the driveway between the upper and lower lots and the parking lot surfaces shall be maintained and repaired immediately after any damage occurs;
8. This special permit shall become valid only after the applicant obtains the permit form from the Town Planning Office and files it on the Land Records, and it shall expire on November 1, 2013.”

If you have any questions regarding this action, please call the Planning Office at 429-3330.

Very truly yours,


Katherine K. Holt, Secretary
Mansfield Planning & Zoning Commission

TOWN OF MANSFIELD
PLANNING & ZONING COMMISSION

SPECIAL PERMIT RENEWAL APPLICATION
LIVE MUSIC

The use of live music is permitted with special permit approval as accessory to a permitted restaurant use. Any special permit for live music shall expire on November 1st of each year and may be renewed upon application and public hearing.

Circle one:

I do / do not wish to renew my Special Permit for Live Music.

Applicant: Ryan McDonald Phone # 860-429-7545

Mailing address: PO Box 68, Storrs, CT 06268

Name of restaurant: Ted's Restaurant

Address of restaurant: 16 King Hill Road

Are you requesting any changes in your operation or changes to the conditions of approval upon which you are required to operate? If yes, please explain:

Return this renewal application prior to September 13, 2013. A public hearing will be held in October for all those permittees seeking renewal.

Ryan McDonald
Applicants signature

9/4/13
Date

Please return application and \$100.00 permit renewal fee to:

Zoning Agent
4 S. Eagleville Road
Storrs, CT 06268

Chk # 3352

TOWN OF MANSFIELD
PLANNING AND ZONING COMMISSION

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILL ROAD
STORRS, CT 06268
(860) 429-3330

Tuesday, November 13, 2012

Ted's Restaurant
Ryan McDonald
P.O. Box 68
16 King Hill Road
Storrs, CT 06268

Re: Mansfield's PZC approval for Live Music Special Permit Renewal
PZC File #1107

Dear Mr. McDonald,

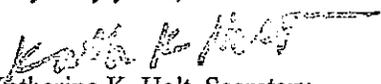
At a meeting held on 11/5/12, the Mansfield Planning and Zoning Commission adopted the following motion:

"to grant to Ryan McDonald renewal of a special permit for the performance of live music at Ted's Restaurant, 16 King Hill Rd. (file 1107), as presented at Public Hearing on 11/5/12, pursuant to Art. V, Sec. B and Art VII of the Mansfield Zoning Regulations. This approval is granted with the following conditions; failure to comply with these conditions may result in revocation of the permit:

1. Live music shall be limited to Sunday through Wednesday, from 9:30 p.m. to 12:30 a.m.;
2. No music shall be audible at the property lines;
3. Seating capacity shall be limited to 50 people, as approved by the Planning & Zoning Commission in the 12/22/88 site plan approval;
4. A full menu shall be offered during hours of operation;
5. This special permit shall become valid only after the applicant obtains the permit form from the Town Planning Office and files it on the Land Records, and it shall expire on November 1, 2013."

If you have any questions regarding this action, please call the Planning Office at 429-3330.

Very truly yours,


Katherine K. Holt, Secretary
Mansfield Planning & Zoning Commission

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: October 1, 2013
Subject: E.O. Smith High School Athletic Field Lighting
1235 Storrs Road
Modification to Special Permit (File 1117-2)

Project Overview

Applicant: Bruce Silva, Region 19 Superintendent
Property Location: 1235 Storrs Road
Zoning: Institutional
Property Size: ±25.54 acres
Project Description: The applicants are requesting a modification to their Special Permit Approval to install 4 80-foot tall poles to light the football field and track.

Background

In July 2010, the Planning and Zoning Commission adopted a resolution approving conceptual plans for athletic facility renovations at E.O. Smith High School, which included installation of light fixture stanchions and conduit around the new athletic field. This resolution was approved in response to an 8-24 referral from the Town Council. In February 2011, a modification to the Special Permit approval was approved by the Zoning Agent and PZC Chair to officially authorize the improvements identified in the 2010 resolution. The modification request notes the installation of the stanchions and conduit for future field lighting.

The Connecticut Legislature recently approved special funding for the installation of the field lighting; as a result, the applicant is requesting approval to install four light poles, two on the east side and two on the west side of the football field and track. The total height of the poles, including the existing stanchions, will be 80 feet. In accordance with Article VIII, Section B.8, the Planning and Zoning Commission is authorized to waive the maximum height requirements (50 feet in the I-Zone) through the Special Permit process. As such, a public hearing has been scheduled to consider this application.

Special Permit Approval Criteria

Article V, Section B(5) of the Mansfield Zoning Regulations requires that the proposed project meet the following criteria in order to be approved:

- *The proposed project will not detrimentally affect the public's health, safety and welfare.*
- *All approval criteria cited in Article V, Section A(5), Site Plan Approval Criteria, of the regulations have been met.*

- *The proposed use is compatible with the Town's Plan of Conservation and Development (POCD).*
- *The location and size of the proposed use and nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the town and other existing uses.*
- *Proper consideration has been given to the aesthetic quality of the proposal, including the architectural design, landscaping and proper use of the site's natural features. The kind, size, location and height of structures, the nature and extent of site work, and the nature and intensity of the use shall not hinder or discourage use of the neighboring properties or diminish the value thereof. All applicable standards contained in Article X, Section R shall be incorporated into the plans.*

As shown in the attached aerial photograph, the proposed light poles will be located over 600 feet from the closest single-family residence, and are separated from the homes on Eastwood Road by a wooded buffer on the high school property as well as the adjacent University property. The applicant has submitted an illumination plan showing the horizontal light spill from the lights. This illumination summary map shows that horizontal light spill drops to 0.1 footcandles approximately 300 feet from the fixtures and to 0 footcandles within 400 feet of the fixtures. The map indicates that there will be no light spill beyond the school property with the exception of the north side, which abuts a University parking lot. A line of mature evergreens provides additional screening that may further reduce light spill. According to the plan submitted, light spill onto the university property would be less than 0.5 footcandle (5.38 lumens; 0.008 watts). As shown on the fixture detail, the luminaires are shielded to direct light downward to reduce upward glare and light spill off of the field.

The applicant has also submitted anticipated usage of the lights for each athletic season, which include games, practices and community use of the fields. Based on the information submitted, use of the lights for practices would cease by 7:30 pm, and 9:00 p.m. for games and use of the fields by recreation and community groups. It appears that the heaviest usage would be in the fall due to the number of teams using the field (football, soccer and field hockey).

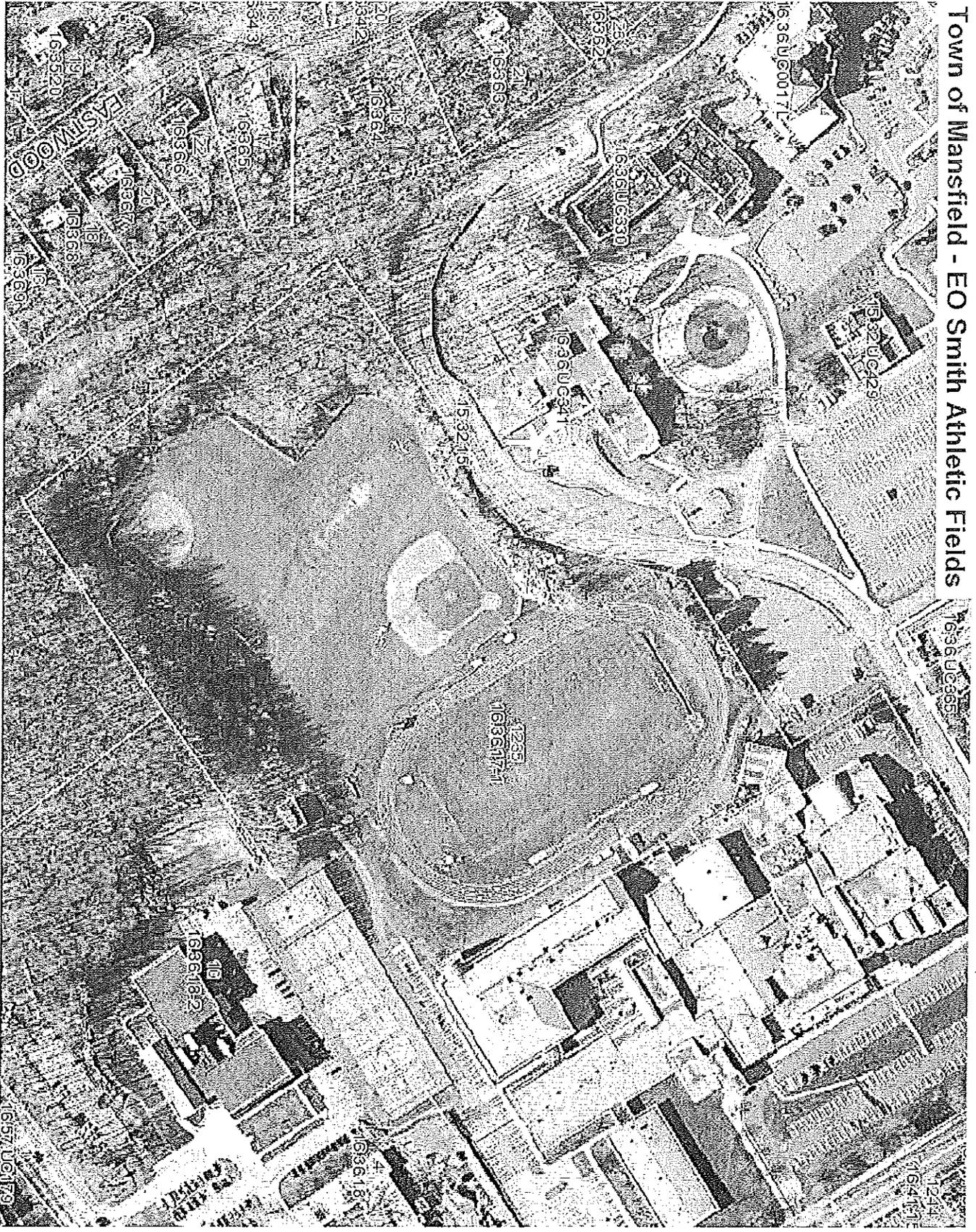
Summary and Recommendations

Based on the above analysis, I find no significant land use issues with the proposed development. Provided there are no issues raised in the public hearing that require additional information, the hearing should not need to be continued.

