

Town of Watertown
Planning and Zoning Commission
Special Meeting
Public Hearing/Route 262

Time: 7:05PM
Date: October 29, 2008
Place: **Swift Middle School Auditorium**
250 Colonial Street
Oakville, CT

1. Call meeting to order
2. Roll call

Members Present: D. Minnich, R. Russ, M. Masayda, G. Martin, C. Mancini, G. Dupliese, D. George, K. Demirs, R. Rondeau

Absent: J. Blais

Others Present: Ruth Mulcahy, Administrator of Land Use

G. Martin recused himself.
K. Demirs sat in for G. Martin

Minnich: I would like to call this public hearing of the Planning and Zoning Commission to order at 7:05 PM. Susan King would you call the roll.

Martin: Chairman Minnich as I have done throughout the discussion on this topic I will be recusing myself this evening. I do however want to bring up a point that was brought to my attention that somewhat disturbs me. There is a letter that has gone out to the residents of the community in strong disapproval of what is being discussed here tonight. That letter came out with numerous signatures on it. The lead signature the one that is under sincerely is a gentlemen by the name of Stanley Masayda who is for those of you who do not know is Mike Masayda father. Now Michael has taken the position with this board on numerous occasions that if there is any as semblance of impropriety or predisposition to any topic that we should recuse ourselves. I will say that I have sat in the audience listening to many discussions on this topic and Michael has more than shown his position on this, and to have his father be the lead in a letter that goes out to the community I believe Michael should be recusing himself along with me and doing the right thing as I am thank you and gentlemen good luck.

Minnich: Ken will you sit in for Gary.

Masayda: I would like to make a comment to that. I have nothing to gain nor I don't know what position my father has but he has nothing to gain by this proposal or regulation or anything to do with that property.

Minnich: Good evening and welcome to this Watertown Zoning Commission Public Hearing. My name is David Minnich I am Chairman of the Planning and Zoning Commission. I am required by Commission bylaws to read the following statement at this time.

The Planning and Zoning Commission has established rules for the conduct of public hearings copies of these rules at the doorway to this room. You are reminded it is prohibited by law to communicate to Commission members on the merits of applications while decisions are pending and what communications are not at Commission meetings. Please communicate with staff when the Planning and Zoning Commission is not in session. Documents pertaining to applications must be recorded for receipt in the office of the Commission in sufficient time for staff to review documents and prepare comments. That is the end of the statement that I am required to read. Mike will please read the notice of public hearing.

Masayda: A public hearing will be held on Wednesday, October 29, 2008 at 7:00 PM in the Swift Middle School Auditorium, 250 Morro Street, Oakville, CT on the following application;

An application by the Planning and Zoning Commission to attend the text of the Zoning Regulations for a Route 262 Planned Commercial District.

ARTICLE III - BUSINESS DISTRICTS
SECTION 36 – Route 262 Planned Commercial District (B-PCD262)
(Overlay Zone)

36.1. Purpose: The intent of the Route 262 Planned Commercial District is to:

36.1.1 Provide an opportunity for high quality retail and office development near Route 8 along a portion of Route 262 and Echo Lake Road east of Turkey Brook within a Planned Commercial District overlay zone to an I-R80 zoning district. The primary objectives of the district are to expand retail and office use options within the Town of Watertown and to increase diversity of the town tax base.

36.2. Overlay District Location: The Commission may adopt an overlay zoning district, hereinafter defined as “District”, “Planned Commercial District”, or “B-PCD262”, to an I-R80 District in accordance with the procedures, guidelines, standards, and conditions specified in the regulations; and then only to permit on a lot the design and construction of buildings, other structures, and site development in connection with uses permitted in Section 36.9 and Section 36.10 where the lot is located within the boundaries of Route 262, Turkey Brook, Echo

Lake Road, CT Route 8, and Frost Bridge Road. A lot or any portion of a lot not within the adopted overlay zoning district is not in the district. The Planned Commercial District may be one or several lots, however all lots shall be developed as if one lot. No lot may be developed inconsistent with the provisions of Section 36. The location, orientation, structure, texture, materials, landscaping, and other features shall be consistent with the character of the Town and the Neighborhood, Regulations, Zoning Map, and the Plan of Conservation and Development, as interpreted by the Commission. Development of lots must demonstrate high quality design merit.

36.3. Procedures: Development within the District requires a change to the Zoning Map and approval of a Conceptual Plan, Detailed Site Plan, and Special Permit

36.3.1. Overlay District: A request for a Route 262 Planned Commercial District overlay zone constitutes a petition for legislative action to amend the Zoning Map in accordance with Section 81 of the regulations.

This letter and public hearing notice are being sent to you because your property lies within the proposed commercial overlay district or within 500 feet of the proposed commercial overlay district.

At this hearing interested persons and written communications will be received. A copy of the full text of the proposed zoning amendment and application is on file in the Planning and Zoning Office, 51 Depot Street, Suite 502, Watertown, CT between the hours of 8:00 AM and 5:00 PM Monday-Friday or by appointment by calling 860-945-5266. A copy of the full text of the proposed zoning amendment and application is also on file in the Office of the Town Clerk, 37 DeForest Street, Watertown, CT between the hours of 9:00 AM and 5:00 PM Monday – Friday. A copy of the full text of the proposed zoning amendment is also on the Town’s website at www.watertownct.org

Minnich: I am required by state law Ruth I ask you if the office has sent out notices to the property owners within the proposed district as well as those within 500 feet of the district do you have those green cards that are returned by the US Post Office.

Mulcahy: Yes I do the green cards are here.

Minnich: You have that Susan has recorded on the record. The Commission asks that this is a reminder that you will silence all your cell phones and pagers and other electronic equipment. I have a copy from Ruth Mulcahy notice of intervention this proceeding and will just read the name of the interveners. I will read the name or the whole letter of it. One is Margery Shansky, I am not sure the address of that 61 Grand Avenue, New Haven is where is comes from. Next James Land of 41 Cedar Ridge Drive in Oakville, Next is

an intervener is Bohdan Wasiutynski at 514 Sylvan Lake in Watertown, next is Elizabeth Wasiutynski at the same address 514 Sylvan Lake Road in Watertown next is Laurie Stokes at 68 Cedar Ridge Road in Oakville, next intervener at this proceeding is Richard Stokes at 68 Cedar Ridge Drive in Oakville, next is Gloria Lynn at 74 Cedar Ridge Drive in Oakville, next intervener at this proceeding is Sebastian Douglas at 58 Cedar Ridge Drive in Watertown, next is Glen Masika at 75 Cedar Ridge Drive, next is Allen Mickel at 95 Woodvine Avenue in Watertown, next intervener is Steve Masayda at 47 Adam Grove in Watertown, next intervener is Stanley Masayda at 96 Franklin Avenue in Watertown, next is Anne Maggi at 141 Frost Bridge Road in Watertown, next intervener is Barkley LaBonne at 516 Platt Road in Watertown, next intervener is Judy Wick at Watertown, Robert LaBonne Sr. at 516 Platt road, and the last one that I have is Adam Wasiutynski at 514 Sylvan Lake Road in Watertown. All the list of requested interveners have been received. Is there any objections to members of the for intervener status at these hearings. Hearing no objections it is so ordered.

We will now begin Phase I of this public hearing. The Zoning Commission is proposing zoning regulations for Route 262 Planned Commercial district. These regulations are the subject of this public hearing. Copies of the regulations are available at the doorway to this auditorium and have for the past month been in the town's website and the town clerk's office. The concept for the Planned Commercial district are Route 262 as approved been by the Planning Commission in the Watertown Plan of Conservation and Development it was effective December 28, 2007 and was endorsed by the Watertown Town Council on November 5, 2007. I want to take no longer than five minutes and communicate the comment about the required review process for commercial development using these proposed regulations and summarize the purposes of the new district. This new district is an overlay district. This is to say that landowners may only develop their property using existing IR80 industrial restricted regulations which is the underlying. Until such time as both commercial zoning regulations which is the subject of this public hearing and district boundaries are approved by the commission as an overlay zone. It is only when the vote of these two events that occurred that development application can be submitted to the Commission. Landowners first must submit a petition for zoning map amendment which lays the boundaries of an existing. These regulations are not effective for development until the Commission approves district boundaries. In the process of reviewing the petition for zoning map amendment the Commission requires by these revelations the developer to submit conceptual plans for approval (inaudible) or site design plans and for study answering questions that the Commission has determined is needed. These questions include answers to effects on the proposed development.

1. Watertown businesses
2. Business sprawl on Route 262 and Echo Lake Road
3. Municipal services including but not limited to police, fire, emergency medical services, public water, sanitary sewer, storm water drainage systems, streets and schools.
4. Quality of life and town character.

5. Street circulation changes in the traffic, fire hazard, panic hazard and public safety.
6. Environmental impacts
7. Potential development constraints associated with brownfields and topographical conditions such steep slopes, rock outcroppings, and Wetlands.
8. Values of land and buildings within the district and properties adjacent to this.

This information will provide the Commission an opportunity an opportunity to amend these regulations noting specific development plans used for the Commission lays the boundary lines and (inaudible) that will help commercial zones. The following approval of district boundaries and final regulations, detailed site plans, and special permits are required as usual to be submitted to the Zoning Commission for approval and determination of the application conforms with the regulations. Purposes of the Route 262 Planned Commercial District are to:

1. Extend retail and office use options within Town and increase diversity of the Watertown tax base.
2. Create an attractive and high visibility entrance to Watertown. The district includes standards and guidelines that requires a basic level of architectural variety, compatible scale, mitigation of negative impacts of large scale development, and encourages site-specific design that demonstrates architectural excellence.
3. Encourage within the district pedestrian walkways, bikeways, arcades with benches and wide walkways, and high quality attractive landscaping and outdoor lighting.
4. Require access management techniques to reduce the number of driveways and street cuts onto public roads, private service roads, and to individual buildings.
5. Require where feasible shared: (a) storm water detention and retention systems, (b) site infrastructure utilities, (c) outdoor lighting, (d) parking lots, (e) driveways, (f) roads, (g) pedestrian walkways, and (h) bikeways.
6. Promote development continuity by consolidating contiguous lots within the district.
7. Discourage strip commercial center development within the district where large parking lots are typically in front of stores arranged in a straight row along arterial streets with an automobile-centric design.

This concludes the Zoning Commission in presentation and concludes this statement to the public hearing.

Minnich: We now begin the next stage which is the time for you to speak to the Zoning Commission about the proposed regulations for Route 262 Planned Commercial District. This hearing is conducted in accordance with Planning and Zoning Commission By-Laws where town zoning is in relation to state law. Copies of these public hearing rules are in the meeting packet available at the entrance to this auditorium.

The Commission recently voted to limit first round comments to five minutes per person. Five minutes begins when the speaker states their name and address for the record. Five minutes includes time to answer questions. Speakers will be recognized only once in the

first round. The purpose of the five minute limitation is to afford the most number of people an opportunity to comment. Those that do not or cannot speak within five minutes will have an opportunity to speak later in the public hearing.

After coming to the podium give your name and address for the record. Pause before beginning your presentation to be certain the P & Z Commission Recording Secretary has accurately understood your name and address. Speak directly into the microphone at a volume all in the room can hear. Comments and questions must be directed through the Chairman. The Chairman will attempt to recognize a person speak in alternating location in favor of the proposed regulation and those not in favor of the proposed regulations. You will receive recognition to speak to the Commission on subject of this public hearing for period of time no longer than five minutes.

Masayda: Mr. Chairman could I add to your initial presentation. I would like to provide some additional background.

Minnich: This is the phase of the public hearing where...

Masayda: Being not part of the second phase where and public hearing procedures should be completed after the applicant and just the town presented the presentation that Commission members the issues that certify a presentation I would like to put certification at this point before we start with the public and also request the feedback that we are looking for. I would like to spend about a minute just to provide some additional background.

Minnich: 60 seconds.

Masayda: I would like to apply some additional background how this Commission developed the proposed regulations. Studies have not been preformed with all the development regulations and access the effects of the zone change. The regulations were not reviewed by town staff or Town Planning and Zoning Enforcement Officer. The regional plan agency did not provide any input into the development to (inaudible) until an effect time. Previous studies and sources of information brought to the communities were not researched. The town has written a letters to the Commission indicates he has not spent sufficient time to review the regulations in detail. When certain Commission members requested additional time to review these regulations it was denied. The Chairman Mr. Minnich spent a similar amount of time developing these regs by cutting and pasting regulations from other communities. These regulations were firmly developed as he has no professional experience or qualities to prepare such important regulations. I can't say the Commission members to perform the comprehensive view of these regulations for the same reasons. None of us have experience or professional qualifications in fact we have seldom meetings and reviewed these regulations did not convey one comment for specific point of discussion on it of 26 pages of regulations. I can only conclude that the silence of these five members indicated the lack of qualifications, qualified experience or they did

not neither understand the quotes of regulations. I cannot support these regulations presented this evening as they lack the research and corporation of a planned professional. The result of these regulations has a potential of significant consequences this far staff crews, planning and zoning meetings, previous applications at this location with extensive discussion on what the common vision at this location and for the future of the town. These regulations for example limit the amount of the maximum size of the development which directs (inaudible) type of business and traffic generation. These regulations do not make pain the rural town look as a falls to development by visibility. These regulations do not prohibit strip type development as it calls for discouraging this type of development. These regulations do not address who is responsible for offsite improvements that the town could be responsible for making all structure improvements on both local roadways. This is just on the first two pages of the regulations so what I am looking for here tonight is feedback on conditions and any forms of information that you could provide.

Minnich: Moving on we will move onto to Phase 3 of the public hearing. Who wishes to speak for no longer than five minutes.

Margery Shansky – 61 East Grand Avenue, New Haven

Good evening Mr. Chairman and members of the Commission my name is Margery Shansky I am an Attorney. My address as you read it is 61 East Grand Avenue in New Haven, Ct and I am representing the 15 petitioning interveners who on a motion of your Commission have been granted party status. Consequently and with apologizes are input is subtend to but will take more than five minutes. I was wondering if before we begin however the chair would please read into the record the letter from the COG as his required under Connecticut law which might help illuminate and focus the issues for the public for the remainder of the hearing.

Minnich: The reading of that and another letter from our town attorney will be done here later in the public hearing. We have listened carefully to the long term that this Commission has had in the process it is obviously ours to determine what we incur is that there are several people who speak for a long period of time and others that come here it becomes very late in the day or evening so we have determined in that process I mentioned to you the most people have the opportunity to speak is that everyone at this first round speak once and can speak for no longer than five minutes. If you wish to speak later you will be able to do that. But we went forward with the most people in this room before to give everyone an opportunity to speak. So we will read the letters on the agenda just after this five minutes round.

Shansky: Truly noted. Mr. Chair I would like to introduce Brian Miller of Turner Miller Group certified planner who is going to share information with the Commission that is directly responsive to the issues raised by the Commission member and I would ask the Commission to indulge him for as much as you can beyond 5 minutes perhaps use some of the time from some of the interveners so that you get a cogent report on his examination of the regulations as proposed. I have a few comments but I will defer them till later.