NOTES

- The analysis and recommendations contained in this report are based on the application submitted August 28, 2013 and received by the PZC on September 16, 2013, including:
 - Description of proposed field lighting (frequency, uses)
 - Athletic Field Site plan/Conduit Plan dated March 10, 2011
 - 3-page plan set from MUSCO lighting
 - 2-page lighting specifications from MUSCO lighting
 - Photos of similar light installations
- The following correspondence regarding the proposed development has been received:
 - Email from Susan Kaeser, 703 Mansfield City Road dated September 11, 2013
- Neighborhood Notification Forms were required to be sent to property owners within 500 feet of the subject property in accordance with Article V, Section B(3)(c) of the Mansfield Zoning Regulations. Copies of the notice and certified mail receipts have been provided to the Planning Office.
- The Public Hearing on this item will be opened on October 7, 2013 and must be closed by November 11, 2013 unless a written extension is granted by the applicants.
- Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and public hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicants grant a written extension.

Town of Mansfield - EO Smith Athletic Fields



- Zoning
- ConservationEasen
- Railroad
- Trails
- Parcels
- Streams
- water
- wetlands



1 in = 209.1 ft

Printed:
10/1/2013



MainStreetGIS, LLC - www.mainstreetgis.com / info@mainstreetgis.com
Disclaimer: This map is for assessment purposes only. It is not valid for use as a survey or for conveyance

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Jessie Shea

From: Susan Kaeser <SKaeser@mortgagemaster.com>
Sent: Wednesday, September 11, 2013 10:08 AM
To: PlanZoneDept
Subject: E.O. Smith High School Permanent Light for Athletic Field

Good Morning:

I am writing to support the addition of new permanent lights to be installed around the "new track and Turf field" at E.O. Smith High School.

The installation of lights would enhance E.O. Smith sporting events and would be great for our community. In addition of being able to offer "night" games and practices for E.O. Smith students, there would be opportunities available for community events as well.

We are very fortunate to have been awarded money from The State of CT to fund this project.

I hope you will support this project and vote "Yes"!

Thank you,

Susan G. Kaeser
Mansfield Resident for 25+ years
703 Mansfield City Road
Storrs, CT 06268

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TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development. *LMP*
Date: October 3, 2013
Subject: October 7, 2013 Public Hearing on PZC-proposed revisions to the PVRA and PVCA Regulations (8/19/2013 draft), File #907-40

General

Please find attached a copy of the legal notice for the October 7th Public Hearing. This notice provides a summary of the proposed revisions to the Zoning Regulations. At Monday's meeting, I intend to make a brief presentation outlining the proposed revisions and rationale for considering the proposed revisions. I also will address any questions from Commission members and the public. After receiving public comments, the PZC will have to determine whether to close or continue the Public Hearing. Once the Hearing is closed, only technical assistance from staff may be received by the Commission. Current state statutes authorize the PZC to modify the proposed revisions prior to adoption, but to minimize any potential procedural issues, an independent Hearing should be considered for any significant alterations.

Pursuant to statutory requirements, the proposed revisions have been referred to the Town Clerks of neighboring Towns and to the WINCOG Regional Planning Commission, and have been filed with the Mansfield Town Clerk. The proposed revisions also have been posted on the Town's web site and mailed to all property owners within the area of proposed rezoning and within 500 feet of the area of proposed rezoning. Notice also has been provided to all individuals who have signed up for the Town's Registry pursuant to state statutes. Referrals have been sent to the Town Attorney, Town Council, Zoning Board of Appeals, Open Space Preservation Committee, Conservation Commission, Agriculture Committee and other staff members. As of October 2, 2013, comments had been received from the Town Attorney, Agriculture Committee and Windham Regional Planning Commission. . All communications received prior to 4:30 p.m. on Monday, October 7th will be copied and distributed to PZC members.

As with any zoning regulation amendment, the PZC must weigh anticipated public and private benefits versus anticipated public and private costs. All zoning districts and municipal land use regulations should be designed to serve a community need while protecting the public's health, safety, convenience and property values. The Commission has the legislative discretion to determine what is best for the Town as a whole, and zoning districts and land use regulations can and should be modified to meet changing circumstances or address a recognized public need. Sections 8-2 and 8-25 of the CT General Statutes and Articles I and XIII of our Zoning Regulations provide information on the legislative basis, procedure and criteria for considering Zoning Map and regulations revisions. Collective reasons for PZC legislative actions should be clearly documented, and Section 8-3.a of the State Statutes requires the Commission to make a public finding regarding the consistency of the proposed revisions with respect to the Municipal Plan of Conservation and Development.

Background and Overview of Proposed Changes

The proposed zoning regulation revisions were drafted as part of settlement discussions with the Hussey family, property owners that had challenged the adoption of the existing PVRA and PVCA zones and regulations in Superior Court. Specifically, the proposed revisions **reduce the amount of prime agricultural acreage to be preserved by 5%**. Existing regulations authorize the Commission to require up to 40% of the prime agricultural acreage be preserved on a property proposed for development (Article X, Sections A.9.b and A.10.f). The proposed revision would change this requirement to require up to 35% of the prime agricultural acreage to be preserved. According to the regulations, “prime agricultural acreage” is defined as “those areas that have been cultivated or otherwise used for agricultural purposes and/or those areas with soils identified as “prime agricultural” by the Natural Resources Conservation Service.

Review Considerations

In reviewing the proposed regulation revisions, a number of factors must be considered. These factors include policies, objectives and recommendations contained in Mansfield’s Plan of Conservation and Development and state and regional land use plans; physical characteristics, including soils, slopes, wetlands and watercourses; the location and capacity of Mansfield’s infrastructure (roads, public sewer and water systems, public transit, etc.), the nature and character of neighboring land uses and legal appropriateness. Article XIII, Section D includes or references additional information regarding approval considerations.

It is important to note that the proposed revisions are adjustments to the existing regulations; they do not involve a substantial change in approach or policy. The proposed revisions relate to only one section of the existing regulations for each zone, the requirement that a certain amount of prime agricultural acreage be preserved. The foundation for the agricultural land preservation requirement is from the 2006 Plan of Conservation and Development (POCD), which tried to balance the natural resource value of the property due to the presence of prime agricultural soils as defined by the Natural Resources Conservation Service and the availability of sewer and water infrastructure. The proposed revisions will still result in a significant portion of the prime agricultural lands being preserved for agricultural use, while taking advantage of infrastructure resources to promote compact development, consistent with the balanced and comprehensive approach documented in Mansfield’s 2006 POCD.

Summary

The proposed regulation revisions present policy issues for the Commission’s legislative discretion. The PZC must determine that the proposed revisions are legally appropriate, promote goals, objectives and recommendations contained in municipal, regional and state land use plans and in general promote the public’s health, safety and welfare. The statutory provisions of Sections 8-2, 8-18 and 8-25 and the regulatory provisions of Article XIII, Section D of Mansfield’s Zoning Regulations provide a legal basis and procedural guidance for making this determination. Pursuant to Section 8-3 (a) of the State Statutes, any approved revisions must include a finding with respect to compatibility with the Mansfield Plan of Conservation and Development. The PZC must consider all communications received during the Public Hearing process, but once the Hearing has been closed, no additional input shall be received except for technical assistance from staff. The PZC has the right to modify the proposed revisions prior to adoption, but any significant alterations should be presented through an additional Public Hearing review process.

Recommendation

Adoption of the proposed revisions is recommended based on their consistency with the statutory provisions of Sections 8-2, 8-18 and 8-25 of Connecticut General Statutes and the following approval considerations required by Article XIII, Section D of the Mansfield Zoning Regulations:

- The proposal is complete and contains all required application information.
- The proposal is consistent with the goals, policies and recommendations contained within the Mansfield Plan of Conservation and Development, specifically policy goals 1 and 2.

This finding must be stated on the record pursuant to Section 8-3a of the Connecticut General Statutes.

- The proposal is consistent with the expression of regulatory intent and purpose contained in the provisions of Article I of these regulations and Section 8-2 of the Connecticut General Statutes, as amended.
- The proposal is appropriately worded and legally sound and comprehensive and consistent with respect to other regulatory provisions, as described in the letter from the Town Attorney dated October 2, 2013.