Brian Miller – Turner & Miller Group – 408 Tomlin Avenue, Cheshire

My name is Brian Miller I am a principal with the planning and consulting firm of Turner and Miller Group, 408 Tomlin Avenue, Cheshire, Ct. As a way of introduction I think I met ...

Minnich: Let me be real clear did the secretary get that.

Miller: I am submitting a report.

Minnich: Before you begin you have five minutes to speak and then it is somebody else's turn. So you need to plan your time or speak later at a more length of time which maybe more coherent to your presentation. You have five minutes.

Miller: I appreciate that and let me know when the clock starts.

Minnich: Now

Miller: As a way of introduction I have met with some of you before. I represent the concerned residents. I met with and submitting a proposal to actually do the impact analysis of this area and in response to a proposal from Konover Associates about a year and a half ago so I am familiar with the area. I understand the situation and that I am saying tonight is certainly consistent with what I presented to the Commission about a year and a half ago. Again to keep with the five minutes I have reviewed your zoning proposal it is very lengthy I can't go through that in detail in five minutes. But suffices to say that I looked and I have been practicing for 30 years I work with 5 communities in the state including 3 within this region providing planning consulting services. The zoning proposal does not accomplish what I heard state was the purpose. You state it is an overlay zone what is usually used in those conditions where you want to attach specific requirements to an area is a planned development design district. Which actually ties the plan to your intent is my professional opinion you're zoning proposal does not accomplish that. I have heard from you on the plan of conservation and development to sections call for potential retail area but both of those areas call for one of them, one of them calls for economic development study, the other calls for a series of studies which again I discussed with this Commission approximately a year and a half ago. Now there are a couple of things here on the impact as far as I could look that the area that might be potential developed is

approximately 150 acres give or take. You are proposing amendment would permit a maximum of floor area of 0.5 that means for every 20,000 sq. ft. of land 10,000 sq. ft. is developed. That would permit over 3 million square feet of retail development incur within the subject area. Now we understand that is not realistic but it is not unusual for retail uses to encompass 10,000 sq. ft. of floor area even if conservative 7,000 sq. ft. of floor per acre you are talking about potential build out of a million sq ft of retail space, which is larger than any retail area within the greater Waterbury region. The language proposed zoning amendment seem to envision a large planned retail development. Market conditions are likely to support big box retail there is no limitation on big box retail here. Traffic you discuss it your section 36.46.31 specifically removes the responsibility the developer's traffic study to address remedies to mitigate congestion. That is really one of your issues. The state traffic commission only deals with state roads Echo Lake Road or the other roads within the area could not be addressed by your own regulations by the traffic study. This property is located within the town principal industrial area most of the major industries of town just located east of that. Potential impact again these impacts you had talked about studying in and traffic one of the attractions of those industrial areas is easy access to Route 8. If there is traffic and congestion between those businesses and Route 8 made the tracks from the viability of those businesses. The image businesses like being in an industrial zone again we have not had the opportunity to look at it. Land use some mixture of commercial land uses might be appropriate but whether a question a potential of 150 acres of retail how it interacts with the retail development again is not fully understood. How it would affect future industrial development and how it would affect investments of the existing businesses within the area again that has not been discussed.

Minnich: Is there somebody in favor of the application that would like to be recognized?

Bohdan Wasiutynski – Interveners – 514 Sylvan Lake Road

I am one of the interveners. I wish to yield my five minutes to the previous speakers.
Thank you.

Minnich: This is to be fair back and forth. Everybody has five minutes and they will get their time.

Shansky: I appreciate that Mr. Chairman but let the record reflect that the people who have been recognized as interveners and you have party status are not being afford to fundamental fairness on which they suppose to rely and so far as their message is now being vulcanized by your rule. I appreciate your interest in having many people speak but I want the record to show our objection.

Minnich: You can.

Lori Martin – 271 Bella Vista Drive – Watertown

Good evening Commission members you have a difficult task before you this evening. You are going to be forced to listen to the same rederick that you have heard for the last three years about how the change of this zone 262 is going destroy our community. It is imperative that you not bias information to change your position so you could do what is right for Watertown by moving forward with this proposal. We the tax payers of Watertown look to you to bring about the long overdue improvement to our community. So that those of us you are struggling daily to keep our ever rising expenses can find some relief when tax bills become over due. Opposed to this change provide unsubstantiated claims against this much need staff ask them what ideas they have come up with to assist the tax payers of this town. They complain that the work you put forth in this proposal doesn't protect the town but where were they during the meeting that this Commission had to discuss the detail of this plan and how you worked tirelessly to create document that would provide the best possible plans for this development. They choose to never be part of the solution but they cherish being part of the problem. I strongly urge you to stay the course and move forward with this much needed and long overdue change. You are taking into account what is best for the entire community not the select few who have spent years soliciting membership into this group. And what you see before tonight is the negative side of the issue as all they have been able to muster up. Considering the community that's not much. That alone speaks volume to how weak the stand is. On another very important note I like to address the inappropriateness of how the Commissioner whose father is one the staunchness opponents to the proposal and being allowed to have input in this discussion in any way. It is completely inappropriate completely. Mr. Masayda I call on you sir to do what is right and recuse yourself from this discussion immediately. Recusing oneself is not just about gain it is also about showing previous position in either way which I think is quite obvious.

Elizabeth Wasiutynski – 514 Sylvan Lake Road

I am yielding to my five minutes to Attorney Shansky and Mr. Brian Miller.

Miller: Thank you again starting where I left off here one of the points the plan of conservation of development all for economic development site the reason for that was to make sure anything that occurs does not adversely impact the existing economic base of the town. Again there is existing businesses just east of the subject area, the impact of that has not been fully evaluated whether it will have an adverse impact on these businesses or whether it will have adverse impact on the future industrial development in this area we don't know that yet and it needs to be evaluated. The environmental impact was another issue that was presented, this area I think everybody in the room knows is a hill. It is a large hill with steep slopes. The preparation of the site for commercial development would require leveling of the site. That would also include the removal of large amount of earth materials. Again we don't know what the impact of that was, my understanding of the reason that the previous application did not proceed forward was because of the

cost of preparation that site exceeded what was economically viable. I don't know that to be true but again I would suggest probably should be evaluated as part of this impact analysis you saw fit to go forward with at some point in the past. Impact on other commercial areas when you look at the market for any retail services with an area somewhat find some areas have surplus of retail in which development and new facilities would take businesses from existing retail areas. Other area experiences a leakage which consumers do the shopping outside of a market area and take the retail dollars outside. For those areas development of retail might be advantageous for the economic growth of the community. But we don't know because there has not been a market study done. There are three major commercial areas of the town, the downtown area, Straits Turnpike, and Route 73. We really don't whether retail development out at this site what that impact would be and if robbing Peter to pay Paul it might not be an economic benefit. I am not testifying that it would not be an economic benefit I am suggesting that we don't know that without the impact study. Again what demand on town services that was a question that was posed a year and a half ago. All retail development does generate tax revenue. Industrial development does as well and we have an understanding that residential development has a net negative impact but retail development usually less positive impact in either industrial or office development. Retail development requires more strain on public safety services and it doesn't generate as much tax revenue as office because the buildings are not worth as much or as much industrial because it doesn't have the personal property there is not that much personal property retail. That is a question that I pose to the Commission that has not been answered. The specific requirements need to be evaluated which is as far as I know have not been evaluated. Again the plan of conservation and development that is really Section 83a of this statues state that one of your considerations. Your plan of conservation and development and again I am not telling anything you do not know it's fresh it was adopted less than a year ago it called for the studies as part of it. I would strongly suggest that once you allow this you have already granted the zoning approval and you propose the conceptual plan would be more of an administrative action. I understand what you are trying to do. But I strongly suggest that the proposed zoning text will not accomplish that. Once you designate that you bring up the zoning the conceptual it's how it fits the zoning it is not a question of whether you can grant it or not. Thank you.

Minnich: Who would like to recognize of being in favor of the proposal?

Debra & Michael Hilleder – 172 Frost Bridge Road

Michael: What I got to say is anybody think there is industry in the United States? Or is there retail available in the United States?

Debra: Our property abuts the planned commercial district. We are not clear if we are in the district or out of it. Number one we are against spot zoning because if there is spot zoning for just that property our property is worthless. That does not mean we are not for it we are just against spot zoning. Industrial business is gone from the United States. I work for a company in Watertown, Siemon Company we been told last Thursday that orders are down 90%. Everyone in the company has to take a week's furlough and after that it is debatable what will happen. I don't want to lose my job. And I am one of the people that wish an industrial business was good in the United States but is not. It is not coming back. Watertown needs a tax base industrial property is not going to give us that.

Michael: Does anybody here want their house put right across from Kmart on Straits Turnpike without option to even get out of it? If you take all IR80 land and rezone it to commercial I think you will see an instant boom to Watertown to everything. I went to the concerned citizens meeting I heard people complaining about half the smell of hamburgers that lived half a mile away. People worried about their cats getting run over because of the increase in traffic. Telling more women that they are going to be raped and robbed in this area. This is craziness you people better get your heads together rezone all the IR80 do you understand all of it. There is nothing else to do about it. There is no industry anything that will help the town, help the people that what you want to do. This is craziness.

Debra: Thank you.

Minnich: Is there someone who would be recognized to be not in favor of this?

Bohdan Wasiutynski

I would like to yield my five minutes to the first speaker thank you.

Shansky: For the petitioning interveners. I like to spend a few minutes talking to the Commission the legal infirmities in the proposed regulation. I have to say if one wanted to adopt a regulation to achieve the purposes that were articulated this is not that regulation. I am not speaking for the same planning ground that Brian Miller is talking about. I am talking about legal grounds I have read the letter from the Commission's lawyer, he takes issue in criticizes many aspects of the regulations and I concur with his observations though I don't think they go far enough. I read the report of the council governments they take exception to many sections and elements of the proposed regulation and I concur with their findings on the weaknesses in the regulations. If one is going to do it, it should be done correctly. An overlay zone is map amendment. This reports to be an overlay zone but does not land on a specific area. Consequently it is a misnomer it is not an overlay zone. An overlay zone is not the same as a floating zone. They are both flexible zoning techniques but they are not the same. The permitted uses are expansive but they lack specific standards. And when you speak about imposing standard later on trust me but I am 25 years experience in the field of land use that standards in applications can only be applied as they exist in the regulation before an application is submitted not after an

application is submitted. You cannot impose standards that do not already exist in your regulations. Consequently this proposed regulation is flawed to the extent that it does not contain standards. That makes it unenforceable and voidable by a court of law. Similarly it uses the word special permit a couple of time but it does not really control any uses to have achieve a special permit when they are coming to create a planned development. That means that we will just be seeing for administrative site plan review how something complies with the regulations. A special permit as the Commission well knows is important mechanism for accessing whether the public convenience and welfare is maintained in a specific application proposal with respect to neighborhood conformity, traffic consistency, traffic congestion which is one of your mandate under Connecticut law to avoid increasing congestion in the street. In fact your mandate under Section 8-2 of the statue as you know is to lessen congestion in the street. So if you don't have a standards and a special permit process for some large retail development that wants to land itself in this planned development district you have advergated your authority and your responsibility under Connecticut law and you have exposed the immediate neighborhood to incompatible uses, nuisances, and loss of property value which is also one of the main supporting elements of having zoning in the first place. I would like to address a few comments to environmental issues which is the subject matter of the petitions. This is a very topographically group of properties and the Turkey Brook runs through, there are shallow slopes there, inland and wetlands. You have adopted a regulation or proposed a regulation that permits 75% impervious cover which is a very large amount of impervious cover given the environmental issues confronting development on this site. We are in a period of increased frequency of high intensity rain storms if you want disposing low impact development techniques in this regulation. You are missing an opportunity to avoid serious issues of erosion, downstream flooding and other adverse consequences of inadequate storm management. Any you have not provided for that in this regulation. Traffic volumes associated with the enormous potentially one million square feet of retail development have substantial environmental impacts including pollution and the seventeen known contaminates that fall off of cars as they are driving as their sitting in parking lots and such. I have listed some of them in the petition. These issues can only be addressed not only through requiring an actual traffic study in connection with every development that comes in but imposing on the applicant, on the developer, on the deeper pocket the requirement to mitigate the impacts of that traffic whether it is function of going extra driveways or not extra driveways or driveways width or landscaped buffers, landscaped areas within parking lots. There is so many things that have not been accounted for in this regulation. So I stand before the Commission speaking energetically against what is before you. It is legally infurmed document it reports to do something it does not achieve it. And then its failure to achieve to achieve lays the town and the Commission open to inappropriate application the neighbors who will have to pay the consequence and live with the consequences. Once that dirt is disturbed there is no going back. So why not do it right. Thank you.

Minnich: I will recognize one you speak in favor of this proposal.

Joe Perugini – 162 Tarbell Avenue , Oakville

I am here not to support although against this project I don't have enough details about it. But what I want to tell you, you people know better than I do what is going on. When I received this letter I was very disappointed because there is a group here they (inaudible). Yesterday I got a phone call telling us to come and vote against this because the town is to pay the tax to widen up the road. Which I don't think this is true. The letter says trash, traffic, crime, and pollution if this is so by opening the mall of whatever that means Waterbury and these other malls we are polluted. Those people should be dead by now. We got a lot of plazas in Waterbury and you go and they say noise. Anybody brings the earplugs when you go to the mall. I don't hear no noise I don't see no trash. Why are these people they misrepresent and same thing tonight a lady says just say no what's this is this the United States of America or what. Or it becomes like acorn now they're bringing people to the register that is not even legal in this country and just say come in and register and we will vote. So this my quam as far to be favorable against it I have faith in you people because you know more about the situation than anybody else in this room. But the strength of lies that is not right. It is not fair to the landowners. Thank you very much.

Minnich: Is there someone who would like to speak (inaudible).

Jack Traver – 795 Park Road, Watertown

You are going to get a lot of technical and legal advice and so forth. What I would like to do is hopefully break it down so it is easy. Looking at the October 16th of this year the Town Times article on this it is a letter to Mr. Minnich from Town Attorney Paul Jessell. What it says is once Commission acts on the adoption of this overlay zone the remaining issue to appear before the Commissions are administrative in nature and what that means is that administrative in nature means you can set the rules. So long as the applicant under any of these listed plans demonstrate that they have compiled with the regulations it must be approved. So this is the ballgame right here, Mr. Jessell later states in this letter once the overlay is in place the Commission's power is severely reduced. The issue that concerns me the most is the unintended results of proposals falling within the regulations which are not foreseen and dealt with. What it means is you give away your authority to control the activity. What it means is after you give up your administrative authority then the party that proposes to develop these properties wins because their budget for lawyers will be always greater than town's budget for lawyers. This is a full employment for lawyer's proposals. Now in this same part in Town Times Mr. Ferraro who is the real estate agent that involved reading from the paper Mr. Ferraro provided reassurance on the issue whoever does the development will be very responsible about it. They know what they have to do; they analyze the situation, the economics and the impacts of it. They are professionals and they do it with class and the town is not going to need more fire trucks or policemen or anything like that. There isn't going to be those issues, those kinds of

impacts. He is acting like the salesman and it is well stated I commend him on this statement but he has got a vested interest which he shouldn't and he has every right to be. The problem of this is that it brings the question well if these are such wonderful people why don't they come forward with a proposal to you folks to change the zone or do it what are they hiding from. Why are they hiding? Why don't they come forward if they are so great? What is the answer to that? The only two things that come to my mind is that if you the town's people I missed 3 seconds if the town's people and the members of the board find out who this is they won't get what they want. So that is one thing you are in a uproar. I know the scuttle but is that it's I never go there Wal-Mart Supermarket or whatever it is. They seem to have negative comments in the public's eye. Or maybe they are just waiting for a sweetheart contract which this proposal as it is would deliver to the development. Reading from the Town Times several authorities outside the Watertown P and Z have unofficially commented that they believe something funny is going on, I adhere to that line of thinking although it is not a comment. Now I just want to move quickly to the council government's referral now this from Sam Gold Senior Planner of the Regional Planning Commission Council of Governments of the Naugatuck Valley. It is six pages the first page describes what the proposal is and the next five pages describes what is wrong with it. Now this is the first professional planner that has weighed in on this. Gentlemen of the Planning and Zoning Commission he is telling me something. And I will hopefully be back again with the corporation of some very kind people.