Notes

- Notice of the proposed revisions was sent to property owners within 500 feet of the subject property in accordance with Article XIII, Section C of the Mansfield Zoning Regulations.
- The Public Hearing on this item will be opened on October 7, 2013 and must be closed by November 11, 2013 unless the Commission authorizes a further extension.
- Before rendering a decision, the Planning and Zoning Commission must consider other referral reports and public hearing testimony. A decision must be made within 65 days of the close of the Public Hearing unless the applicants grant a written extension.

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August 19, 2013 Draft

Proposed Revisions to Mansfield's Zoning Map and Zoning Regulations

(New provisions are underlined or otherwise indicated)

(Deletions are stricken through or otherwise indicated)

Amend the first sentence of Article X, Section A.9.b to read as follows:

Pursuant to the Plan of Conservation and Development recommendations, the Commission shall have the authority to require up to ~~forty (40)~~thirty-five (35) percent of the prime agricultural acreage on a subject property to be permanently preserved for agricultural use.

Amend the first sentence of Article X, Section A.10.f to read as follows:

Pursuant to the Plan of Conservation and Development recommendations, the Commission shall have the authority to require up to ~~forty (40)~~thirty-five (35) percent of the prime agricultural acreage on a subject property to be permanently preserved for agricultural use.

LEGAL NOTICE

Mansfield Planning and Zoning Commission

The Mansfield PZC will hold Public Hearings on Monday, October 7, 2013 in the Council Chambers, A.P. Beck Bldg., 4 S. Eagleville Rd, to hear comments on the following:

7:05 p.m.: The Special Permit Renewal of live music in conjunction with the following restaurants: Huskies, King Hill Rd; Pub 32, Rt. 32; Ted's Restaurant, King Hill Rd.

7:10 p.m.: A Request for Modification to a Special Permit, Regional School District #19, Athletic Facilities Renovation Project, to add field lighting at 1235 Storrs Road.

7:20 p.m.: PZC-proposed 08-19-13 draft revisions to the Mansfield Zoning Regulations.

Revisions to the Zoning Regulations to reduce the percentage of prime agricultural acreage on a subject property to be permanently preserved for agricultural use from forty percent (40%) to thirty-five percent (35%) in the Pleasant Valley Residence/Agriculture (PVRA) and Pleasant Valley Commercial/Agriculture (PVCA) Zones.

At these Hearings, interested persons may be heard and written communications received. No information from the public shall be received after the close of the Public Hearing. Additional information, is available in the Mansfield Planning Office and at www.mansfieldct.org.

J. Goodwin, Chair
K. Holt, Secretary

TO BE PUBLISHED Tuesday, September 24, and Wednesday, October 2, 2013

****PLEASE CHARGE TO THE MANSFIELD PZC/IWA ACCOUNT**

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 2, 2013

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

Dear Commissioners:

As requested by Town of Mansfield Director of Planning and Development Linda Painter, I have completed my review of the **Proposed Amendments to the Pleasant Valley Residence/Agriculture (PVRA) and Pleasant Valley Commercial/Agriculture (PVCA) PZC file #907-40.**

As you know, the usual question for me as town counsel is whether the proposed amendments are legal. It is normally not my role to say whether I agree with the way in which the commission has exercised its broad discretion as to the content of its zoning regulations. It is my responsibility to say whether the proposed amendments are within the purview of the Commission's authority under our constitutions and laws, especially Connecticut General Statutes section 8-2, the statute which expressly authorizes the PZC to adopt regulations controlling the zoning of land to the extent set forth in that law.

You are aware that a zoning commission has broad discretion as to the content of its zoning regulations. Zoning regulations are a valid exercise of the police power as long as they have a rational relation to the public health, safety, welfare and prosperity of the community and are not such an unreasonable exercise of the police power as to become arbitrary, destructive or confiscatory. Thus, the action of a zoning commission in creating or amending regulations must meet two basic tests. It must promote the public welfare and it must do so in a reasonable manner. In other words, the regulations must have a rational basis. See, for example, **Wade v. Town Planning & Zoning Commission of Hamden**, 145 Conn. 592, 594 (1958).

These regulations now provide that the Commission shall have the authority to require up to forty (40) percent of the prime agricultural acreage to be permanently preserved for agricultural use. The actual property to be preserved would be determined at the time of development through the permitting process included in the regulation. The current proposal now before you simply reduces the up to forty (40) percent standard to up to thirty-five (35) per cent.

This, as you know, is not a typical zoning regulation revision. The proposed changes were strongly encouraged by me as town attorney and drafted as the result of long and complex settlement negotiations in two appeals brought by Bruce and Franca Hussey

Planning & Zoning Commission
Town of Mansfield
Audrey P. Beck Building
October 2, 2013
Page 2

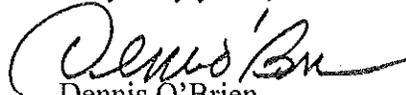
pending in Superior Court. Please refer to Linda Painter's memorandum to you for the salient details of what I consider to be a simple and relatively minor change in a complex and contested set of regulations. This matter began with the development of the original set of regulations seven years ago, and has continued ever since.

With all this in mind, my answer to the usual question asked of me in regulation making situations is that the PZC surely has the legal authority to enact and to implement these particular draft amendments to the Town of Mansfield Zoning Regulations. The changes are of course somewhat more favorable to Mr. and Mrs. Hussey than the current regulations. The Husseys and their attorney are supporting them. If the amendments are enacted, Bruce and Franca Hussey will settle their court appeals and this long legal contest will be successfully concluded.

In conclusion, it is my opinion as your attorney that under these circumstances you, the Planning and Zoning Commission, are legally authorized to enact the proposed changes, and I strongly urge you to do so and to bring to a certain and successful end the long legal contest that has resulted from your development and enactment of this innovative set of local zoning standards.

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

Very truly yours,



Dennis O'Brien
Attorney at Law

cc: Linda Painter
Director of Planning & Development



WINDHAM REGION COUNCIL OF GOVERNMENTS

Chaplin Columbia Coventry Hampton Lebanon Mansfield Scotland Willington Windham

REGIONAL PLANNING COMMISSION

Date: September 4, 2013
Referral #: 13-08-23-MD
Report on: **Zoning**

MANSFIELD
Pleasant Valley Zones
Agricultural Set-Aside

To: Town of Mansfield Planning and Zoning Commission
C/o: Linda Painter, Director of Planning

Commissioners;

This referral involves: A proposal to revise Mansfield's Zoning Map and Zoning Regulations regarding the preservation of agricultural land in the Pleasant Valley Residential/Agriculture and Pleasant Valley Commercial/Agriculture Zones.

Receipt is hereby acknowledged of the above referral. Notice of this proposal was transmitted to the Windham Region Council of Governments under the provisions of Section 8-3(b) of the Connecticut General Statutes, as amended.

Comments for Inclusion in the Public Record: The Regional Planning Commission reviewed the proposed amendments to the zoning regulations. The commission offers recommendations on how proposals can better meet the goals and vision of the Windham Region Land Use Plan, WINCOG's regional guide for conservation and development. The recommendations of the Regional Planning Commission are purely advisory.

- The proposal weakens the existing regulation that was adopted by the Mansfield Planning and Zoning Commission with the intention of preserving a percentage of agriculturally viable land in Pleasant Valley, one of the most agriculturally viable areas in Mansfield. The Regional Planning Commission feels that the current regulations are appropriate.
- The proposal is anticipated to create negative intermunicipal impacts due to increased traffic.

Questions concerning this referral should be directed to Mark Paquette at the Windham Region Council of Governments.

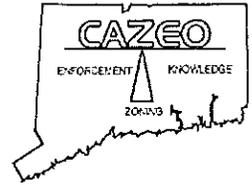
Sincerely,

Ted Melinosky, Vice Chair
WINCOG RPC

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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

TO: Planning & Zoning Commission
From: Curt B. Hirsch, Zoning Agent
Date: October 3, 2013

Re: Site modifications, "Mansfield Shopping Center"
591 Middle Turnpike (Grand Union)

We have received an *Request for Site/Building Modifications* application from Cornerstone Mansfield, LLC, owners of the shopping plaza in the Four Corners area on Middle Turnpike. The former 18,000 sq.ft. Grand Union store, is being divided to accommodate an 8,000 sq. ft. Dollar General retail store. The remaining space will remain vacant until new tenants are identified. Dollar General will be opening a new customer entrance door to the south side of the building, facing the existing parking area. A six-foot wide concrete sidewalk will also be constructed along the south face of the building, extending from the former Grand Union entrance to the proposed Dollar General entrance. Associated work to accommodate the new sidewalk and entrance will include regrading the driveway area along the store frontage and the reorganizing of some parking spaces. The PZC's last substantial review of this site was in 1985, for a proposed 5,600 sq. ft. addition for CVS (now Villa Spirits). Article V, Section B.9 of the Zoning Regulations requires Commission approval for substantial revisions in the parking layout or traffic patterns.

I have included in your packet, a partial plan showing the 1985 plan and the currently proposed plan. The most obvious revisions are the removal of a one-way traffic pattern through the two, easterly rows of parking spaces, and the change from angled parking spaces to 90-degree spaces in these same areas. The driveway width in front of the building is being widened from twenty feet to 24-feet, plus a 5.5-foot wide fire lane. It appears that the one-way interior traffic pattern was established in 1983, when the then A&P store, received PZC approval for an addition that extended the existing building 20 feet into the parking area. The lanes are the required 24-foot wide for two-way traffic. I am only guessing that the one-way pattern was established to prevent a stacking of vehicles exiting the site from the eastern located parking spaces, blocking the traffic entering the site from the street. Additionally, the angled parking spaces encouraged a one-way traffic flow away from the site entrance. (I note that about 85% of the parking lot is angled parking.) Due to the location of the entrance doors of the Grand Union, the eastern side of the parking lot was only lightly used. The creation of a new tenant space and customer entrance

would likely increase the use of these under-utilized spaces going forward. I have discussed the proposed revisions with the Assistant Town Engineer and the Director of Planning & Development. I believe there is consensus that the current one-way pattern of the 1985 plan is a better situation and that retaining the angled parking helps promote that pattern.

Staff has noted that the 9/16/13 plan submitted with the current application does not depict the changes that were required to the site entrance as part of the 1985 approval. The 1986 plans associated with the 11/18/85 special permit approval show some changes that were proposed to the State Highway at the sites entrance. The applicant needs to explain this apparent discrepancy and why those changes were not made. This work would require permits from the State.

I am recommending that the PZC approve the 10/2/13 modification request of Cornerstone Mansfield, LLC, as shown on plans revised to 9/16/13, provided that the one-way traffic pattern and angled parking spaces of the 8/4/86, PZC-approved plan be retained. The pavement markings shown on the 1986 plan shall also be retained. The applicant shall also review with Town staff, the work approved at the site entrance as part of the 11/18/85 approval. If necessary, the applicant shall complete this work prior to an occupancy permit being issued for the Dollar General store unless this condition is revised by the PZC.

REQUEST FOR SITE/BUILDING MODIFICATIONS
(see Article XI, Section D of the Mansfield Zoning Regulations)

APPLICANT/OWNER SECTION

1. Owner(s) Cornerstone Mansfield, LLC Telephone 860 674 8007
(please PRINT)
Address 231 Farmington Ave Town Farmington Zip 06032
2. Applicant(s) Cornerstone Mansfield LLC Telephone 860 674 8007
(please PRINT)
Address 231 Farmington Town Farmington Zip 06032
3. Site Location 591 Middle Turnpike
4. Reference any approved map(s) that would be superseded if this request is approved:
Plan of The Mansfield Development CO Rev. 8-4-86
(prepared for CVS expansion of building)
5. Reference any new map(s) submitted as part of this request:
Gardner & Peterson Associates Plan dated 9-13-13
Revisions 9-16-13
6. Itemize and describe the modification(s) being requested, using separate sheet where necessary. The description must be adequate to determine compliance with all applicable land use regulations: -
Adding front sidewalk to accomodate a new
store front entrance and paving front to meet ADA
requirements, seal coating and striping front area

7. [Signature] date 10/2/13
Applicant's signature

ZONING AGENT'S SECTION

After reviewing this application with respect to provisions of the Mansfield Zoning Regulations, including Article XI, Section D and Article V, Sections A.8 and B.9, the following determination has been made:

1. The subject modification request does not contain adequate information and is therefore denied. Applicable comments are listed below.
2. The subject modification is denied for reasons listed below.
3. The subject modification request has been reviewed with the PZC Chairman and we have concurred that the requested modification is minor in nature. Subject to any special conditions or comments noted below, the subject modification request is approved.
4. The subject modification request has been reviewed with the PZC and, in accordance with PZC action on _____, the subject modification request is approved, subject to any special conditions or comments noted below.
5. The subject modification request has been reviewed with the PZC and, in accordance with PZC action on _____, the subject modification request is considered a significant alteration of the approved plans and/or site, and shall require the submittal and processing of a new site plan or special permit application.
6. Other (see comments below) Fee for PZC review \$250 clk # (ending in) $\frac{2186}{2211}$

Special conditions/comments/reasons for denial:

Zoning Agent's signature

date _____

PZC Chairman's signature (items 3 and 4 above)