Minnich: You can have overtime to speak if we need to get through this first round of five minutes and then you could speak for a longer period of time.

Travor: I thank you for that comment because in reading that it did not specifically say that.

Minnich: The first round is five minutes and then you could speak longer.

Travor: It has not been written or stated until this moment.

Minnich: I did state it but that is okay

Travor: I missed it.

Minnich: Is there anyone in favor of proposal that would like to be recognized to speak at this time?

David Thoreau – 500 Breakneck Hill, Middlebury

I am an owner/broker of Drubner Commercial Real Estate Group. We are one of the largest property owners in Watertown over 400,000 square feet. I been in the real estate business since 1971. I have been marketing this site for about ten years there has not been much interest as industrial site obviously. The site has topography challenges that industrial use cannot afford to address. The site should be rezoned to allow retail development whether it is this type of rezoning or another it is not for me to decide.

Minnich: If you could speak directly into the mike that would be good.

Thoreau: The site should be rezoned to allow retail development whether it is this type of rezoning or not is for you to decide. Retail tenants can afford the rent needed to develop a site as this. The site is well located within this type of development in the service of state roads and highways it is very convenient for the locals who won't have to travel to far especially out of town. Retail development is encouraged in most cities and towns across America because of its minimum need for town services. One just needs to look at Naugatuck and Torrington encouraging more retail development. Expanding the tax base by a variety of means is perfect thing that this board is trying to accomplish. As far as studies go what has not been proposed is yet can't be studied for its impact. Because retail uses have different impacts from each other. A hotel and conference center has a different impact than a retail center. The necessary studies require by the town of Watertown various boards or agencies will be done at the applicant's cost when and if a project is deemed economically feasible. If a 200,000 square foot retail development is built the project should bring in about 500,000 dollars in property tax dollars to the town of Watertown. Scare tactics and negative cash to the town is just that. The 130,000 square foot Wal-Mart in Naugatuck doesn't have or need any additional police or fire protection. In fact the police and fire departments tell me personally that they could easily handle many more retail developments like that without any additional equipment or staff. Five hundred thousand dollars in new tax revenue to the town means the town could bond millions of dollars with this income for infrastructure improvements, schools etc. The town's finance director could explain that much further and clearer than I can thank you.

Minnich: I am recognizing not in favor Judy.

Judy Wick – 1051 Northfield Road

Well so far we had speaking again in favor of this the daughter of the property owner and the realtor of the property owner. So that gives you some idea. I did have comments for this evening until I read the comments from the Council of Government. Sam Gold did an outstanding job pointing out many of the problems with these proposed regulations. I hope the Commission is not so close minded in its position that it chooses to ignore these express concerns as they have apparently done those made by the Town Attorney. Mr. Minnich has been quoted as saying that once these regulations are adopted the applicant

would then apply to set them down. At the time the Commission can require the studies and decide if that is what they want. Unfortunately I not sure that is the case and apparently other people are not sure either. What is being proposed here is not a floating zone with set rules but is not in effect until it is set down on particular parcel or parcels. This is not an overlay zone which permits the uses specified in the underlying zone to continue. This is a regulation development for a specific area describing the regulation and maybe come effective as written once it is approved. If that happens all the other stuff in there about studies and conceptual plans become irrelevant and this Commission is required to approve any application that meets the standards in the approved regulation assuming they can figure out what those standards are because I had a lot of trouble. Is this as COG suggests an instance of spot zoning which has been prohibited by the courts? Shouldn't you want to find that out basically you are changing the zone before you know what is proposed and go there and losing your right to deny what might be considered inappropriate. You are then left with nothing but site line requirements for by right uses. I have tried to envision what this proposal would look like there is talk of streets, are these to be public streets that the town has to maintain. Do these streets have to be built to town standards, The setback requirements are not appropriate to unified development which this is supposed to be. These regulations obviously have been cut and pasted from other communities and do not apply to what supposedly envisioned here. There seems to be more concern with the management of grocery carts than the effect this development will have on our roads and services. Are you aware that Watertown zoning regulations are permissive regulations that means that only what is expressly permitted is allowed? Everything else is prohibited if you have prohibited regulations you must prohibit what you don't want and everything else is permitted. You have created a zone with both permitted and prohibited uses. What does that mean for all uses non specifically stated. Here is another area where a professional opinion is required. There are references to applications for special permits but the only things requiring a special permit are deliveries and trash pickup outside specified hours. Outdoor cafes and accessory uses. Where are the standards for the special permit I see no reference to section 52 of our zoning regulations and no standards set in this proposal. Where is the requirement for public sewer and water? The report from COG refers to a Kings Mark environmental study done on the land in 1985. Do you know who Kings Mark is? Has anyone read that study? Were you even aware that it existed? If not why not? This is just another example of the lack of knowledge and professionalism evident in the preparation of these regulations. The regulations state that the Commission can refuse to accept an application that deems incomplete. It cannot, it can turn it down but it cannot refuse to accept it. The regulations talks of the Commission setting time limits on the site plan approval. It cannot state statue gives an approved site plan at least five years to complete. There is a reference to a site plan public hearing required by state statue. State statute does not require a public hearing for site plans. But if the Commission chooses to hold one it is limited to 65 days to hold the hearing and render a decision. It is not the 65 days 35, 65, given when there is a required public hearing. As I read these regulations it is apparent that this Commission is intent on turning Watertown into extension of Waterbury. The Commission wants a highly visible gateway of six story office buildings and big box

stores to be the entrance to town. I recall the study circles emphasizing retaining rural character. It seems to me this Commission is acting as the agent for the land owners and the developer ignoring the expressed wishes of the community. Now that we know there is a development waiting to purchase this property why is the Commission doing this at all. Is this potential development dictating the rules of the game? I always thought the American ideal of doing businesses is that he who stood to make the greatest profit took the greatest risk. Apparently this board thinks that only ones that take the risk should be the residents of Watertown. I have sat through meetings of this Commission and heard them discount all the issues raised by Mike Masayda and Ray Rondeau the same issues that have now been brought up by Sam Gold. I have heard commissioners say we don't need professionals we know enough to do this ourselves. Well that is obviously not true. I have heard Commissioners say we don't need any studies we have the power to do this without. I have heard Commissioners say they were disappointed in the Town Manager because he asked that they are sure to provide mitigation of infrastructures by the developer and not put the town at risk. I have to ask myself who these Commissioners are representing. On what do they base their opinion that this proposal will be a benefit to Watertown? If big box was the answer to all problems Waterbury and Naugatuck would be a big headache.

Jim McGowan - 25 Meadowcrest Lane, Watertown

I am in favor as just what you said. I have some excerpts from an expert in town planning. The book that has been a best seller and is available in local libraries called the *Big Box Swindle* by Stacey Mitchell written in 2006, a few excerpts from it State environmental board Act 215 decision 1994. Across Connecticut analysis of a proposed Wal-Mart store would cause dozens of existing businesses to crumbles leaving to a net loss of \$110,000 square feet of retail space. Two hundred and fourteen jobs created by the new super store would be offset by the loss of 381 jobs that other businesses. The analysis has found that overall tax losses expected from the small business failures will be greater than a tax generated by Wal-Mart. Long over the city put in a roads, sewers, police, fire protection, and service sprawling new development. The analysis concluded that for every dollar of tax benefit created by the super store there would be \$2.50 in tax losses at public cost. There are other stores locally in New England that also in parts of the United States one in Concord, New Hampshire provides an example of what can happen when a community allows massive commercial growth while failing to protect its existing economic assets. This is 2001 over the past 12 years Concord added 2.8 million square feet of commercial and industrial development tax revenue had to be declined by 19%. To make up the lost revenue the town has one of the highest property tax grades in the state. This study was done by RKC associates and independent economic consulting firm. Found that there are several reasons for the declining tax base. One was that the new development primarily the big box stores have harmed local businesses. Property values have subsequently tax revenue that the holder shall be arious and decline sharply. Another factor was that the new development had eroded the value of residential properties. To increase traffic and noise the end result was that the cities experience a

declining tax base despite all new growth. Moving out to the big west in Illinois 1991 the study demonstrated that the cost of encouraging new commercial development extended ironies utilities, municipal services, police, fire protection, and financing and development incentives exceeded the new property on sale tax revenues. The new development generated study concluded there is a significant statistical relationship between new development both residential and non residential and increases and personal property taxes. There is a book available as I mentioned call the *Big Box Swindle* written by a woman Stacey Mitchell she lives in Portland, Maine and she has been worldwide in the United States and she has given help to dozens of cities and towns and implemented new plan use and economic development policies that limited change course and strengthen locally owned businesses. She is not against helping towns in the economic development but she is against the big box and that type of change that brings about and destroys local businesses. So I am asking this Commission to the first thing I would do is get this book and then I would contact this Stacey Mitchell and I would see if I could get her to come to Watertown whatever cost you may charge that least to get some preliminary information how it would apply to the town of Watertown before you make any changes in the zone. A change in the zone before anything happens is like you don't care what goes in you are just going to make a change.

Minnich: Could I recognize someone who is not in favor of this.

Ross Upton – 86 Wood Park Drive, Watertown

District Chairman and members of the board my name is Ross Upton , 86 Wood Park Drive, Watertown. I am here to speak against the proposition as it stands. We don't need more box stores Wal-Marts, BJ's, and so forth. I think it would bring in more cost than tax revenue. I believe this would not be a credit for Watertown if you split it out to the point where we have that separate from manufacturing and office space. I would be in favor of manufacturing and office space. But to bring more people in, more traffic just to have people from all over the state come here to buy products made in oriental and others foreign countries that we don't need. This valley was at one time was manufacturing center of the world what have we got now everything went overseas and now you are going to malls and you spend money on things that were made overseas when we use to do it here. So I would like to compliment Mr. Masayda on my left over there and the previous two speakers I am with them on that. Thank you.

Minnich: I would recognize if someone would like to speak at this point in favor of the proposal.

Rosalie Lockland – 319 Thomaston Road, Watertown

I want to speak in favor of commercial development in that area but I would not be in favor of a Wal-Mart another shopping supermarket or anymore drug stores. I would like to see us have something like they have in Canton. I have gone up there when I shopped many times it has sidewalks, it has benches, and flowers and very nice shops. I have never seen garbage, I have never seen crime, and I have never been attacked. That is the kind of development we would need in Watertown. We have struggled for years trying to get budgets passed. So we need this and I would hope that you would do it in a responsible way. Thank you.

Minnich: Is there anyone who is not in favor of this proposal?

Colin Adams – 18 Hadley Street, Oakville, Ct

Mr. Chairman and members of the Commission I too was a Planning and Zoning member and I know how many hours it takes from your time. When I was Chairman it was like another full time job it was 40 hours a week. So I could understand the volume of work and effort that you have gone through. I have attended the many of the Planning and zoning meetings, meetings on the impact studies whether they are needed and who is going to pay for them, and the interesting thing is that even with all of that I still need a few things cleared up in my mind. I think that you can answer questions to the public?

Minnich: That is correct.

Adams: Some of the questions that I have are that what is the educational or the planning qualifications of the authors of this planning and zoning text change?

Minnich: I don't know how to answer that...

Adams: Are you a qualified planner?

Minnich: Are you talking about me?

Adams: I am talking about who wrote the zone change?

Minnich: Many of the provisions that are in this document have been...

Adams: Do you go to school for planning?

Minnich: Many of the provisions in this document has been stated before have been come from communities that have planned commercial developments for commercial areas to which we looked at as a model for developing these standards.

- Adams: Has professional planning staffed legal opinions looked at this proposal and given you advice on this proposal?
- Minnich: They certainly have...
- Adams: Can you tell me who they were?
- Minnich: We have two this evening, we have COG and we asked our Town Attorney.
- Adams: And what were the results from that, they were negative, so my question is that the person who wrote these regulations are they professionals at writing Planning and Zoning regulations?
- Minnich: I don't know how to respond to that...
- Adams: Can you explain to me what high quality retail office development is? That is what is in the regulations can you tell me what is your definition of high quality retail development?
- Minnich: That could be best surmounted by regulations you have for the proposed the buildings on the site zone which were pretty much word for word or close to it of that of Canton. And that was the style of the building...
- Adams: I really commend Rosalie for saying that Canton is the beautiful type retail development but under our regulations that you are proposing here that would never happen. What is the largest size retail building that would have under your development? There are no cap sizes you can end up with a million square feet of retail development on that property. Can you share with me what studies this Planning and Zoning Commission has reviewed, that has a positive benefit on taxes over expenses?
- Minnich: I can share with you where conversations have been with Canton, with Manchester,...
- Adams: No, what studies have you seen, what retail actual studies of towns have you seen, yes with Canton I can understand that is a small box store. Those are not large retail box stores. Those are not 200,000 square foot stores. What protection do you have in these regulations for the town of Watertown?
- Minnich: Several, several
- Adams: There is nothing in these regulations showing the protection for the town of Watertown with cap sizes that would eliminate the 200,000 square foot big box.
- Minnich: Yes there is...
- Adams: Explain to me? Read the regulations to me.

Minnich: The proposal to which we will get as part of the conceptual plan that is required as part of the boundary line zoning map changes are petition we will see what they are proposing in terms of the concept for the size of the buildings and the uses to which they (inaudible). So we will have an opportunity at that time to then take a look at what those are and it will be required by the studies to which we have require all listed. From those studies we then most certainly will be looking to amend these regulations to be certain that only have an off right to develop it. Those are included in those regulations.

Adams: I will speak with you at a later time.

Minnich: Thank you.