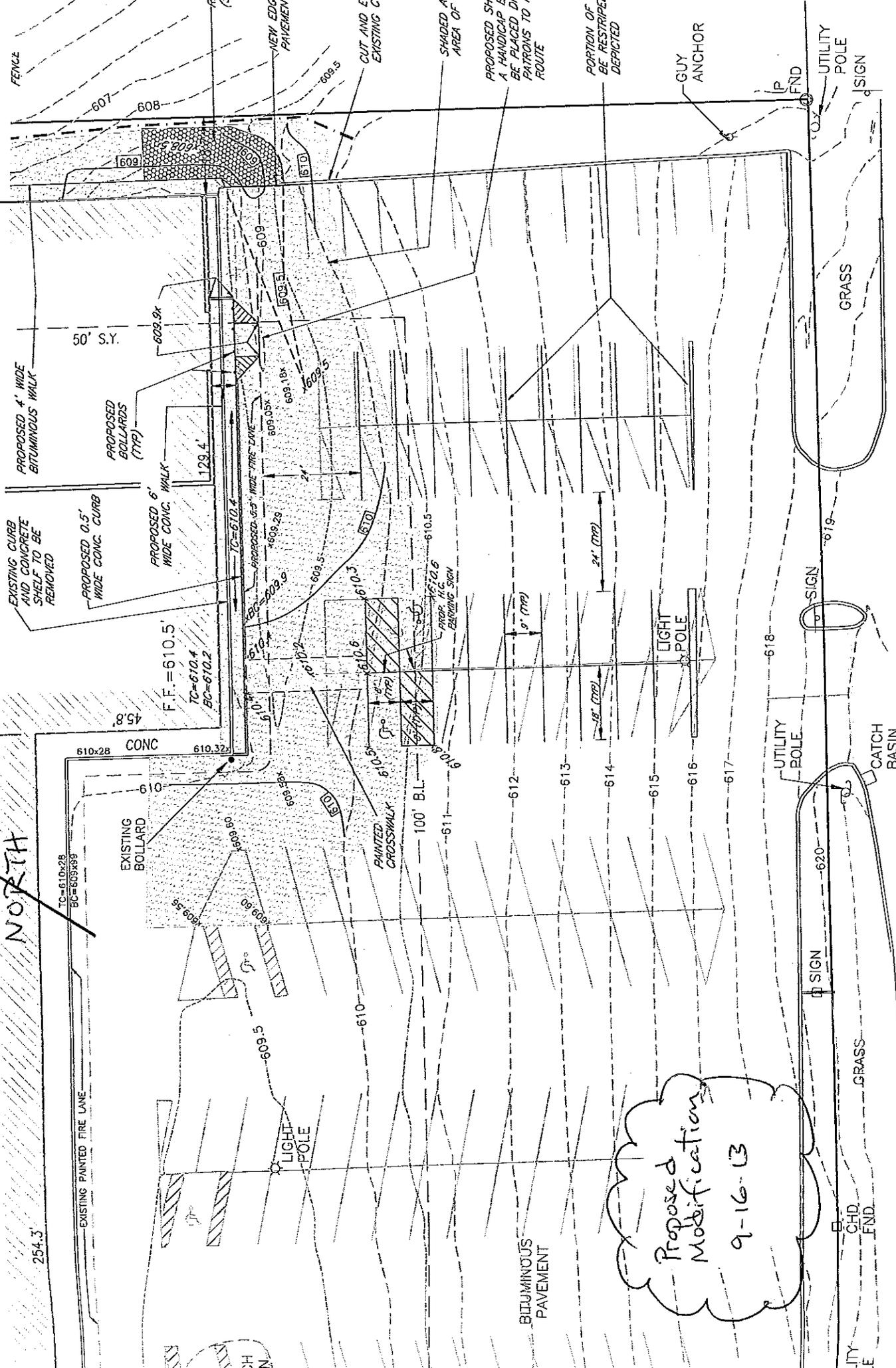
date _____

Existing Tenants

NORTH

Vancouver

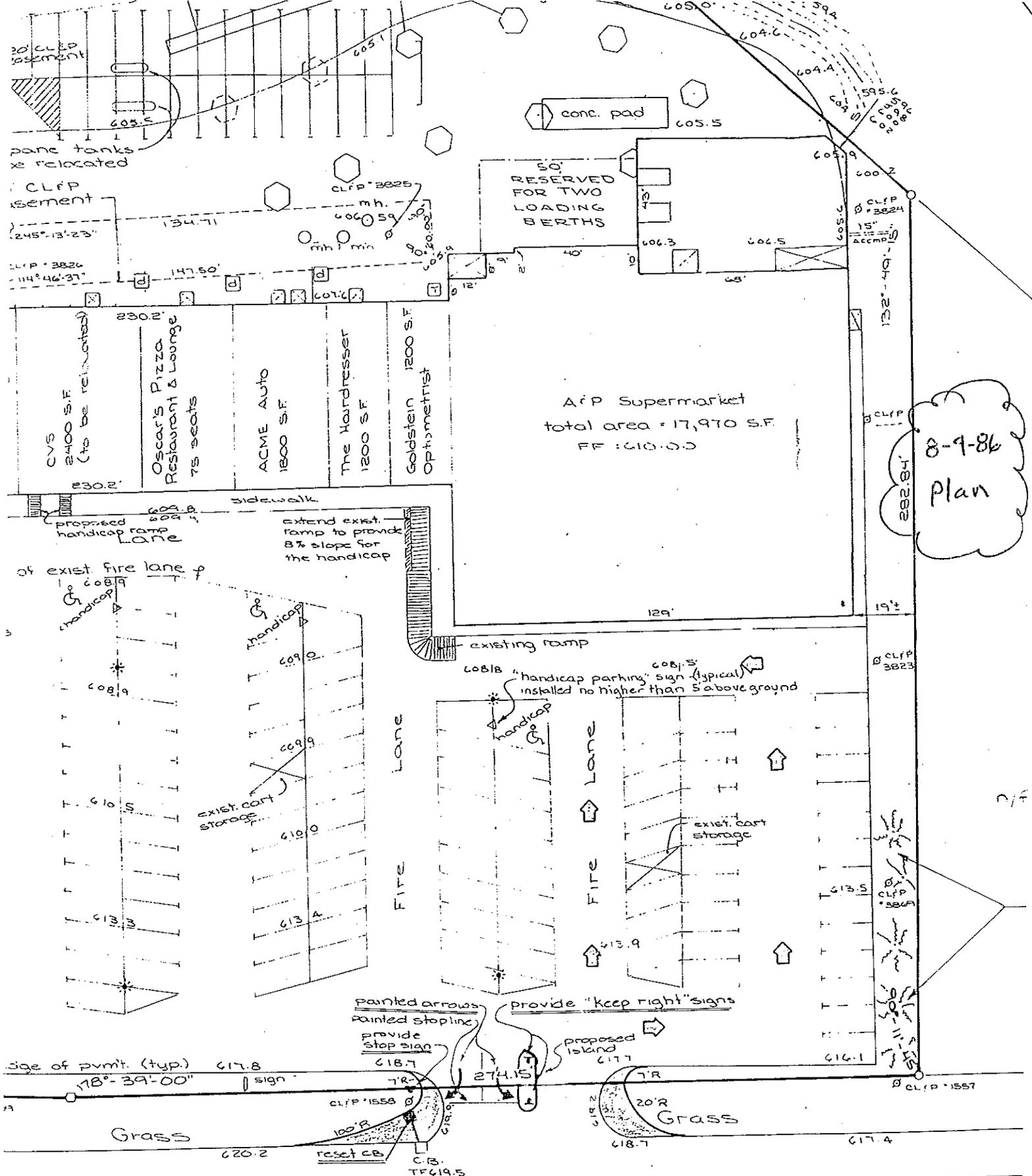
Dallas General



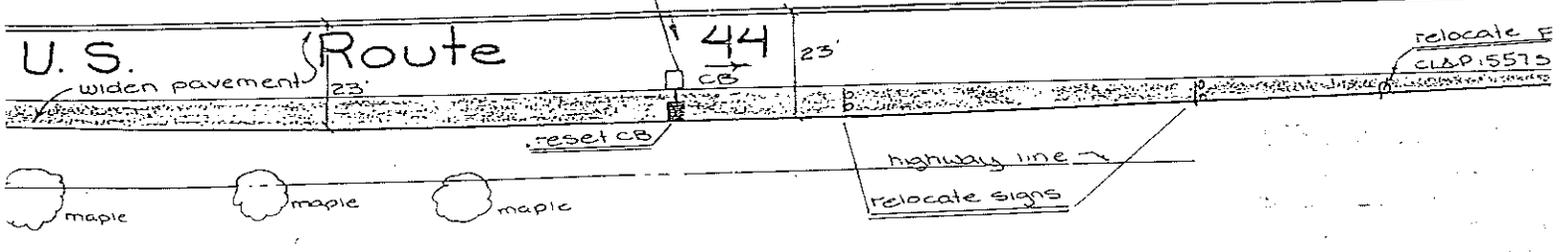
Proposed Modification
9-16-13

DATE 11

11



8-9-86
Plan



TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: September 30, 2013
Subject: 8-24 Referral: Route 44 Bikeway Easement at North Hillside Road

Pursuant to the provisions of Section 8-24 of the State Statutes, the above-referenced proposal to adjust the easement for the Route 44 Bikeway at North Hillside Road has been referred to the PZC for comment. The PZC has 35 days to report to the Town Council. A copy of the Council Agenda Item is attached for your reference.

As part of the proposed North Hillside Road connection to Route 44, Route 44 is being widened to accommodate an eastbound right turn lane. As a result, a portion of the bikeway and associated easement need to be realigned. The portion of the easement that would become part of the North Hillside Road roadway would be extinguished, and the portion of the easement to the west of the intersection would be shifted slightly to the south.

Realignment of the easement will allow for the bikeway to be shifted, consistent with Policy Goal 1, Objective e of the 2006 Plan of Conservation and Development which states "To achieve an integrated intermodal transportation network by encouraging road, bikeway and public transportation services in areas with existing or potential sewer and public water and appropriately expand and maintain all elements of the town's transportation system."

Summary/Recommendation

It is recommended that the PZC notify the Town Council that the proposed adjustment to the easement for the Route 44 Bikeway at North Hillside Road is consistent with the 2006 Plan of Conservation and Development.

MEMORANDUM

Town of Mansfield
Town Manager's Office
4 So. Eagleville Rd., Mansfield, CT 06268
860-429-3336
Hartmw@mansfieldct.org



To: Planning and Zoning Commission
CC: Linda Painter, Director of Planning and Development
From: Matt Hart, Town Manager
Date: September 30, 2013
Re: Referral: North Hillside Road Bikeway Easements

The following motion was passed by the Town Council on 09/23/13:

"Move, to refer the proposed adjustment to the easement for the North Hillside Road Bikeway to the Planning and Zoning Commission for review under Connecticut General Statutes Section 8-24."

Please see the attached information regarding the above captioned matter for your review. Your assistance with this matter is greatly appreciated.

Attach (1)



Town of Mansfield
Agenda Item Summary

To: Town Council
From: Matt Hart, Town Manager *MWH*
CC: Maria Capriola, Assistant Town Manager; Lon Hultgren, Director of Public Works; Tim Veillette, Project Engineer
Date: September 23, 2013
Re: Adjustment to Easement for North Hillside Road Bikeway

Subject Matter/Background

The University of Connecticut's planned construction of North Hillside Road out to Route 44 will intersect the Town's existing bikeway on the south side of Route 44 just west of the small rotary between the two existing banks. In order to construct this intersection and provide for a slight widening of Route 44 to accommodate an eastbound right turn lane and to realign the bikeway to these improvements, a minor adjustment to the bikeway easement the Town holds is necessary. The portion of the easement that would become part of the public roadway owned by the State of Connecticut would be extinguished (as it will no longer be needed) and the portion to the west of the new road would be shifted slightly.

Financial Impact

The adjustment of this easement would have no financial impact on the Town.

Legal Review

The easement document has been referred to the Town Attorney for review. It will be completed prior to Council's formal action to authorize this easement adjustment, which staff will request at the October 15, 2013 meeting.

Recommendation

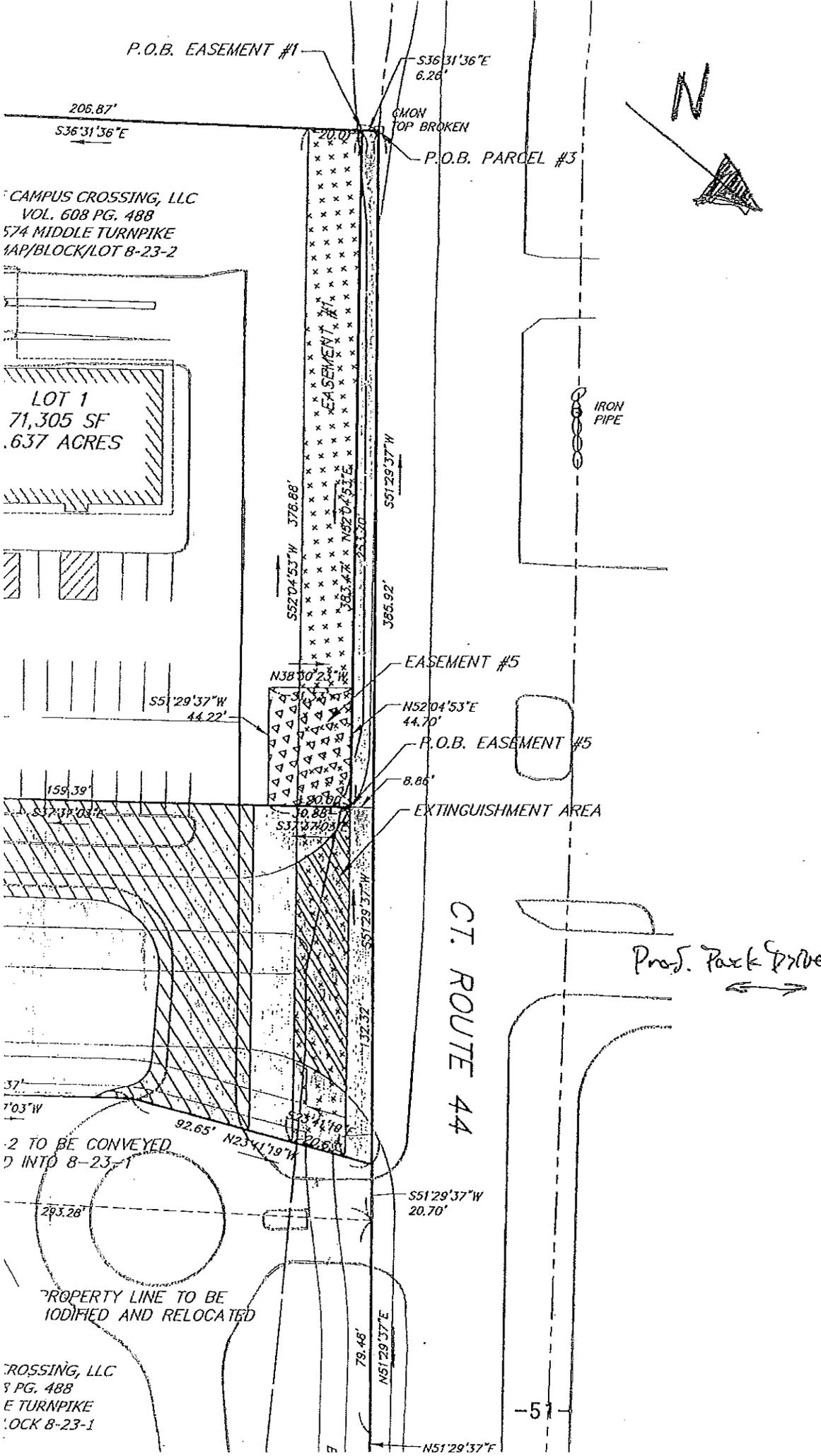
At this point in the process, staff recommends that the Council refer the proposed easement adjustment to the Planning and Zoning Commission (PZC) for its review under Connecticut General Statutes Section 8-24.