Mary Ann Rosa – 206 Northfield Road

Good evening Commission members and members of the public my name is Mary Ann Rosa – 206 Northfield Road. I am here tonight to strongly support the approval of the regulations. I lived in the town approximately 45 years and for more than half of that time we have been talking about the various things we need from the development of Route 262 to a new Town Hall and schools. Every time we do that there are nay sayers and people that try to frighten us from approving the project and especially when it comes to Route 262. I think it is time to face reality we will all might like to see industrial development and a great industrial park out there but it is never going to happen again. They are sure not to be in Watertown. Please keep in mind that this time next year I believe we are due for evaluation in Watertown. Couple that with selling the bonds for the school projects and you are going to have a tax revenue that goes out of site no matter which party is in power and there is not anything they are going to do about that. We need something to upset that whether it is the fees, permits, or taxes, retail development. I don't claim to know but I do believe we need the income from something of that nature. I understand that there are people that don't support and I think all of us in this room here tonight are here for the same reason we all care about our town. We all came out on one of the first cold evenings this winter because we care for various reasons and various ways. But what I think is important is the end result for the community and I don't think the end result is ever threatened people or town lies about whether or not there is going to be crime, or traffic, or something that is terrible for our town. If you travel to any of the towns that have development such as Canton that was mentioned or the Evergreen or any of the other lovely areas to shop when it comes near holiday time. They are not crime ridden and they are beautiful and there is no reason we can't have something like that close to Watertown done in good taste. I don't support the big box, I don't support a Wal-Mart here either. I don't want to see other drug stores or even 25 gas stations. But I do think it is incumbent upon you to find a way to allow retail development in that area so that we reap the benefits. Thank you.

Mark Zorenko – 1115 Main Street, Watertown

I think I am more known as Mark Garden Center because I am there seven days a week 1115 Main Street Watertown. I have lived in this town for 60 plus years, my parents have raised their families here. Their parents have raised their families here. Their parents, parents have raised their families here. My children are here, my grand children are here, and I have been in businesses in this town for 40 plus years. About 40 years ago I went to the Zoning Board to ask where I could put my retail business and they showed me the retail area and that is where I put my business that is where I have invested in our town. Most of the people in the retail business have followed those rules and we have our business there. To change the rules now seems unfair, at the time that I asked my grandparents had some property that abutted the area that you are speaking off and I asked if I could do retail there and I was told no you cannot and now the rules will be changing. I have a slightly selfish motive for speaking against this because I have invested so heavily by my standards not by Wal-Mart standards in our Main Street, Watertown. I feel that part of the motivation for these changes we watch the news and see this tough economic times but even early in my sixties years I seen a couple 20 year cycles come and go and we all do okay. The buck is tight now and we all know that but to make a change because we are at the tail end of financial crunch here I don't think that is wise. This town has done very well the way it has been doing itself The way it has been running for a long time. I don't believe that this change will benefit our town and even if it could be shown by some factual studies that on paper it could financially benefit our town by some amount even if it was a small amount and what did we give up for that small mark. We use the number of 500,000 a large sum of money but what if the mark was off. It was only 100,000 we have given away the town that we have for that small amount of money divided amongst all of us. We all pay our taxes, me, my parents, my grandparent, their parents, my children, and pretty soon my grandchildren. That is paying a lot of dues here and I ask that you look closely at our town and the people that live here. Thank you.

Minnich: Is there anyone who would like to speak in favor of this proposal?

Bill Donston – 105 DonRobin Lane

I to agree with the economics downfall of the United States right now and as far as Mark's comments the twenty year cycle. Yes it about right 20 year cycle but 10 years but this particular parcel of land has been out there and if it was going to be industrial developed it would have happened. Why did the exiting industrial parks stop where it was this is a huge undertaking of property preparation to get this going? Right now in case we have not noticed the Timex's are gone, Princeton is gone, Scovill is gone, Winchester electronics is gone, and those were huge companies that were in our town. Now we have Colt down in New Haven it is gone and several other companies. We are not Raleigh Durham North Carolina, we are not Tuson, Arizona, we are not Selma, Alabama which are attracting these huge businesses. I work for Curtis packaging in

Newton, Ct my largest customer is Titus Golf Ball and we do 80% of the packaging for Titus Gold Ball worldwide. They are in New Bedford, Massachusetts they are talking about relocating because of the price of doing business in the United States is that bad. Any small company industrial company cannot afford the excavation costs and other costs associated with trying to prepare any part of that property to be useful for industrial space. I would like to see industrial space yes it does bring a better tax base to the town of Watertown. But unfortunately we had gone past that time where industrial space in Watertown for any large company is ever going to happen. No company is going to want to work in Watertown or Connecticut for that fact. That has been something that has happened for many, many years it not is something that is coming up in the last hour, the last day, the last week, or the last year or beyond that. This is something that we have let our whole society as Americans play down to. Industry is just not meant for Connecticut unless it is a small operation that afford it. Even then a lot of that is being outsourced. One of the things that I have not heard mentioned tonight is about the employment. Large box retails hire a lot of part time employment which I see as an opportunity for our young people kids in high school part time jobs, kids that have to go to college. I belong to the Water-Oak Gold Circle of Sports I am involved in the scholarship committee. The stories I hear about kids scrapping a dollar to try to get to school and trying to find jobs because of such a tight economy and many people working past retirement because they have to. They got to pay the medical bills because Medicare kicks in. Society Security is basically nonexistent so the jobs for the younger kids are shriveling up because people that have worked and got into semi-retirement age, yes they need the money. We cannot deny those people that. Uncle Sam sure as heck is not taking care of them. It may provide an opportunity for some of our young people in this community to at least get a part time job and do something to work themselves into college so they can better their lives. Commissioners, my fellow taxpayers, thank you for your time.

Doreen DeSorbo – 73 Franklin Avenue, Oakville

I would like the opportunity to ask questions and have responses for (inaudible) planning?

Minnich: Yes

DeSorbo: Thank you, are we going to be reading into the record letters and documents that we dropped off to the Planning and Zoning office for that purpose?

Minnich: Up till now the Commission, it is not my intent that that was going to be done with two exceptions that being the letter of referral from COG and the letter from our Town Attorney.

DeSorbo: Okay, then lets me know where I want to go with this. In that case then let me read the letter that I did drop off today. I was told at the office that you would all have materials in front of you that I had dropped off. I do have a letter and a summary on some studies that I gave in there and a community impact review done by Middletown where I live. The attached studies and summaries to be read into the record at public hearing blah, blah, blah. I am opposed to the adoption of the proposed amendment for many reasons. Due to my own research about potential drawbacks and costs to the town that the adoption of this amendment will cause. Among my concerns are the increased municipal services costs including an increased police cost, this is documented extensively in materials. People you want to deny that old god we are going to get all this money from all of these people it doesn't matter what happens were are going to come out okay. Have you read the documents, have not done the research, and don't know what they are talking about. I am concerned about the detrimental economic impacts on our local businesses which are also documented and many of the materials that you have been given over the past few years. There are detrimental economic impacts we will lose local businesses we will lose good paying local retail jobs for part time Wal-Mart jobs with no health insurance, no benefit, and garbage. My other concern is the traffic problems and the related costs. This is also documented extensively in materials given to you over the past few years. In your proposed amendment you have in my view and from the legal views all over the place here fluffed up the first two concerns are confusing to provide protections for the town by requiring that the studies be done first before a zone change that will open us up to developers with big legal pockets. Perhaps you are unaware that in Keene, New Hampshire a poorly drafted zoning was the result of 15 years of Konover fighting coming back, coming back it cost the town of Keene a fortune, and they really did not want that corn field transferred into Medicon the showplace. I don't know if anybody knows that, the other thing that you must not be really remembering well is you adopt something that is poorly worded and legally implausible. Planning and Zoning Commission members in Groton a year and a half ago if you don't get set up for it, you are letting other Planning and Zoning members, who is going to want to serve on a Planning and Zoning Commission in this town when you are done with that type of possibility hanging over their head. We provided you with so many studies and so much data we really would like to take a look at those things and think about them. One last thing that you have no legal recourse whatsoever is the terms of the traffic and the cost it involves. That was section 36.4.6.3.1 quote the traffic study need not address remedies for mitigating congestion. It sells me down the river. I am on Franklin Avenue wonderful I can look forward to people coming down the hill from Waterbury cutting down Franklin Avenue; I can look forward to never being able to get out of my street. I am concerned I have given you some materials one thing I really would like you to look at please is a copy of the city of Middletown sixteen sections 3.10 which is a development impact review that they have adopted. This is a simple page and a half document which shows how another small New England town has adopted protection for its citizens. Very simple, very short, very legal a lot better off for our town then we what we got now. Thank you.

Coe Forino – 472 Nova Scotia Hill Road

I have just received this little pamphlet from some people and I would like to comment right off the bat that some young lady called me some time ago and offered me a Konover credit card. She did not know how to use the telephone to begin with I was unable to trace the call but I like that person and the people on her scheme. I personally believe her IQ is a little less than 1. We have a group of people that are a minority but they want to run for a reason. I am sure that none of you people are stupid. I have been judging people all my life I was wrong one time 1938 I was never wrong after that. I am asking you people to do what you think is right. Whether they own property and pay taxes, whether they been here 100 years or 32 years it does not matter. The letter goes on that going to have notice. There is nothing you can do without noise. Trash we can pick up the trash. Traffic now we get into one, two, three, four different sighting this Sylvan Avenue, the big box or the stores on 262. Platt Road, anybody on Platt Road that want to get through the Big Box you have got Route 6, there is no sense of going any other way. Another Franklin Avenue you have got to be crazy to go up Franklin Avenue, Waterbury or any other place. One does have something on Frost Bridge Road you will get some traffic and the people that are putting up the big boxes, small boxes or whatever can be made to direct the traffic. Control the traffic, the trash, the noise, the traffic and the crime I don't care where it is or how it is there is a percentage of crime going to be committed. New York has more than Waterbury, naturally the population. Anybody that says Watertown and Oakville is beautiful this is the center of the world we work in, I have news for people some of these people don't remember depression, some of these people were not even born during the depression. Oakville Manufacturing down in those days they closed up these factories people moved out of Oakville and went to work and people in Waterbury were two families lived in one tenant because they could not afford to live here. You have people now that are living on Social Security only. People are not working. So I am asking that things be changed, the time when the horse and wagon went up Main Street is one thing, today we have cars going up 25 and 35 mph spewing carbon monoxide and dripping oil. I am asking you people to do more or think of the majority of people that it is going to benefit and the people that it won't. I am all for the big box because it is an ideal place whatever they get, any other thing they should pay for. We want to be fair with them we want them to be fair with us. Thank you.

Nancy Roulihan – 99 Oak Farms Road

The proposed plan commercial district will not provide a financial benefit to Watertown. Retail is over built in the Waterbury area. In this study Waterbury's in 2006 we learned that Waterbury has 5 million square feet of retail space. They would need to add 200,000 people double the population to use up the space they already have. Your plan of conservation development indicates we have flat population growth. We don't have the population to support additional retail. In the article sharp rising center vacancies from

June 19, 2008 was reported that the vacant retail space has increased dramatically over the last six months. Retail construction is now completely unrelated to retail demand. That's because change routinely abandons their stores for newer space and because the retail development industry is geared to short term profits from construction and not any long term commitment to a community. Retail does not create wealth, it just moves shoppers around. Pat's supermarkets closed when Stop and Shop opened. Fred Parsons Ph.d director of department of economics at U Conn indicated that retail development is not economic development it does not create any jobs. It just moves the jobs from stores that are close to this. Our commercial center in Watertown would move to Route 262 and we would have vacant stores on Main Street and Straits Turnpike. In the study physical and economic impact of the proposed center project from the city of Leominster they determined that a proposed 510,000 square foot shopping center business would come entirely at the expense of the existing businesses that would lose 104 million dollars in revenue. All jobs created would be offset by job losses. In the Manchester magazine from 2004 when Manchester mall opened in 1990 there were two hundred fifty thousand square foot shopping centers. By 1999 they were virtually abandoned. Retail is not compatible with industry in the survey in the industrial park occupants about the proposed common development in November of 2006 55% responded said retail development was not compatible with their businesses. Seventeen percent were not sure. Fifty six percent said they would either move out of Watertown or they might move if the development caused traffic or crime to increase. Move communities experience net tax losses from regional retail developments. The study understanding the physical impacts of land use in Ohio seven out of eight communities experience net tax losses from big box development. In the study physical impact analysis of residential and non residential land use prototypes in Barnstable, Massachusetts big box retail was found an annual net tax loss of 486 dollars per thousand square foot while business parks generated a net tax gain of 114 dollars per thousand square feet. There are excessive costs associated with large retail developments. There is going to be at least 10 million dollars in road work on Chase Avenue because of the Target. There are a lot of roadway construction expenses that go along with the extra traffic. In the article trip generation characteristics free standing discount superstores we learn that Wal-Mart supercenters generate about 40% more traffic than the institute of transportation engineers trip generation rates indicate. Since you have drafted the regulations to interpret taxpayers are going to have to pay for that road reconstruction. How many tens of millions of dollars are you sticking us with? Police services will increase is Wal-Mart safe. An article from 2006 the average Wal-Mart has 269 police incidents per year, this is consistent with what Naugatuck sees. A Wal-Mart supercenter would increase tremendously because of that number. There will be a loss of businesses that can't compete or incompatible with the traffic. City of Leominster, Massachusetts refereed to earlier they added retail space between 1993 and 2003 but the total value of commercial property declined because now there now there is abandoned buildings and so there is store plus space. So what they had a decline in commercial tax dollars even though they built more stuff. We have given you an objective evidence of the negative financial impact from the large development. We look forward to hearing any evidence from anybody on positive financial benefits. Passing

these regulations in their present form is irresponsible. We do not want to pay higher taxes to support Wal-Mart.

Minnich: Does anyone want to speak in favor of these regulations at this time?

John Petty - 4 Skipper Avenue, Oakville

I am not sure if I am really for or against this is just a petition for you to make the right decision here. We have listened to all of the information we know there is a lot of people who have their studies and pretty well education on this. I do have a couple comments that I would like to make. I am the single tax payer I love to see my taxes go down but that is not going to happen. I don't think that Wal-Mart is the answer, I do think that we need to do something to get some revenue as far as taxes or tax base but I don't think it is Wal-Mart. There are environmental issues that you have to take into account that is a very big thing now days. Traffic that 262 is ridiculous I work for a towing company in Watertown when I was in high school in college. We use to tow the UPS trucks up that hill in the winter just take that into account please that as far as I know that is my environmental study. As far as the economy I know I we need to do something but there have been a lot of bad government decisions lately. Not here in the Bush administration but I don't think Wal-Mart is the economic stimulus. In the Waterbury Wal-Mart and the Naugatuck Wal-Mart, Waterbury for instance I know that is not increased their tax base. The taxes for the residents for the residents of Waterbury have still gone up ever since Wal-Mart has shown up and they still have a problem with their pensions. Again this is just petition for you guys to please do the right thing, think it out completely. I would love to see my taxes go down but I would hate to see the town change too. I have been here 30 years, I bought my father's house I don't really plan on leaving but Connecticut is a very difficult place to do businesses. It is very difficult place to do anything with the money that you do make. So just please think it through.

Stanley Masayda – 96 Franklin Avenue, Oakville

I submitted a letter to the Planning and Zoning office and that petition is read into the record of the meeting tonight. I was told that no correspondence will be read at the public hearing tonight. So I was going to read this letter that I wrote for the record. I request that this letter be read in full. From the record of 10-29-08 public hearing to amend the text of the zoning regulations for a Route 262 planned commercial district. I do this as the former professional Town Planner for the Town of Watertown. After reading the proposed amendments to the zoning code that is up for discussion at the public hearing tonight, I find that the amendments are fraught with inconsistencies, illegalities, and our absent protection for the Town of Watertown. I feel that it is my obligation as a current taxpayer in town to bring to the attention to the Commission. In concert, I believe you have a letter from the Town Attorney Paul Jessell indicating he has expressed some of the same concerns.

I find it difficult to understand why this Commission is supporting this amendment since it was not complied by planning professionals who know the law as well as the affect of recent court cases. Anyone who is remotely familiar with the law, knows the Planning and Zoning Commissions in the state of Connecticut do not have the power to provide architectural review. In order for a town to have the power it must have an architectural review board established under the provisions of the State Statues. Watertown does not have an architectural review board and they never did.

Furthermore, Watertown's zoning code under Section 7.2 is a permissive code, which means that it is not expressly permitted as absolutely prohibited. There are no provisions for prohibited uses in the current code because if there were, it would offer all sorts of potential lawsuits as to what is permitted and what is prohibited. I was the planner in concert with our professional consultants who developed 1993 regulations and the wording of section 7.2 I know what it means. The proposed amendments for some reason have both permissive uses leaving the void as to interpretation. Not only that but they are not in any sync with the rest of the current regulations. This appears what one would expect if a cut and paste method was used in developing the sections in question.

Why wasn't this professionally developed? What was the rush? Watertown deserves better. You are the gatekeepers of the future growth philosophy of our town. We expect to protect us and not put us in harm's way.

In conclusion, I not only opposed these amendments, but I vigorously oppose any zone change on the 140 plus or minus acres that would provide for retail use. This area is currently zoned for industrial/ business use and allows up to 24 different but associated uses. These uses provide for a better tax base with the least amount of impact to the infrastructures. There have been many areas directly or indirectly associated with these with this zone change. In all cases the attendee's overwhelmingly opposed the change. Just because some people say that there is no activity in this general does not mean it is true. All one needs to do is go to the Planning and Zoning office and research the latest approvals and applications in this area, to see the activity is continuing. We must preserve this industrial/business land for future revenues. Remember we have location, location, let's not waste it. Stanley Masayda, retire Town Planner Zoning Officer and Building Office town of Watertown thank you.

Minnich: Is there anyone in favor of this proposal? Is there anyone else who wants to speak in favor?

Gail McTaggart – Law Firm Secor, Cassidy and McPartland

I represent John Andrews who is one of the property owners that would have property that would be within the area it could be rezoned. Actually as much as being in favor which he is. I had comments on the regulations, I don't know if it better for me to go through those now or wait until all the public comments are finished.

Minnich: It will probably take more than five minutes.

McTaggart: Okay thank you.

Minnich: Is there anyone who wants to speak against ...

Nick Perugini – 105 Plenn Court, Oakville

I am a local developer I developed over 7 ½ million dollars worth of property in Watertown in the last three years and it cost me over 60 thousand dollars in studies. I am going to ask this Commission if they would help me to be reimbursed for those studies. I could definitely use 60 thousand dollars tonight that I spent. Better yet I got an industrial park that I am going to bring up to this Commission and would probably cost a lot more than 60 or 100 worth of studies. I wanted this Commission to assure me that they are not required studies for this. Please I would like to have an answer.

Minnich: I am not going to answer this...

Perugini: This is going to come within 6 months to 1 year.

Minnich: I really don't, it is at a staff level, it is not (inaudible) to our rules. So I have no basis to comment.

Perugini: But I am going to expect you guys not to require these studies. And please try to all of us maybe we can file something to the town so I want to get reimbursed for that 60 thousand that I have already studies in the last 3 years thank you.

Minnich: Is there anyone else who is in favor of these proposed regulations who would like to speak at this point in the public hearing? Is there anyone else who would like to speak? Okay given the case let us move on then to my reading the two written communications one from COG and from the Town Attorney. We will then have a discussion to which will be longer than the five minutes that you have.

Audience: Can I have the last five minutes to speak? I think I am probably the last one.

Audience: There are more people that want to speak; you should give them the opportunity. You do not have enough people to speak in favor and we want our chances here.

Minnich: I certainly do want the five minutes to speak you are certainly welcome to it but here the process that we have thought through. At some point in the record and this is the time now to the alternating five minutes that you have one sided to talk if you wanted to speak is required the reading of the referral from COG. We also will read the comments from our Town Attorney. Following that is comments that you may have that are not limited by time. So if you want to be limited by time then...

Audience: Do you want us to leave without speaking?

Minnich: Is anyone in favor of these, I am going to ask to read into the record both copies.

Masayda: When we get to the next stage is going to be too long for ...

Minnich: If you want to have your limitation coming to five minutes that is fine I would just asking if you want to speak longer than five minutes but go ahead sir...

Yank Allen - 52 Honey Hill Road

I am in favor.

James Lynn – 74 Cedar Ridge Drive

My property abuts against 262. One thing I have not heard here I have three children that take school buses to school and they have use 262. It is very dangerous my picture window in my great room outlooks 262 and the on ramp for Route 8. But I can only see it during the fall. At all times I can see the hillside that is being opposed for the building a Wal-Mart or box structure offices. My children while doing their homework will run down and look out the picture window at the police officers, the fire trucks, and the ambulances at least twice to three times a month. These accidents are from 262 turning on Frost Bridge Road. DiNunzio left or right. I live there now for six years and I have seen more accidents there than I have seen on the highways. My job as a mechanic I travel so I see a lot. The other thing is once a year my family there is six of us we walk a stretch of that road and pick up garbage. I wasn't too crazy about folks moving in but I have garbage we all do it has to be picked up. I never really complained about Copes until this recent summer smelling and 4:30 in the morning hearing the backup alarms. It is something I had to put up with I moved from the country to more of a suburb area and for my kids to grow up and see a little bit of wild life around. We have deer, foxes, turkeys and it is nice to see because there is a habitat for them across the road that maybe destroyed through this proposal. Like I said you can see it right out my picture window and I am one of 15 that have signed I guess are the interveners. So I am one house out of 15 that would see this Wal-Mart. This isn't just easy place to put a place of business in. It is all ledges and it is going take a lot of blasting. So that is something else we are going to have to put up with. Other than that like I said my children and my daughter this morning said to me Dad I see our driveway coming down 262 and she saw that Mom was home

and that I was picking them up today. I am just scared for the safety of my children any other resident's children that take the school bus on 262. You can't tell us what is going to happen you are saying that it is not going to take no more police, no more fire trucks; I see it all the time. This is one big concern of mine. I think we need to pay attention more towards our schools and we need to work as a community together to find something else to help us through this economic problem that we have. But Wal-Mart, Home Depot, is not the case in today's more with the internet. I see more people shopping from the internet than going to a store because of the price of gas. I really think that this is the wrong way to go with the Wal-Mart thank you.

Minnich: Anyone would like to speak in favor of this application? Hearing none. We can proceed with the five minutes limitation or we can read into the record the required letters. I am suggesting we go forward with the reading into the records, if there is a objection to that.

Audience: My question that were other comments submitted to the Commission from the public it states on the record or in your agenda that you will read that into the records are you not going to be reading information into the records.

Minnich: This is up to the Commission but it is my view that others that have submitted the information, staff has provided a list of what those are so they would be put into the record the studies and the documents to which people have submitted to us.

Audience: Is the Commission going to read those documents? Sir.

Minnich: It is not my decision that is up to the Commission?

Audience: My suggestion is that you read them into the records.

Minnich: We should continue with the five minutes limitation or the other read into the record the letter from the Town Attorney and COG followed by a non limitation on speak which is the intent here?

George: I would be in favor of the latter.

Mancini: I think we should give the five minutes then after if they want to speak longer then speaker longer afterward, let them have the five minutes.

Audience: Mr. Chairman you are distanchising all the people that wrote to you in the public that could not ...

Minnich: Who would like to recognize to speak for five minutes that has not already spoken?

Pam Stanley – 440 Platt Road

I lived in Watertown since 4th grade. Pam LaBonne Stanley I should say. I think the big box, everyone is looking for the quick fix is television. I appreciate the time that everyone is put into all these studies because they put a lot of their own private time and I wish that I read a lot of those studies. If the big box is the answer and so say there is not a lot of extra police and fire there why do all of those have security cars driving around all the time. Twenty four hours a day these truck driver or a car driving around just to watch the parking lot and their shoppers. When you are going down Route 8 and you are getting off our Watertown exit. At certain times of the day you get off that exit ramp and you can see 12 to 15 cars now. What is it going to be like if we have a lot of huge retail there? The big box helps so much Waterbury why does Waterbury have such high taxes? It is not going to bring our taxes down and as far as charities go anytime anyone needs anything in this town as known as a fire, or if we have any bad storms, or any kind of charity or anyone has any illness we go to the Main Street stores. Especially my father who I know has given back so much to the community and its constant. If you want get something from a big box you got to go through letters and it could take you weeks and months and I am definitely against it thank you.

Debra Weinburger – 130 North Street

Putting the horse before the cart just rises red flags to everyone what you are doing behind the scenes. No one feels that a confidence that you would handle this in a very good way. We don't even know your educational background Mr. Chairman. You have prepared something that will open the doors to quite a lot of big box all kinds of development that is not regulated. Why didn't you wait for someone to come forward and present something they would like do with that property and then go forward with a zoning change and see what the town is like? So far after all the things I been through it seems to me that majority of the people do not want this. They want something that is going to provide a living with a job. These stores that you would like to put in will not. I am very much against this, my neighbors are against it. I think you are really are not representing the town the way you should thank you.

Diana Rivera – 67 Tarbell Avenue

I am a mother of two I have one on the way. The only thing that a box store is going to bring is maybe a job to my teenage daughter in two years. It is not going do anything else. Big stores, big corporations, they will provide part time jobs or make their people work 38 hours a week just so they don't have to pay the benefits. I have worked across the street from Wal-Mart in Naugatuck for over 7 years I have not seen anything that is beneficial from it. It has not brought anything to the community but lame jobs anything. It has brought traffic, it has brought crime, and it hasn't done anything else. I wish that you please re consider this. Thank you.

Jeffrey Wilson - 1290 Buckingham Street, Watertown

I speak tonight to the proposed zoning regulations text amendment. But before I do that I like to say I would like you to put an end to this and stop this 262 the box that is going on for so long. Because we keep coming out and you guys keep sitting there and seems like we are polarizing. We are all on the same side, we are all in Watertown's best interest. So it is shameful that everyone seems to be like so polarized and opposite sides of the fence when you guys are out as volunteers. You guys are supposed to be sleeping and spending time with your family trying to get this thing done with. I came up here to speak to the proposed zoning regulations text amendments. First and foremost they are not comprehensive enough. Second they are poorly worded both grammatically and legally. Third at best amateurish. It's not to diminish anyone who is involved with writing them it is just what they are, it is what they are. Four they provide limited recourse and control over proposed developments. Although board members intentions maybe honorable their area of expertise is not broad enough to draft such important text amendments that will affect the town going forward for many decade to come. And last and I do again its make me just feel sort of badly that again this polarization and you guys as volunteers getting hammered and it does not feel good on either side I don't think. But I thank you stop secure proper and professional legal help then you can after proper consultation you can come up with a proper document if you choose and will help you make a good and right choice going forward. Thank you.

Sheri Bousquet – 33 Sky Hollow Court, Oakville

I would like to go on record as being opposed to this change in the zoning. I have contacted both UPS and Federal Express at UPS I contacted two district managers, two center managers are both very concerned that the increase in traffic will adversely affect their building to conduct business. In personal property tax and real estate taxes UPS contributes over \$100,000 dollars to this town they also employ over 500 employees. I have talked Federal Express, I talked to the senior manager Tom Pierce he expressed the same concerns. He also added that he thought industrial and retail do not mix and make a bad combination. Also additional information the state of Maine has a enacted a landmark law requiring economic impact studies of big box projects. The informed growth act stipulates that municipalities conduct economic impact analysis for proposed big box retail stores larger than 75,000 square feet to be performed by independent consultant chosen by both the town and the developer and paid for by fee charged to the developer. After the analysis is complete the town must hold a public hearing to evaluate the information and consider the benefits and cost and make a determination about whether the project would create undo adverse impact on the local economy and municipal finances. This act ensures that even in areas zoned for commercial development citizens and local officials will always have an opportunity to evaluate big box development and make informed decisions whether to approve or reject such projects. We need to have this type of control in order to approve only the projects that will not adversely affect our local economy.

Dennis O'Sullivan – 238 North Street

Mr. Chairman what I have done is I have gone through the regulations. My objective is to determine what portions of the regulations do not sound correct. I am going through them by paragraph so that you would be able to look at those.

Paragraph 36.1.1 states high quality retail and office space. Paragraph 36.1.2 create an attractive and high visibility entrance to Watertown. Require architectural variety. 36.1.3 to avoid stereotype look franchise type buildings unless the building truly demonstrates architectural excellence. 36.2 development of lots must demonstrate high quality design merit. Question: Who in the zoning board is qualified to make judgments on these qualities? Are these judgments enforceable?

Paragraph 36.1.8 this section is not clear as to the requirements and objectives. Paragraph 36.3.1.1 applicants shall be referred by the Commission to the Watertown Planning Commission. Question: Isn't the Planning Commission part of the "Commission"? Isn't this proposed regulation for 262 Planning Commission district changing the zone on this property? This is very confusing.

Paragraph 36.3.1.2.6 the Commission may require the applicant to pay for the consulting study. Question: If the Planning and Zoning Commission is acting in the interest of the town and charged to ferret out, in an application before them, any flaws of future costs the town could be stuck with, why would they would not require any study to achieve this goal?

Paragraph 36.4.6.1.8 This section does require applicant to identify their quantity of material being taken from the site, which could help us understand the magnitude of the project and potential truck hauling, dirt clogging roads. Paragraph 36.4.6.3.1 The traffic study need not address remedies for mitigation congestion. Question: Why not? Even in a conceptual plan problems should reflect as soon as possible and quantified.

36.4.6.3.2 Impact on public water supply and distribution systems, storm water drainage systems, and sanitary sewer systems assuming fully developed conceptual planning. Question: Why not require information on magnitude problems, if they exist on these systems? This should be an early step in responsible plan, and flagging it early as best.

36.4.6.3.4 Applicant shall make a presentation of proposed development to the Watertown Economic Development Commission prior to the application for zoning map amendment. Question: What about the Police Commission? The Water and Sewer Department? The Department of Public Works? The Fire Commission?

Paragraph 36.4.6.4 The Commission shall be determine if the proposed uses are compatible with the location. Question: What is compatible with the Junk Yard to the west of this property?

Paragraph 36.4.7.3 Architectural plans which visually reduces the scale and impact of the large buildings and construction materials not compatible with the adjacent buildings. Question: This is very subjective. Is Planning and Zoning qualified to review architectural design? Will the judgment hold up on impartial venue if challenged?

36.4.8.1 Material change require public hearing, a material change shall be any increase in floor area. Paragraph 36.4.8.2 Non-material change does not require a public hearing. A non material change may include minor expansion. Question: Are these sections in conflict? One section says you are requiring to go to public hearing and the other one says is not required.