The following motion is suggested:

Move, to refer the proposed adjustment to the easement for the North Hillside Road Bikeway to the Planning and Zoning Commission for review under Connecticut General Statutes Section 8-24.

Attachments

- 1) Easement plan excerpt
- 2) Draft Amendment to Bikeway Easement
- 3) Existing Bikeway Easement



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 LENGTH OF 140.61 FEET
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 THENCE S30°33'25"E A L
 ALONG LAND OF JENSEN
 THENCE N65°02'57"E A D
 ALONG LAND OF STATE
 THENCE N35°59'38"W A D.
 THENCE N36°06'38"W A D
 THENCE N36°09'28"W A D
 COURSES THROUGH LAND
 THENCE S43°46'21"W A D
 THENCE ALONG A CURVE
 ARC LENGTH OF 126.98 F
 THENCE N37°37'03"W A D.
 THENCE N23°41'19"W A DIS
 THROUGH LAND OF CAMPUS
 THENCE S51°29'37"W A DIS
 OF CONNECTICUT ROUTE 4

PARCEL 4
 "LAND TO BE CONVEYED 1
 162,036 S.F. 3.720 ACRE
 BEGINNING AT A POINT 25
 OF CONNECTICUT ROUTE 4
 THENCE N43°46'21"E A DIS
 THENCE N36°53'08"W A DIS
 THENCE N53°06'52"E A DIS
 COURSES THROUGH LAND
 THENCE S36°53'08"E A DIS
 THENCE S37°05'43"E A DIS
 ALONG LAND OF D.D.S. AS
 THENCE S39°25'14"E A DIS
 THENCE S64°54'59"W A DIS
 COURSES ALONG LAND OF
 THENCE N35°59'38"W A DIS
 THENCE N36°06'38"W A DIS
 THENCE N36°09'28"W A DIS
 THE LAST THREE COURSES

EASEMENT #1
 "EASEMENT FROM CAMPUS

DRAFT

AMENDMENT TO BIKEWAY EASEMENT

THIS AMENDMENT TO BIKEWAY EASEMENT (this "Amendment") is made as of the __, day of _____, 2013, by and between CAMPUS CROSSING, LLC, a Connecticut limited liability company and successor in interest to The Savings Bank of Manchester (together with its successors and assigns, collectively, the "Grantor"), and the TOWN OF MANSFIELD, a municipality located in the County of Tolland, State of Connecticut (together with its successors and assigns, collectively, the "Grantee"; Grantor, together with Grantee, collectively, the "Parties", and each individually, a "Party").

WITNESSETH:

WHEREAS, pursuant to a certain Warranty Deed of even date herewith from Grantor to The University of Connecticut, a constituent unit of the state system of public higher education of the State of Connecticut ("UConn"), UConn has acquired fee simple title to a portion of Grantor's property located at 574 and 596 Middle Turnpike in Mansfield, Connecticut (the "UConn Land"), which UConn Land is more particularly identified as "Parcel 3 and Parcel 4" on that certain survey entitled "Limited Property/Boundary Survey and Easement Map, prepared for the University of Connecticut, Connecticut Route 44, Storrs, Connecticut, prepared by Fuss & O'Neill, dated August 2, 2013," a mylar copy of which has been or will be filed with the Town of Mansfield and is incorporated herein (the "Survey");

WHEREAS, Grantor has retained fee simple title to the remaining portion of its property, which property is more particularly identified as "Lot 1 and Lot 2" on the Survey (the "Grantor's Land");

WHEREAS, UConn intends to construct an extension of the roadway identified as Proposed North Hillside Road (the "North Hillside Road Extension Area") from Connecticut Route 44 through a portion of the UConn Land in the area more particularly identified as "Proposed Hillside Road" on the Survey;

WHEREAS, pursuant to the terms and conditions of a certain Bikeway Easement dated December 10, 2003 (the "Existing Bikeway Easement"), The Savings Bank of Manchester, a Connecticut banking corporation and predecessor in interest to Grantor, granted to Grantee an easement to construct and maintain a bikeway over and across a portion of the Grantor's Land;

WHEREAS, in connection with the acquisition by UConn of the UConn Land, Grantor and Grantee have agreed to amend the Existing Bikeway Easement to relocate the bikeway to an area shown on the Survey as "Easement #1 From Campus Crossing to the Town of Mansfield for Bikeway Relocation 7,623 S.F." (the "Existing Bikeway Easement Area").

NOW, THEREFORE, for One (\$1.00) Dollar and other valuable consideration, the receipt of which is hereby acknowledged, the Parties, for themselves and their respective successors and assigns, do hereby covenant and agree as follows:

1. Amendments to Existing Bikeway Easement.

DRAFT

(a) The legal description of the easement area in the fifth paragraph of the Bikeway Easement is hereby amended and restated in its entirety as follows:

BEGINNING AT A POINT 6.26 FEET SOUTHERLY OF A CONCRETE MONUMENT ON THE SOUTHERLY STREET LINE OF CONNECTICUT ROUTE 44;

THENCE N52°04'53"E A DISTANCE OF 383.47 FEET TO A POINT;

THENCE S23°41'19"E A DISTANCE OF 20.63 FEET TO A POINT;

THENCE S52°04'53"W A DISTANCE OF 378.88 FEET TO A POINT;

THENCE N36°31'36"W A DISTANCE OF 20.01 FEET TO THE POINT OF BEGINNING, ALL COURSES RUN THROUGH LAND OF CAMPUS CROSSING LLC. (LOT 1).

The foregoing area is hereinafter referred to as the "Relocated Bikeway Easement Area."

(b) Grantor and Grantee, agree for themselves and their successors and assigns, that that portion of the Existing Bikeway Easement Area that is not included in the Relocated Bikeway Easement Area is hereby released from the Bikeway Easement (as hereinafter defined).

(c) Notwithstanding anything to the contrary contained in the Existing Bikeway Easement, as hereby amended (the "Bikeway Easement"), the Parties hereby acknowledge and agree that UConn shall be permitted to construct the North Hillside Road Extension in the North Hillside Road Extension Area on the Survey and at such time as construction is complete and such roadway is open and becomes operational, the Bikeway Easement shall terminate and be of no further force and effect only as to that portion of the easement area which is located over, under and across the North Hillside Road Extension Area.

2. Running with the Land. The terms of this Amendment and all covenants, restrictions, easements and other rights granted hereunder shall run with the land and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

3. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Connecticut, without regard to principals of conflicts of law.

4. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original. Such counterparts shall constitute but one and the

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same instrument and shall be binding upon, and shall inure to the benefit of, each of the undersigned individually as fully and completely as if all had signed one instrument.

5. Incorporation. The Recitals set forth at the beginning of this Amendment are hereby incorporated in and made a part of this Amendment by this reference.

[Remainder of Page Intentionally Left Blank; Signature Page Follows].

IN WITNESS WHEREOF, the undersigned have hereunto set their hand and seal as of the day first above written.

Signed and Sealed in the presence of:

CAMPUS CROSSING, LLC

By: _____
Name:
Title:

Signed and Sealed in the presence of:

TOWN OF MANSFIELD

By: _____
Name:
Title:

DRAFT

[Signature Page to Amendment to Bikeway Easement]

STATE OF CONNECTICUT)

: ss. _____

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by _____, _____ on behalf of Campus Crossing, LLC, a Connecticut limited liability company, as its and his/her free act and deed.

Commissioner of the Superior Court
Notary Public
My Commission Expires:

STATE OF CONNECTICUT)

: ss. _____

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by _____, _____ on behalf of the Town of Mansfield, a municipality located in the County of Tolland, State of Connecticut, as its and his/her free act and deed.