36.5.4.4 No deliveries, loading trash removal, trash compaction shall be permitted between the hours of 10pm and 7am. Question: How will the above listed tasks be carried out without endangering customers coming into the shop?

36.5.4.5 Outdoor storage or display of goods for retail and outdoor displays and sale merchandise on sidewalks. Question: Is this a suitable activity in a high quality retail as proposed in 36.1.1. Thank you.

Minnich: Thank you sir, Is there anyone else who would like five minutes?

Richard Dyer – 3065 Black Rock Road , Watertown

I appreciate the volunteer work that is being done over the years. Of each of these Commissions and I also learn immensely more from the continued contributions by the citizens of Watertown. My comments are about 15 seconds. I would like to know one question. I would like to suggest that much of this can go away if the present Commission and specifically Chairman would recognize the logic of what is being presented in front of us and if you would voluntarily withdrawal this application?

Minnich: Is there anyone else? Yes ma'am.

Gail Sangree – 895 Northfield Road

I have read the review done by the regional planning agency and regarding the establishment of overlay zone. That comprehensive report tells us that this proposal isn't ready to be adopted. I am hoping that you will rethink what you plan to do and not push it through with all the inconsistency's and potential illegalities that are there now.

Minnich: Is there anyone who would like to address the Commission?

Barbara Mingrone – 139 Smithtown Road, Watertown

I sent in a letter and also an article to you. I don't have the article with me I am very sorry so this will be short and sweet. I oppose substantially this change but read the comment the Town Attorney in the recent Town Times article indicating the Planning and Zoning power is severely reduced once it approves the zone overlay specific to the 140 acres on Echo Lake Road Route 262. Once this is done Planning and Zoning can only determine how much parking, where the streets will be, where the shrubs go, they cannot say no to the big box store. Due to the visibility studies after the zone overlay is approved is useless. If there is an applicant interest in this property have they come forward now and do the studies before the zone is changed. The Planning and Zoning Commission should be acting as an agent for a developer it should be protecting the town. In February of 2008 in Newsweek Magazine article which I have attached to my letter. It was entitled "America the Over Store" it is projected that there will be 159 million square feet of vacant retail space in the United States. That is roughly 6 times the size of Monaco. It was recently announced in the newspaper that another big box store Linens N Things is closing its stores. Why would we want this for Watertown? I am not in favor of the zone change overlay and the regulations that the Planning and Zoning is proposing. I ask that this Commission vote against this or any change unless a feasibility studies prove that big box retail development is beneficial to Watertown. Thank you.

Roger Mitchell – 99 Norway Street

I am against it as far as those 500,000 thousand dollars that we are going to get from them. That is not going to be a drop in the bucket it won't even do anything to the educational budget since they like to run 1 ½ million and 2 million dollars a year. Waterbury retail all they got their taxes just went up one thousand dollars this year on a half acre lot. Who is the developer, do we know that, can we get an answer on who the developer is?

Minnich: If you are asking me I don't know.

Mitchell: If we don't have anybody in the line why the big rush to do this? What stores we don't know that either? You guys are jumping on something change it all and then worry about it after the bricks fall. That is not a good thing. Anything that is said tonight is just going to change your mind on this amendment? Are all the engineers, the lawyers, planners, regular taxpaying citizens has anything changed your mind or this dead set and done.

Minnich: Are you addressing me? You are asking me the question...

Mitchell: The whole board are they going to answer it individually or collectively I don't care.

Minnich: I can only speak for myself certainly what COG has written, what we gotten, what comments we received that are on point, with regards to the suggestions for making this clear and more understandable, and what data and comprehensive input and so we can answer directly is I intend to think about what those individuals have said.

Mitchell: There are a lot of people here they have more information; I am not that smart to figure out all this stuff. We got engineers, we got lawyers, town planners, and they were professional. I am not a genius at real estate but I do not see it's just not going to work. We did Dawson all back Hallmark try to come in and put a big mall up here, they played games with us oh we are going to do this and we are going to do that and they were lying through their teeth. They showed pictures of a junkyard if I owned the junkyard I would be a multi millionaire. The thing was stacked up with 55 through 58 sixty Chevys. No glass breakage, no body rot and the bodies were perfect. And you show me a junkyard that is going to get rid of that, that is what they were telling us what was up there. I ask those guys would you want to live next to a mall or big store? No, No, No I don't either. I am looking at this thing from my house. I don't need the lights all over the place down. I have got 18 wheelers driving by. I don't know where they are coming from they come down Sylvan Lake and turn on my street and they go down Shelter Hill. I am talking 48 foot box with dual axle tractor pulling this thing and how they are turning it is a surprise that nobody got hung up yet. Then they come up and down Parkman they fly up and down there. UPS and Copes don't stop there is two stop signs that nobody stops there. It's insane; somebody is going to get hurt. They speed up and down that road at 60 now my street is a shortcut coming from the center of town. I guess they are going wherever they are going because they do not like Sylvan Lake it is too steep. Sunnyside is too steep they don't like that. There is going to be another good one down at the bottom of Sylvan Lake and Parkman Street that is just an accident waiting to happen. You open up this place with I heard 30 or 40 thousand cars do you know anybody who wants to buy a house, I will sell mine, because I do not want to live there anymore. I have been in town for over years my grandparents were here in the 1900's and there was nothing but dirt roads now we got highways and back on the side streets it's nuts. We don't need 40 thousand cars going through Oakville. When I was a kid you could sit in the middle of Main Street and nothing will happen. Now you can even cross it. Thank you.

Chris Shea – 18 Buckingham Street, Oakville

I just have a question and I am sitting here listening back and forth and I am trying to educate on what you guys talk about. The net result of what is going on here, what the net result is going to be this hearing? What the purpose of this, I just hear people who want to complain and what is going to happen at the end of the day? Are changes going to be made to this document, is this document already in place, I am sitting here for an hour and half I still do not understand that?

Minnich: Well there is a couple questions here, the last one that you asked was the same response that answered with the gentlemen before that he asked and I answered him is we are listening to what people have said and COG and Attorneys and those here that have comments and make this document clear and more understandable. I only speak for myself, we have not talked among ourselves, I presume and certainly looking making changes to this document more clear and understandable.

Shay: Is the document is or is not effect?

Minnich: Is not effective, that is the purpose...

Shay: That is what I thought it kept going back and forth. Thank you.

Richard Wick – Northfield Road, Watertown

The primary reason we are here tonight is because of the majority of the present members of the Planning and Zoning Commission do not understand the responsibility they accepted when they were sworn in. That responsibility is make decisions that are in the best interest for all citizens in town. The P and Z Commission have enormous power, probably more power than the town council to the extent that P and Z can make changes that cannot be undone after the mistake has been made. With zoning there is no such thing try to see if you like it. If you try you are stuck with it for better and for worse. If a process is transparent open an above board and complete its analysis of all the facts. It is hard to argue with the result. The process we have been witnessing over the past many months is not transparent and is not considered all the facts. I mentioned a minute ago that the P and Z Commission have enormous power believe it. Seven individuals who are not elected to their positions that are appointed by the town council hold the quality of life in our town in their hands. Many rumors are out there what may have gone on behind closed doors. I won't get into any of these here I will simply state my position that good decisions come only from facts and unbiased analysis. This Commission has the power to make any decision it wants to make. Whether it is right or whether it is wrong. I hope the Commission has the good judgment to do it right.

James Perucci – Reporter for the Town Times

I not going to present an opinion I am just going to read something that is part of my responsibility to an informed public. Let's see from the minutes of a Planning and Zoning meeting on June 4, 2008.

Mr. Minnich asked: James T. Lukasavage Route 262 landowner if so you are the property owners requesting a zoning change to be approved within the next couple of months.

Lukasavage: with that time correct.

Minnich: Will the property owners or agent be submitting to the zoning commission a text amendment to the Watertown regulations for changing the zone Route 262 to a planned commercial district?

Lukasavage: We would like to work with the board to put the text amendments in conception.

Minnich: You are requesting us to do the application not yourself.

Lukasavage: Yes.

Later on Minnich asked will the property owners pay for economic impact study and traffic study as on page 86.

Lukasavage response no we feel that when the times comes for a developer coming in to prepare that plan and all studies.

Minnich in response so you are suggesting that you will not pay for these studies correct?

Lukasavage: correct.

Ray Rondeau asked later it was if you would be willing to pay the study and you said that you think that the developer will pay for the study if we start a study and then you have not gotten the developer what would happen to the town, who is going to get stuck for the bill?

Lukasavage response well town could do a study in regards to making the zone change. Thank you.

Minnich: Is there anyone else?

Bob LaBonne – 516 Platt Road

I don't have too much to say except you put a super Wal-Mart in this town and, I am being honest I have been in my store 3 years and (inaudible) make a profit this year. I understand I gone this year go through market growth across the country that has fought Wal-Marts. I am told I can expect at least 35% first year. Three factors in my business are going to be hurt. Not only mine I am looking at all the other places in town. If you are going to put a super Wal-Mart and that is what I think it is going to be and you can say no he mentioned it he says its fine for Naugatuck. Come on putting a place like this in Canton not in Watertown I am sorry. We do not have the money you are going to have to try to draw from Litchfield where the money is and around I don't see that happening here. Some of those jobs are not doing that well either. I am just sayings worried it's a Wal-Mart that you are going to really hurt a lot of people in this town that been here a lot of years. Like Mark said the only thing that it is going to hurt him, you bet your life it is

going to hurt him. Think about that when this whole Main Street becomes almost nothing. Thank you.

Robert LaBonne Jr. 369 Straits Turnpike, LaBonne Market

In growing up in the Watertown in the family business since 1962 we seen a lot of grow and our store has been able to survive. We have expanded three or four times in that period. If Super Wal-Mart comes like my father said it will probably hit us 35% in your first year for any business that competes in Watertown. The second year 10% there is not too many retail outlets that can survive that kind of blow. The only thing that has helped us we have multiple locations over the years so when we have taken a hit in one store we have the ability in others store in the other towns to support us. My only request for the members of the Commission is that when you look at the facts that have been spoken over the last two years the amount of data that has been given to you it just seems overwhelming. the evidence that supports the possibilities of the downfall of the average town. I hear people that are for it, it only seems like the people that are financial going to benefit from it are the land owners and there is no evidence there just saying are taxes going to be decreased but the amount of evidence is just overwhelming. So I would just express my opinions that I hope you really take the time dig through the information and research what is happening in New England and why is Maine and all these other states doing to make the regulations so there towns do not get hurt especially the small towns. If you do that and do the research then I will trust that you will do the right thing in the best interest of the people not only the residents but the businesses of the town of Watertown. Thank you.

Armondo Diaz – 43 Cummings Avenue

I just move here a couple of years ago and really enjoy the small town I like Main Street and I like all the little shops down there. I just feel that if you put this big box on Route 262 it's just going to destroy Main Street and it is going to be a shame. That is all I have to say thank you.

Minnich: Is there anyone else?

Corine Peluso – 365 Buckingham Street

I am watching all of this and I am watching all these retailers that we the community depend on so much for contributions. I can even list what these people give to the town of Watertown. Now you are going ahead and let a big box store move in. You think the big box store is going to give us all kinds of donations and I am talking between Little League, soccer, Christmas things, Miss Watertown Pagent, they all give. Do you think for one second that these people are going to be giving us there are not going to be able to give to us because they are not going to be able to afford it? A lot of us depend on that further more we don't listen to our Town Attorney. Well we are going to be paying an

awful lot of money for an awful lot of attorneys I can see that coming. If anybody goes from Buckingham to John Trumbull School and brings there, I bring my grandchildren there it is a traffic nightmare at 3:00 and in the morning it's not too much better You want it and you planned on a school up there, they are babies. You have a least one cop. I am waiting for the Board of Education alright we have to have two cops for this, we got to have this you don't do the studies, we are going to be in a major amount of trouble. I live right on Buckingham they go 40 to 60 mph up and down the streets. Once in a great while you see a cop pull a kid over because the car is kind of riggidy. I am not saying that cops are not doing their job; I am not just saying that the cops are just so busy they don't know what is going on. So how many more cops are we going to need. You are constantly forgetting you got all these studies and I lived in Watertown my whole life and I can't believe the arrogance that the studies that are being done are not being paid attention to thank you.

Minnich: I guess you are the last one okay. Well there is another one. You both spoke. Anyone else for this five minute round? Is there anyone else who has not had a turn that is the issue before us.

Charles Rowan – 52 Honey Hill Road

I will be really quick because basically I really did think earlier through your comment if we stopped right then. There were maybe 10 or 15 people who would have just gotten up and left because they could not stay long enough to have their speech. I apologize for the remarks my brother made earlier. He is out of his mind. I want to be very, very brief. I have an image in my head of absolutely magnificent tree out in front of the library in Watertown. I was absolutely crushed one day when I noticed that it had been cut down. I couldn't believe it now anything about trees but would have to ask Mark maybe. But for some reason somebody decided they had to cut down that magnificent tree and it was gone and you cannot put it back. We can't put back on that property on 262 we don't get a do over. It is really important that the decision be made knowledgeably; anything about the tree I do not understand the ins and outs of the piece of property. Like Crocodile Dundee said or the guy in the movie we have a donk, we have a Judy Wick. I appreciate everything that she said. Without her I wouldn't have know some of the things she thought up. I just wanted to say how important I think it is that the decision be made correctly because we cannot take it back thank you.

Bohdan Wasutynaki - 514 Sylvan Lake Road

I have one quick procedural question. You said you would take into consideration whatever was presented and amend the texts necessary. Will the amended text be presented to a town meeting to a public meeting so we can comment? I don't trust you to amend that text, when you amend the text can we come back and tell you what we think of the amended text thank you. Could I have the answer?

Minnich: I don't know the answer because we need to first understand what it is we want to change and then and make a determination secondly it certainly would be an open session and it certainly be of the size in terms of what we have done but to answer your question about a second public hearing. The Commission will have to make that determination. I can't answer that question without spending some time and thought through what we have been given tonight and quite frankly most of it we have not read is quite thick here so in terms of documents.

Wasutynski: You are very short on answers thank you.

Dennis O'Sullivan – 238 North Street

On the paragraph 36.5.6.7 Maximum impervious surface coverage 75% has stated in the regulations. Question: In a recent newspaper article it was reported that 110 acres of Route 262 could see a million square feet of retail. Add on another additional million square feet plus or minus for parking, roads, sidewalks. This is only 2 million square feet. Why do these regulations allow 110 acres times that 75 times 43,264 or effectively on this site it would allow 3,569,280 square fee? Is there something else we don't know about? What will become of the original natural environment if 75% is paved or roofed over?

Paragraph 36.5.7 Outdoor lighting. Question: Why doesn't this section require lights for the sidewalks?

36.5.10 Reports to the Police Commission. Question: Why doesn't this section require a minimum standard a professional qualified people preparing this report similar to traffic engineer, water a professional engineer?

36.5.1.1 Streets. The standard paved width of the roadways and driveways is 30 feet. The Commission may determine paved widths of roads and driveways. Question: If the standard is 30 feet why change it in the next sentence?

Paragraph 36.6 Building design. Question: Does the Commission have qualified professional people to judge the very components of the building exterior design to pass judgments that will hold up for impartial review in other venues?

36.7 Traffic. The following requirements are intended to quote "minimize the traffic of large scale commercial developments on local roadways". Question: To get the desired result in that previous statement should the word should in paragraph 36.7.1 to be shall and affects be effects?. What is the difference of a local road? What is the definition of a local road? Is it local to the site or is it local to the town?

36.9 Permitted use. 36.11 prohibited use. Question: What about things that fall in between? They are not listed one and not listed in the other? What about manufacturing? Tailor width offsite dry cleaning? Library branch? Video rental? Pet store? Second hand

store? ATM machine? Police substation? What is the difference between a hotel and a motel? I know the difference inherently but it is not defined here.

36.10.6 Outside overnight parking. Question: Is this appropriate use for an upscale facility? Many trucks are noisy refrigerated type units is this allowance consistent with 36.5.4.4?

36.12 Use variances. The zoning board of appeals is not permitted to grant use variances in the BPCD 262 zoning district. Question: Can the zoning board make rules restricting the ZBA functions?

These regulations appear to be cut and paste products resulting in a difficult document to follow and comply with. In addition there are gaps and areas as noted here and above, that will make it uncertain to achieve the desired results thank you.

Doreen DeSorbo – 73 Franklin Avenue

It seems to me your answer about this question and your answer to the people who were asking about this question today is that what you intend the board to do is to go back and look through the multi pages of documents that have been submitted to you and I think we have all made it difficult for you. Then it sounds like what you are saying is they incorporated whatever suggestions that into what you are trying to do and present it again is that outcome of our three hours of talking here? Is it entirely possible and I certainly hope so that you may abandon this idea of putting this idea of putting (inaudible). I would like to know if it is a possibility or not? What I would like to do with the five minutes that I did not have before is actually read to you and everyone else the community type review of Middletown.

In determining whether to approve or deny proposal for retail development the Middletown Planning Board evaluates the project's impact on traffic, municipal services, the environment and the character of the community.

The town requires that developers submit detailed impact statements and pay a fee to cover the town's cost of hiring consultants to review the impact statements and offer independent analysis. For shopping centers and other commercial development, the fee is \$100.00 per 1,000 square feet of gross floor space.

In 2006 Middletown adopted a store size cap. The town now prohibits retail buildings with a footprint of 35,000 square feet or more (individual retail outlets may be larger if they span more than one floor). The law allows developers to apply for a special use permit to exceed the size cap. And this is how they run this down.

City of Middletown, RI
16 Section 310 - Development Impact Review

The purpose of Development Impact Review is to provide for detailed analysis of certain land uses which, because of their scale or intensity of use, have the potential for significant impact on the health, safety or general welfare of Town residents, including negative effects on the environment, abutting property values, demand for Town services and infrastructure, and traffic safety.

The TRC shall inform the applicant at the time of initial review if a Development Impact Review is required.

A. Application. The provisions of this section shall apply to any use subject to DPR. However, the TRC or Planning Board, whichever is the reviewing body, may waive this requirement by majority vote and written decision, upon a finding that the impacts of the proposed use are too minimal to warrant a Development Impact Review.

B. Requirements. Applicants within the scope of this section shall comply with the following:

1. Impact Statement. The applicant shall submit to the Planning Board an impact statement, prepared with the assistance of qualified consultants, which shall evaluate the potential impact of the development upon:

- a. Traffic and parking conditions on site and within the surrounding area;
- b. Municipal utilities and services, including water supply, sewage disposal, storm drains, police, fire protection, emergency services, schools, and other Town services;
- c. The physical and ecological characteristics of the site and surrounding land, including wetlands, floodplain, vegetation, wildlife habitat, and other environmental conditions;
- d. The character of the community, including scenic, historic and archaeological conditions; scale, placement, lighting, parking, and use of open space.

C. Independent Analysis. The TRC or Planning Board, with the advice of the Planning Department, may select one or more consultants to prepare an analysis of the impact statement required by this section. Both the impact statement and the consultant analysis shall be considered by the TRC or Planning Board in its review of the application.

D. Payment for Impact Statement and Review. The cost of all studies and investigations reasonably necessary to prepare impact statements required under this Section shall be borne by the applicant. The cost of hiring a consultant(s) to review the impact statement shall be borne indirectly by the applicant through payment of a fee to the Town upon

submission of the application, in addition to the filing fee, according to the following schedule:

1. For each application for an apartment, condominium, townhouse, or other multifamily dwelling in excess of two (2) proposed units, a fee of \$100.00 per unit proposed. No fee shall be required for any proposed unit that meets the definition of "low and moderate income housing".
2. For each application for a hotel, motel or inn, a fee of \$150.00 per rental unit.
3. For each shopping center, retail, office, professional services, manufacturing or other commercial development, a fee of \$100.00 per one thousand (1,000) square feet of gross floor space.
4. For each major subdivision of six (6) or more lots application a fee of \$500.00 for each proposed new building lot.

Any portion of the fees collected under this section that remain unused shall be refunded to the applicant upon expiration of the final appeal period.

That is what Middletown, RI has they did not go to the extent that you are trying to doing to do a whole bunch of stuff that is legally shaky. A simple document I would suggest, I would hope that you might be able to back track this document was provided to you there are many others available on the web. I am certain that in your capacities you could make phone calls and be able to come up others that have done this. This is a protective document I think that at the end of the day, you know what we are all tired of talking this does go back twenty years. There is a large contingent of people in this town who are convinced through knowledge in documentation not opinion that this can cost us much more financially than we would ever make. It can cost us much more than loss of our neighbors, and jobs, it could cost us a lot more in the nature of our town in terms of traffic and then if you really want to get right down to the very end of it. Yeah it is a way of life, it is a nice little town yes we need more tax revenue is this the really the only way by selling ourselves down the river that we get at. I hope and I believe that you will review this and come to a good decision. Thank you.

Minnich: I am going to read into the record the referral from COG please.

DATE: October 27, 2008
FILE NO.: WNZ-81-100108
MUNICIPALITY: Watertown
DATE RECEIVED: October 1, 2008
TYPE OF REFERRAL: Zoning

DESCRIPTION OF PROPOSAL:

The Watertown Planning and Zoning Commission is proposing a text amendment to the Town of Watertown Zoning Regulations. The proposed amendment would create a new Route 262 Planned Commercial District (B-PCD262), which would be an overlay zone to the I-R80 industrial zone. The objective of the B-PCD262 zone is to “expand retail and office use options within the Town of Watertown and to increase diversity of the town tax base.” The regulation identifies an area “near Route 8 along a portion of Route 262 and Echo Lake Road east of Turkey Brook” as the boundaries of this overlay district. The regulation also allows multiple parcels to be “consolidated” to allow for development of the B-PCD262 zone as one parcel.

A variety of uses would be permitted in the B-PCD262 zone including retail, entertainment, office, broadcast studios, hotel, and medical. A number of uses are prohibited from the zone including adult uses, self storage, dry cleaning, motels, residential uses, places of worship, car rental, car wash, service stations, wholesale stores with or without retail, liquor stores, and standalone day care centers.

The proposed regulation sets forth procedures for landing the B-PCD262 overlay zone. A conceptual plan is required as part of the application for a zoning map amendment. The conceptual plan is required to detail all aspects of a built-out project in the B-PCD262 zone, although in less detail than a site plan. There is a requirement that a special permit be obtained. No special permit uses or standards are identified in the proposed regulation. There is also a requirement that a detailed site plan be submitted for site plan approval. The performance standards included in the regulation are setbacks, bulk requirements, and parking. An applicant / developer of the B-PCD262 zone is required to submit reports on a number of topics, including traffic, during the conceptual plan, special permit, and site plan process.

The proposed B-PCD262 zone regulation states that development within the B-PCD262 zone shall demonstrate “architectural excellence” and “high quality.” The regulation contains detailed design guidelines and requirements. The guidelines and requirements cover building articulation, “human scale elements,” rooflines, materials and colors, and entrances.

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STAFF RECOMMENDATION:

The B-PCD262 overlay zone is proposed to be located in an area recommended for growth in both the regional and state plans of conservation and development. The zone is in conformity with the future land use maps of both the regional and state plans. However, growth areas are intended for future public water and sewer service, which this zone does not require.

Staff has a number of comments and questions regarding the proposed overlay zone:

Process Issues

Once a B-PCD262 overlay district is placed on the zoning map, the development of the zone becomes a virtual administrative action. The proposed regulation gives the planning and zoning commission little power to require changes or mitigation and no defensible grounds on which to deny a special permit or site plan. The overlay district does not provide the control and discretion that the planning and zoning commission needs to safeguard the interests of Watertown. Overall, staff finds the process laid out in the proposed regulation confusing and difficult to implement:

1. According to the proposed regulation, a B-PCD262 zone would require a special permit. However, no use within the zone is identified as requiring a special permit. There is also no reference to the town's special permit regulations in the proposed text.
2. The proposed regulation does not list any performance standards for granting a special permit. Will a special permit be granted to any project with a completed application?
3. Section 35.4.5 requires the applicant to include in each application reports to the commission on a number of issues including "affects [*sic*] on existing Watertown businesses," "affects [*sic*] on business sprawl on Route 262 and Echo Lake Road," "affects [*sic*] on quality of life and Town character," "environmental impacts," public safety impacts, and traffic. The commission should be given the explicit authority to require the developer to take steps to mitigate negative impacts identified in the reports.
4. If the project changes or important issues arise after the conceptual plan has been approved, does the commission have the authority to compel the applicant to pay for a professional, independent study or mitigation?
5. Section 36.3 — What performance standards must a lot conform with to be eligible for the overlay zone? Is any parcel zoned I-R80 within the delineated area in section 36.2 eligible?

Legal Issues

Commission decisions to approve or deny under the proposed regulation may not be defensible in court. Staff urges the commission to seek the opinion of an experienced land use attorney. Staff has found a number of instances where the proposed regulation is in conflict with state or federal statutes or case law.

1. Section 36.11—The proposed B-PCD262 overlay zone would prohibit uses currently allowed in the underlying base I-R80 zone. An overlay zone does not replace the underlying zone, but adds special uses or criteria to the underlying regulations. Can an overlay zone be used to

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prohibit uses permitted in the underlying zone? Would industrial uses be allowed in a BPCD262 overlay zone? Could the B-PCD262 make some legal existing uses as nonconforming?

2. Section 36.2 — The location of the zone is delineated in the proposed zoning regulation. Zones are only applied to zoning maps during the zoning map amendment process. Does this constitute spot zoning?

3. Section 36.3.1.2.4 — The planning and zoning commission does not have the authority to dictate what applications other land use commissions (inland wetlands and aquifer protection) accept.

4. Section 36.11 — The zoning commission may not legally forbid places of worship from the B-PCD262 district. Places of worship are protected by state and federal statute from such exclusion.

5. Section 36.11—Government offices, uses, or facilities are prohibited in the overlay district. Zoning regulations are not enforceable on municipal, state, and federal government.

6. Section 36.12—The proposed regulation prohibits the zoning board of appeals (ZBA) from granting use variances in the B-PCD262 zoning district. The planning and zoning commission does not have the statutory authority to prohibit the ZBA from granting all use variances. State case law has found such blanket prohibitions illegal.

7. Section 36.3.3 — The proposed regulation states that there is no fee for the submission of a “Conceptual Plan.” The Town Council, not the commission, has the authority to set or waive fees.

8. Section 36.1.8 — Parcel “consolidation” will be promoted in the proposed zone. Staff is unfamiliar with parcel consolidation. How will consolidation be conducted? Will buildings and other facilities be allowed to straddle two or more consolidated parcels? What are the legal and tax assessment implications of consolidation?

9. Section 36.6 — The proposed overlay district design guidelines are suggestions, rather than legally enforceable regulations. It is outside the purview of the commission to require or dictate architectural design elements. However, section 36.6.5 “Entrances” requires the use of specific design elements to denote entrances.

10. The proposed B-PCD262 zoning regulation has numerous spelling and grammatical mistakes. These mistakes may cause confusion and reduce the legal standing of the regulation.

Economic Issues

Development of the B-PCD262 may affect existing businesses in Watertown. It would be beneficial if an independent economic impact study was conducted before the commission approves any zoning text or map amendment. The B-PCD262 overlay district is located outside the regional core and Watertown’s community center, according to the regional and state plans of conservation and

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development.

1. Why was this particular location chosen? Are there opportunities to locate such development in other parts of town, particularly those where new development could potentially strengthen existing commercial areas along Route 63 and Route 73?
2. Could this new commercial district be connected to the town's existing commercial areas via a bus or trolley?

3. Section 36.11.16 prohibits "wholesale stores with or without retail." Would a retail store that also sells wholesale or a warehouse club be prohibited?

Design Issues

1. According to section 36.5.12 an "Alternative Signage Program for Large Developments" and a permitted site plan would be required for signs in a B-PCD262 zone. Section 62.8 of the current zoning regulations describes the Alternative Signage Program. The only criteria for the program is that "it would result in a more comprehensive and attractive arrangement and display of signs than could otherwise be accomplished under the standards of this Section." Staff is concerned that the lack of specifics may not adequately protect the town from unsightly and oversized signs.

2. Section 36.1.3 requires the applicant to "avoid submitting stereotype [*sic*] or franchise-type buildings." How are these terms defined? How will this be enforced? Isn't an applicant free to submit any type of building for consideration, regardless of design or architectural style?

3. Section 36.1.9 discourages strip commercial center development within the B-PCD262 zone, but there are few standards that actually prevent "strip" development. How will the regulation actually protect against strip commercial development within the zone?

4. There are multiple requirements that development within the proposed B-PCD262 district "demonstrate high quality design merit" and use "high quality" materials and landscaping. The terms "high quality" and "design merit" are subjective. Staff suggests that the commission, or some other entity, be explicitly identified as the body to make these determinations in the regulation.

5. Section 36.6 contains very detailed design guidelines for the buildings permitted in the proposed zone. Nevertheless, it is difficult to envision what buildings built to these standards would look like. Has an architect reviewed the design guidelines? Has the commission seen examples of buildings built under them?

6. Another approach to design guidelines is for the commission to create architectural renderings of the types of buildings and architectural styles that it finds acceptable and in keeping with local character. The Town of Southbury created a specific area plan that includes a brochure of renderings which is referenced in the zoning regulations. Such a brochure would give the commission and public the opportunity to visualize what development should look like and guide developers in attaining that goal.

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Environmental Issues

1. The area identified in the proposed regulation for the B-PCD262 has natural features that will constrain development including ledge, shallow soils, steep slopes, and wetlands.
2. The proposed regulation allows impervious surface coverage of up to 75%. Consequentially, a B-PCD262 development may cause water quality impairment and flooding from storm water run-off. Staff recommends that the regulation require that developers use the most recent edition of the Connecticut Department of Environmental Protection's *Connecticut Storm Water Quality Manual* when designing the development's parking lots and storm water handling infrastructure.
3. A King's Mark Environmental Review Team Report (enclosed) was done for a proposed municipal industrial park in 1995 for part of the area proposed for the B-PCD262 zone. The report states that blasting of bedrock may be necessary to build roads and excavate building footings and foundations. The proposed regulation does not set any excavation standards. Consequentially, neighboring properties or town roads may not be protected from the impact of blasting and material removal. The Town of Woodbury has extensively researched excavation regulations that might be of interest to the commission.
4. The Environmental Review Team Report recommends that "the most stony areas should be left in native vegetation to protect against erosion," since "it would be difficult to establish lawns, trees, and shrubs on these shallow to bedrock soils."