Commissioner of the Superior Court
Notary Public
My Commission Expires:

DRAFT

[Acknowledgment Page to Amendment to Bikeway Easement]

(Existing)
BIKEWAY EASEMENT

Mansfield, CT
Doc # 2004-0061143
Vol 535 Pg. 166
01/20/2004 12:16:40pm
Recorded - Joan E. Berdsen
Town Clerk

THE SAVINGS BANK OF MANCHESTER, a Connecticut banking corporation, having an office and principal place of business in the Town of Manchester, County of Hartford and State of Connecticut,

for Two Thousand Five Hundred Eighty (\$2,580.00) Dollars consideration paid do hereby give, convey and Grant

to the TOWN OF MANSFIELD, a municipality located in the County of Tolland, State of Connecticut

with Quit Claim Covenants, an easement for constructing and maintaining a bicycle path and appurtenances over the following described parcel of land,

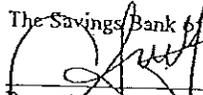
A certain piece or parcel of land on the southerly side of Middle Turnpike (Conn Route 44) designated as "EASEMENT AREA= 1599.04 SQ. METERS (17,211 SQ. FT.)" shown on a map entitled "Right Of Way Survey Town of Mansfield Showing Easement Acquired From Savings Bank of Manchester By The State of Connecticut Department of Transportation Installation of Birch Road Bikeway Scale: 1:500 March 2002 James F. Byrnes, Jr., P.E. - Transportation Chief Engineer Bureau of Engineering and Highway Operations".

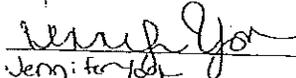
Signed and sealed this 10th day of December, 2003.

Signed, Sealed and Delivered
In the Presence Of


Allan D. Thomas

The Savings Bank of Manchester

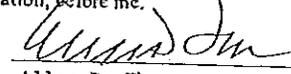

By: Christopher Martin
Its Executive Vice President


Jenni Forster

STATE OF CONNECTICUT:

COUNTY OF HARTFORD : ss. Manchester : December 10, 2003

Personally appeared, Christopher Martin, duly authorized Exec. Vice Pres. of The Savings Bank of Manchester, known to me (or satisfactorily proven) signer and sealer of the foregoing instrument, who acknowledged the same to be his free act and deed as such Exec. Vice President and the free act and deed of said corporation, before me.


Allan D. Thomas
Commissioner of the Superior Court/
~~Notary Public~~

Grantee's Address:
4 South Eagleville Road
Storrs, CT 06268

0002/003

02/23/03 FRI 13:20 FAX 860 437 0030 ATTN: SCRAGER

PAGE
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TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Mansfield Planning and Zoning Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: September 30, 2013
Subject: Zoning Permit Review
Storrs Center: Village Street-11 (VS-11)-Educational Playcare
File 1246-17

In 2007, the Planning and Zoning Commission (PZC) unanimously approved the Storrs Center Special Design District (SC-SDD) zone and associated Zoning Regulations establishing a specific review and approval process for all development in the SC-SDD. The approved zoning permit review and approval process is designed to ensure compliance with all applicable zoning approval criteria including a determination by the Director of Planning and Development that the proposed development is "reasonably consistent" with the PZC approved preliminary master plan mapping, the Storrs Center Design Guidelines, the master parking study, the master traffic study and the master drainage study. The Zoning Regulations define "reasonably consistent" as "some variation or deviation from specific provisions is acceptable, provided that the overall intent of the provision is achieved with respect to health, safety, environmental and other land use considerations."

Although the SC-SDD Zoning Permit review process is administrative, provisions are included for public participation. A public hearing conducted by the Mansfield Downtown Partnership, Inc., Mansfield's officially designated Municipal Development Authority for the Storrs Center project, is required, and all public comments will be considered before a decision is made on a zoning permit application. Furthermore, all zoning permits in the SC-SDD will be thoroughly reviewed by Mansfield staff members and it will be confirmed that submitted plans remain acceptable to the State and Federal review agencies, including the State Department of Environmental Protection, the Office of State Traffic Administration and the Army Corp of Engineers.

A Zoning Permit Application for construction of the Village Square-11 (VS-11) building was submitted on September 30, 2013. The Downtown Partnership has scheduled a public hearing on this Zoning Permit application on October 17, 2013 at 7:00 p.m. in the Town Council Chambers. Following completion of the public hearing process, the Mansfield Downtown Partnership will forward comments and a recommendation for my consideration. This recommendation must be provided within 10 days of the close of the public hearing. I have 20 days from the deadline for the Partnership to submit comments to complete my review and render a decision.

The plans will be available for Commission review and potential comment at the October 7, 2013 meeting. If you would like to view them in advance of the meeting, they are available on-line at <http://www.mansfieldct.gov/content/1914/6514/6528/6570/default.aspx>.

PAGE
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Curt B. Hirsch

From: Lesley Dyson <ladyson7@yahoo.com>
Sent: Thursday, September 26, 2013 1:35 PM
To: Curt B. Hirsch
Subject: Re Zoning Appeal for Stone Mill Kennel

25 September 2013

Dear Mr Hirsch

During the Mansfield Festival this past Sunday, I was able to talk to several members of the Planning and Zoning Commission and PZ Appeals regarding the ongoing problem I have with barking noise coming from the kennel on Stone Mill Road. I am following advice from PZC members to write this letter to you so that PZ Appeals can take another look at this zoning problem in a near future meeting.

A quick background on this: I live at 575 Chaffeeville Road, in a Rural Agriculture Residence 90 Zone. My back yard abuts the Fenton River and the property just beyond that is 82 Stone Mill Road, which was sold in 2011 to owners who immediately built a kennel for their German shepherd dogs. Last year there was a hearing with Zoning regarding the kennel. At that hearing the owners gave their opinion that the kennel that they own is not, in fact, a kennel, as it did not adhere to their guidelines of what a kennel is. They stated they do not have a kennel business license, that they were not making money from the kennel, and that it was something that they did for show, i.e., they show dogs. Approval for the kennel building was granted after the fact.

Their website, <http://www.mountainriverrockfarm.com/index.html>, includes a page showing their puppies for sale, http://www.mountainriverrockfarm.com/For_Sale_Adoption.html. The website includes pictures and information about the seven males and 15 female German shepherds that they own, and an unknown number of puppies. The Encarta definition of a kennel: "Dog boarding or breeding place: a place where dogs are bred and trained and where people can leave their dogs while they are away," and the Oxford Dictionary definition: "a house or range of building where a pack of hounds are kept." The state of Connecticut has a two definitions of a kennel: "a. Commercial kennel means a kennel maintained for boarding or grooming dogs or cats, and includes, but is not limited to, any veterinary hospital which boards or grooms dogs or cats for nonmedical purposes; b. Kennel means one pack or collection of dogs which are kept under one ownership at a single location and are bred for show, sport or sale" <http://www.jud.state.ct.us/lawlib/Notebooks/Pathfinders/Dogs.pdf>. Whether or not they board dogs at their kennel for others is insignificant; that they board so many of their own dogs at their kennel is the problem. Regular barking from one dog can be a nuisance, but regular barking from 22 dogs is maddening. It is a kennel by any definition of the word.

While this kennel has been allowed to continue in this location in Mansfield, it has severely restricted my use and enjoyment of my home, which is within hearing range of the kennel. For some reason, the noise from that kennel is louder in my back yard than it is from the edge of my property near their property at the Fenton, perhaps for the same acoustical reasons that I can hear the UConn band practicing on campus from my house on Chaffeeville, while my father, in his house on Dog Lane, much closer to campus, cannot hear them.

With more than twenty dogs barking on a regular basis, I can no longer use my deck for cookouts, I can no longer use my sunroom for dinners, I cannot garden or tend my three beehives with the stress-free pleasure that I once had before the kennel was built. I do not go to bed any night without wondering if the dogs are going to wake me that night and, if so, how long will I be up – which means that even when they are not bothered with barking at that particular time, they are affecting me.

Noise, like the sudden sound of barking alerts and activates the stress response – a biological alarm that affects the brain in powerful ways, according to the Franklin Institute for Science Learning. Its very uncontrollability further adds to the stressful impact. The repeated impulsive sound of barking with multiple pressure peaks in single burst is an intrusion that can negatively affect the way a brain functions. According to audiologist Dr. Alice H. Suter from the National Institute for Occupational Safety and Health: "Included in noise-related problems are high blood pressure, peptic ulcers, cardiovascular deaths, strokes, suicides, degradation of the immune system, and impairment of learning. Noise is also associated with an increase in aggression and a decrease in cooperation." <http://www.fi.edu/learn/brain/stress.html#stressnoise> . Barking from a multitude of German shepherd dogs is not a normal, usual and reasonable noise, as our town Animal Control officer wishes to believe; it is noise that causes stress and exacerbates health problems.

Others in this neighborhood have concerns about the barking and signed a petition to the town to abate the noise from this kennel. The barking has been a problem for two-and-a-half years and in that time I have tried working with the Animal Control officer and the town police to get some lasting peace in my house. While I may get some respite for days or even weeks, the barking has started up again and then goes through a cycle of getting worse and worse until I steel myself up to deal with either Animal Control or the police.

The stress of dealing with the dogs and with these departments along with the lack of sleep from barking in the night or early morning has caused some difficulty in my health and I want the town to take another look at the legality and rationality of this kennel.

Was this kennel built legally with Zoning approval and were neighbors given any notice or say in the placement of this kennel? Is having more than twenty dogs in outbuildings a customary use in this town? If a kennel is built in a neighborhood, and the neighbors are severely affected by this business or "hobby", shouldn't Zoning take action?

The town of Killingworth had a similar problem. The owner of single-family home located near a kennel complained about the barking noise to the town. The town took action to protect the homeowner's rights to peaceful existence in his home and looked in the customary use of dogs in that town. Counting all the dogs in town homes (195 residences with two dogs, 43 residences with three dogs, seven residences with four dogs, three residences with five dogs, one residence with seven dogs, and one residence, the plaintiff's, with 14 dogs) they concluded that 14 dogs on a residential lot was not customary and was a violation of the accessory use provision of the town regulations. You may view the case here: <http://www.jud.ct.gov/external/supapp/Cases/AR0cr/CR277/277cr40.pdf>.

Many municipalities restrict the number of animals a resident can own and an ordinance may specify the number by type of animal owned. Most of the time, a specific and reasonable quantity is provided. Should Mansfield want to take action to protect their citizens' right to peaceful existence versus the right to move into a neighborhood with more than 20 barking dogs, this case would be helpful.

I would hope that Zoning would begin its assistance in this case by noting that the town zoning rules begin, pg 7, with the purpose: "1) To promote and protect the overall health, safety, convenience and welfare of the residents of Mansfield, Connecticut and the general public."

Zoning purposes continue to state that zoning is: 2) To provide for and facilitate the orderly growth and expansion of the municipality, thereby preventing an undue concentration of population and an overcrowding of the land..." I would like zoning to consider whether 22 dogs in a neighborhood is an undue concentration of population of dogs.

Zoning is also concerned, pg 7, with protecting the character and maintaining the stability and property values of residential, business and industrial areas, and I, too, am concerned about the resale value of my house when prospective buyers find out there is a kennel in close proximity.

The tenth clause in zoning purpose, pg 7, is “To protect residents from nuisances from sight and/or sound.” While Animal Control in its feeble, feckless investigations has determined there is no nuisance, I live here, I hear those dogs daily – and often wake to their barking at night – and to me it is not only a nuisance but an extreme violation of my right to a peaceful home in this town, affecting my health – both physical and mental.

In investigating this kennel, zoning should consider if the kennel was built in conformity with all applicable provisions of zoning regulations. Article Four, Rules And Definitions, pg 15, states that “Uses of land, buildings or structures not permitted in the various zoning districts are prohibited.” There is no zoning regulation written that permits a kennel in a residential area.

Regulations and definitions, pg 15, does not have a definition for the town for the word “kennel”, therefore, I will continue to use the word kennel as defined in Encarta and Oxford dictionaries and by the state. The kennel owners stated in last year’s meeting that they were not a business, but town regulations state, pg 16, #11, that “Any use facilitating the barter, sale, or exchange of things of value, or sale of services, or exchange of services, and includes the storage of goods” constitutes a business. As they do sell dogs, they are a business.

When the owners of the Stone Mill Road kennel built the kennel prior to getting zoning approval they violated procedures, pg. 25, which zoning deems necessary to “ensure the appropriate and orderly use and development of land within Mansfield's assorted Zoning Districts; to minimize any detrimental effects on neighborhood character, the natural environment and property values; and to protect and promote Mansfield's health, welfare and safety.” The result has been a two-and-a-half year noise assault on my home, my health and my use of property. Further, “In reviewing and approving any proposed site plan application, the Planning and Zoning Commission shall determine that the public's health, welfare and safety have been protected,” pg 29. I hope in reviewing this case the PZC understand that this protection has not been the case.

Neither I nor any other neighbor of this kennel was notified, pg 26, of the kennel plans in 2011 prior to its construction. Zoning approval criteria for new buildings states, pg 31, that they should be in general harmony with the character of the surrounding neighborhood and will not serve to blight or detract from the value of abutting residences or other property. The kennel is not in general harmony with this neighborhood and as a neighbor I consider it a blight and a detraction to my house value.

The owners of 82 Stone Mill Road built the kennel as an accessory to their home, against zoning regulations that state, pg 60, that “A residence may be used by its occupant for personal business purposes, providing the following conditions are met: a. no external evidence of the business is visible, and there is no outside storage of machinery, construction vehicles, equipment or supplies; f. no accessory buildings are utilized for personal business purposes.” The kennels are used to house their dogs, which breed puppies that they are selling. The kennels are evident and visible from both the front of their house on Stone Mill Road and the back of their house, facing the Fenton River.

(By the way, pg 28 notes that sanitary systems should be in place, and I hope that the town understands that more than 20 dogs in one small area creates a considerable amount of waste. As the kennel does about the Fenton River, proper sanitary systems are vital. The USDA states that “dog waste can pollute ground and surface water, attract flies and pests, cause an unpleasant odor, and create unsanitary living conditions for dogs. Dog waste can also transmit parasites and infectious diseases.” The Environmental Protection Agency estimates that “the typical dog excretes three quarters of a pound of waste per day—or 274 pounds per year.” It further estimates that “a modest-sized kennel of 20 dogs must dispose of more than two tons of dog waste annually.” <ftp://ftp-fc.sc.usda.gov/AK/Publications/dogwastecomposting2.pdf>)

If the owners of the kennel apply for a special permit use for their kennel, Zoning use page 33 states that “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,” and again, as seen through of complaints to the town about this kennel, it does not promote public health or general welfare. Since sell dogs through their kennel, they are a business, and zoning uses, pg 60, states that “use of resider

accessory building for personal business purposes” needs a “special permit approval” that is “obtained in accordance with Article V, Section B,” provided that “all of the provisions of Article VII, Section D.9a through e are met.” This was not done in this case.

Article Six, pg 42, states the prohibited uses of property in zoning districts in Mansfield. Prohibited use number 16 is “the breeding of two or more dogs, cats or other animals except as specifically authorized under the provisions of Article VII of these regulations.” The Stone Mill kennel’s puppies for sale are offered on a continual basis, as one can see by checking the website. They have more than twenty dogs and 15 of the dogs are female. If they are breeding these dogs they are in violation.

Provisions of Article VII state the permitted uses, pg 57, of which the “establishment of new or additional permitted uses on a subject lot” requires “special permit approval of the Planning and Zoning Commission.” When the owners of the kennel made “changes in the use of an existing structure or lot”, pg 57, they could be “authorized by the Zoning Agent through the issuance of a Certificate of Compliance provided the new use is included in the same permitted use category as the previous use.” Was this the case with the kennel? In other words, was there a kennel on the property before the new owners put in the new buildings? There was not. This kennel is a “significant alteration of the previous use with potential impacts”, pg 57, impacts like barking that daily affects neighbors.

And while the owners of the kennel may object to not being able to move into a quiet residential neighborhood and establish a kennel where people have lived in peace and tranquility for many years, I hope that zoning follows its own procedure, pg 58: “Where questions arise regarding changes in use and permit requirements, the Planning and Zoning Commission shall determine whether a proposal constitutes a change in use and the appropriate permit requirements.” Certainly a kennel in the midst of a neighborhood is not appropriate.

Nowhere in the permitted uses in this zone does it state that a kennel is permitted. Zoning, pg 172, lists a number of home occupation permitted uses, and none of them are businesses that emit continual noise, and none of them are a kennel. Noise issues from businesses are clearly addressed in Section F on page 173, which states that “No offensive noise, vibration, smoke, dust, odors, heat, or glare shall be produced; no health or safety hazard shall be created...” I can assure you, with a doctor’s confirmation, that the offensive noise from this kennel has created a health hazard for its neighbors.

While Zoning Agricultural Uses addresses the Keeping of Farm Animals, pg 203, a multiple number of German shepherd dogs cannot and should not be considered farm animals by Mansfield. If the dogs owners want to consider them agricultural, addressed under this provision, and permitted by right, the standards and recommendations designed to help ensure that authorized animals are kept in a manner “without inappropriate impact on the environment or neighboring land uses” should be observed and the nuisance noise issue would have to be addressed. Zoning recommends that “due to potential noise and neighborhood impact problems... guinea fowl not be kept.” I have heard guinea fowl noise and it pales next to the noise of a barking German shepherd.

As an aside, in addition to noise from the 22 dogs and puppies that this kennel keeps, the owners of the kennel have violated another zoning ordinance, pg 211, “to promote the health, welfare and safety of Mansfield residents,” which is that “site clearing, grading or construction activity has taken place before the hour of 9:00 a.m. on Sundays and holidays” and after 9:00 p.m. daily. Again, neighbors have signed a petition to restrict this type of noise from this residence. While I did call the police regarding this the several times when it occurred, I was not able to get help at the time. I will turn to Zoning in future violations, and hope that someone can come over, even at 7am on a Sunday morning, to advise these people that neighbors are aware of the heavy machinery they are using that early.

As I have shown in this letter, the kennel on Stone Mill Road was built in violation of Mansfield Zoning regulations, and is under the jurisdiction of this town. The town has an obligation to correct or abate such violation, and ask the owner to cease and desist this operation or be, pg 213, “subject to the civil and criminal

penalties provided for in Section 8-12 of the Connecticut General Statutes and any other penalties that may be applicable.”

The Mansfield Zoning Board Of Appeals should hear this argument against allowing the continuation of this kennel “in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values,” pg 214, but *not* “solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which *it* is situated,” but in respect to conditions affecting the *district and neighbors* in which it is situated, where the lack of regulations has resulted in exceptional difficulty or unusual hardship to the neighbors in finding peace in their own property.

It will be in restoring the former peace and tranquility to this neighborhood that “substantial justice will be done and the public safety and welfare secured.” Zoning must look into this matter quickly and administer and enforce their regulations to “minimize the detrimental neighborhood impact” that the kennel has caused.

Sincerely,

Lesley Dyson Minearo

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