Transportation Issues

1. Section 36.7.1 requires a comprehensive traffic study to be conducted including the identification of "affects [*sic*] of the proposed development and the measures necessary to mitigate those affects [*sic*]." The proposed regulation does not give the commission the power to require the developer to pay for improvements needed to mitigate increased traffic from the development on adjacent intersections and roads.
2. The State is building a new bus maintenance facility for the local bus system on Rte 262. Considering the B-PCD262 zone's proximity to the new garage and the envisioned size of the development, there is a good chance that the development could be served by public transit. The commission should consider including a requirement in the B-PCD262 district regulation that the street layout be designed to facilitate future transit service and bus stop locations. During the site plan process, the developer should work with the bus operator, North East Transportation, and Conn DOT to initiate service. Transit service will increase the accessibility of the site to customers and employees, and make the development less car dependent.
3. The proposed regulation encourages "on-site and off-site pedestrian and bicycle transportation." For safe pedestrian and bicycle transportation, proper facilities are needed, such as sidewalks, bicycle racks, and streets with bicycle lanes or ample shoulders. The regulation should require that this infrastructure facilitate connections within the site, to neighboring parcels, and to adjacent town and state bicycle routes and sidewalk networks. According to a recent Connecticut Supreme Court ruling, off-site improvements cannot be required by the Town unless they are immediately adjacent to the development.

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4. There is no definition for a “bikeway.” A requirement that if a “bikeway” is built that it shall replace the sidewalk is not needed.

Conclusion

Staff recognizes the effort that went into drafting the proposed B-PCD262 regulation. However, the proposed regulation requires additional work and refinement. Staff recommends that the following items be addressed in the proposed regulation before adoption:

1. Establish a straightforward zone adoption and application process, which includes performance standards that will protect the interests of the town and its residents.
2. Empower the planning and zoning commission to require mitigation of negative impacts caused by development, such as traffic, environmental, and economic.
3. Devise design and sign guidelines that are effective and legal.
4. Clarify how the B-PCD262 zone area would be connected to the rest of the town via transit, bicycle, and foot.

Minnich: That is the conclusion of that referral from COG comments. That was prepared by Samuel Gold, Senior Planner for the Regional Planning Commission, Council of Governments Central Naugatuck Valley.

Gail McTaggart

I represent John Andrews one of the property that has property located in the area that could be rezoned. First of all on his behalf I would like to say that he has had no contact with anyone about a specific use there, Wal-Mart or a big box or otherwise. On his part I have heard a lot of discussion tonight about big boxes he has had no one approach him or no discussion that happened on his property. I did actually prepare track changes copy of the regulations and I will pass them out to you so you can follow along and it will be a little easier.

Minnich: Do you have an electronic version of that you could send to the office as well?

McTaggart: I can and I have a few comments certain general comments but these are the picky things.

Minnich: If you could send a copy thank you.

McTaggart: Some of the comments that were made by COG and some of the comments tonight about the design of the zoning regulations. I think our addressable and I have a couple of suggestions on addressing that. I also did have trouble trying to figure out the special permit side of this. I am aware that section 52 of your regulations when you take a look at it says whenever there is a special permit that is required these standards must be met so you do have by incorporation by reference standards to special permit. You have not incorporated it although if you read that section whenever there is a special permit it applies. So you do have the standards it's probably not a bad idea cross reference it since there are by incorporating those standards when look at 52 a lot of the comments that have been made tonight are addressed. I am just quickly looking at that because at section 52 there is for instance a studies for high traffic generators and environmental impact statement. That includes looking at the effect of development, the neighborhood in terms of congestion; it looks at environmental sensitive features of the property, impact on water supply, vehicular and pedestrian traffic, analysis for town services, schools, which cannot be avoided. Alternatives to those proposed action and mitigation for adverse impacts. So you do have structure in your regulations that applies to special permits that includes a lot of the comments that people have been making tonight about the regulations maybe people were not aware that they were there but they are there. Also the Commission can look at during that consideration additional information that you might have and there is also referrals under that agencies and departments. So again some of the comments regarding this amendment, this amendment does not just stand alone its stands as part of these regulations although there should be a cross reference to it. There are also in that regulations there is also a section that allows the Commission to attach conditions and those conditions based on all of the standards that are set forth in here would include hours of operation, number of employees, the improvements of public facilities is part of that and conservation restrictions, sedimentation and erosion control. I agree with one of the comments of COG, Mr. Gold COG about the 2004 storm water guidelines those guidelines are for storm water quality are so important to Connecticut and I cannot imagine a review of a proposal of this kind that would not include that. I think it would be captured probably by the special permit that probably needs to be set out.

The other general comment is there is a way that the Commission can look at architectural quality of a proposal if you require up front some idea about the architectural quality of the proposal as part of the zone change part of the application. This is in Connecticut when you approve a zone change you give reasons for approval and those under section 8-2 of the general statutes that are very general reasons for approval that have do with public welfare and safety and so forth. However when you deny a proposal you need not give a reason on a zone change. So at the first step when an application comes into you and I know what you tried to do is set the stage for that application. These regulations

basically set the stage for an application that comes into you and one of the things that I have talked to you about some of the meetings and there has been a series of meetings I have attended most of them not all of them but there has been a series of meetings but one of the suggestions was to really make this a planned development district so that you do have the authority and power to take that initial application that comes in from the applicant and use zone change standards and be able to say, this does not work in this community. I think what you did which I think is positive, you tried to set a standard in your regulation so when that application comes and you apply that discretionary standard that the applicant has some sort of idea where they are heading. That I think is positive, so I think there needs to be some structural changes to make sure that works but what I think works is for you to have a set of standards that are the basic overlying standards for an application to come in and that application comes it should come in with conceptual plans and it should come in with either zoning text or something like this regulation that meets requirements that you have. Your discretion at that stage and I say this against my clients interest but your discretion at that stage should be zone change type of discretion. That allows you not be stuck in the box that has been mentioned having do some sort of administrative approval. Now what was confusing to me was that after the applicant comes in you land zone onto the piece of property they come in with their petition for that zone change and a conceptual plan then there is a series of other things that happen. There is a site plan detailed site plan review and a special permit and I just could not figure out how that special permit fits into the whole, whether its part, whether I am the applicant if I have a site plan application with a special permit at that stage which means this Commission has more discretion that it does on a pure site plan application. I just think that the text of the regulation needs to clarify where that special permit comes into the process. There is a special permit required I actually assumed that it was associated with the detail plan but it doesn't actually say that. And the regulations should actually say that if that's the case because applicants want to know how that works. Then I did go through sort in a tedious fashion through the regulation which I actually hoped to have before this hearing but I was not able to there just was not enough time for me to get it done.

My first comment was one that actually is germane to the discussion tonight. At 36.1.1 retail and office is the one of the purposes is to provide this high quality retail and office development. But indeed when I went back and looked back at the permitted uses it is much broader than that. Looking at section 36.9 of the permitted uses the first ones medical offices and outpatient services but then hotel, theater, bowling alley, a museum could be non-profit museum I suppose. I am not sure that was meant a cultural facility. There was health club and gym which I think is maybe retail but it services. Radio and television studio that was a great idea but it's I am not sure is retail. A performing arts studio which I also thought was a great idea but also was not sure if that met either the office

definition or retail definition. So it occurred to me that what were really providing and actually it is too bad that one of the people left because what you are really doing is something that is much broader than a retail store which is what has been discussed tonight at this hearing this regulation in fact says much more. I do agree that all uses that are not permitted in any zone that are created in the town of Watertown or prohibited. It may make sense to not worry so much about the prohibited uses but just to define the permitted uses and everything else is prohibited. So anybody comes in with one of those sorts of activities that you have listed on the prohibited uses their prohibited. So that cleans up that problem that been raised in the COG letter and I think Judy Wick raised which perhaps is valid.

There are some issues with the words high visibility and high quality and what all of those things mean. I think actually could be articulated but it is also true that is a purpose section of the regulations and the remaining part of the regulations does define what is meant by those terms and so maybe just some general language in the beginning that would say that these are purposes and the regulations themselves define what these terms are. There is a problem with layman boards determining architectural standards. In Connecticut some towns have architectural review boards they have always been advisory under our zoning scheme in Connecticut. They don't have a lot of teeth in them but they do provide consultation and advice and that certainly has merit so there could be an architectural review that incorporated that would be advisory into this process and other town do it. Middlebury does it; Southbury has been mentioned tonight we have represented the town of Southbury. I have been involved with appeals of Planned Development Districts brought in the town of Southbury and the way that there scheme is done is that they require unusual design merit in what's brought to them and that review of that unusual design merit truly does happen at the zone change at the zone change level. So they could turn it down if they don't like it and as I just said you don't have to approve it. If you don't like it you don't have to say why and you get through that problem. There are some other instances where architectural review works in Connecticut usually in an area that is historic and you are matching something to an historic district so you know that you are looking at history. There is a special zone that has been created under the state statues to village center zone that does allow architectural review and a mixed use, so there are some other ideas out there for that. But I think what would be wise is to make sure that you get enough architecture, I know it is expensive for applicants but it is going to be an expensive process for somebody to come in and do a project in this area anyway. If you have a very professional developer they understand they are going to have to spend the money to show you some renderings and give you an idea of what is there. It not to say that every single floor plan is done in every single building but they have a rendering and field for how this thing is going to look and how the buildings are broken up. It is not necessary and they are in Connecticut and New England area that very shopping

area that a big box type shopping area. There are some very beautiful shopping facilities that are done on much smaller scale. The 35,000 square feet that has been mentioned to tonight might be something that could be looked at but you can have a productive area that is complimentary to the community and also a mix of uses there that are not all retail so that you're down town area and these area complement each other. It shouldn't be all negative there is some way to look at the positive for that. In terms of my client and the other clients in this area it hasn't been more careful as industrial property. It does meet the state plan of conservation business development and the regional plan of development as a excellent area for this growth and the one of the reason is they really are looking at transportation and that area off of Route 8 is right where this is. So it does make sense, it doesn't bring all the traffic in town it does bring people to Watertown, that are obviously just outside the town so it would be a reasonable approach. I can't imagine a developer coming in and deciding to put the effort in to putting an application before your Commission on these pieces of property unless they do a demographic study it just won't happen. The thing that surprised me tonight is that the lack of understanding that the conceptual plan and that the petition that is brought in does include impact studies. So what's happening under this regulation that you have written is there has to be a physical impact study and that physical impact study gets reviewed and the developer pays for that review. If I read what you have written and I understand what you have written here that is what I think is there what might be confusing again is where that comes in because of the word special permit and understanding where the special permit fits in the process. If that happens at the gitgo the beginning you have two choices you can respond to a development that comes into you just out of the blue zone change application to your Commission. Or your commission do what it is doing and knowing that something may come sets some guidelines here is what we would like to see in this town and try to give as close to right as possible and try to give yourselves enough discretion so that something comes in that you really don't like that you are going to say that is not going to work here, that is what you have been put in this position is to make decisions about for your committee.

On the first page I just tried and you may not agree with this but I just tried to come up with some different language we are looking for a high quality commercial development. I did not think it was retail and I did not think it was only retail and office because of the other uses and I just think maybe you should just revise this and make sure that is there. And then where it says the primary objectives of the district are to expand retail office and I put other compatible use options. Because down at the end of the regulation you are telling us what those are you could list them all.

At 36.12 page two one of the purposes it to promote economically efficient use of land and it talks about the phasing public and private improvements in accordance with an improved conceptual plan detailed plan, a special plan of special permit

what I was doing there was I just underlined the word special permit when I saw it because again I was trying to figure out where it fits into the process.

At 36.2 I had a concern for my own client and that is that the plan of conservation development lays out 128 acres that was proposed for some kind of planned commercial district we know it is an advisory document and we know that the regulations say that you are not stuck with the words in that because this Commission had the authority whenever it makes sense for the town to change its zoning regulations for the good of the community to do that. The plan of conservation and development last 10 years so you are up against that 10 year period because it was different 10 year ago, there is authority to do that. I am suggesting that if you are doing this that you state even though it has to be consistent with the plan of conservation and development it must have one of these pieces of property blocked off and not be included because it was not mapped in that plan so I wanted to say something about this R80 area that was near Route 8.

On page 3 at 36.3.1.1 line no. 16 or 17 on that page I agree with Judy Wick I wish it were the rule in Connecticut the law that you just say go away if someone brings in an application that is incomplete but there has been too much case law which scares us from that position and so what you really need to do is just act on those and turn down or try convince the person to withdraw the application until its complete you don't want to start the time clock running on it. I mean that is how the rule works, it is very dangerous especially when you get to a site plan because you can get automatic approval situation which is goes 65 days you thought it was incomplete you did not act on it in that 65 days and now you are at 65 days. This is the last thing you want to bring in is an automatic approval and I will tell you there are some horror stories about automatic approvals out there in some towns where a whole shopping center came in by an automatic approval in a town where it missed the time frame on it. It would be nice if you could have this rule but I don't think you can. My comment was the same as the comment before is the Commission is going to be considering whether or not that the overlay district consistent with the plan of conservation and development. The fact of the matter is when you adopt this overlay zone you had to determine whether it was not consistent and yet consider what is consistent with the plan of conservation and development. You sort have already done that by time you have approved a zone change that's really the time to do that. But again I have same comment and want to make sure that we have not excluded those areas in the IR80 district that are near Route 8.

At 36.3.1.23 line 37 on page 3 this is we were looking for different information on that overlay district and I think at that point you are describing generally the intended uses. I think what is going to happen here the detailed plans stage you are going to have much more detail about really is going where in that facility.

Generally what kind of uses are going to be offices, there is going to be retail, there is going to be a community center, but all of those things at the beginning it would be more general.

I will skip to page 5 a comment and its back to the special permit which application is this. If it is the conceptual plan accompanied by the petition which I don't think it is or is it the detailed plan which I do think it is. You just need t, we talked about it to determine what that special permit is going to imply to in this process. One of the reasons is two ways that accounts do these kind of districts is one of them you I did the zone change and the conceptual plan and the conceptual plans actually get recorded on the land records. PDD Planned Development district and Southbury gets recorded on Mylar onto the land records it is a general plan, some specific plan the general it become part of the zoning amendment that plan so that not everything has to be written out in text about it so the plan actually incorporates a lot of the important parts of what the Commission is approving so it required so it gets recorded. The detail planning has to be consistent with it. So my comment and the bar to the right there I already talked about.

At 36.4.4 I was having trouble with public hearings and site plans because it is true that the general statues do not require a public hearing for a site plan approval. Those site plan approvals the ones if you don't approve then the 65 days from the time they come in unless you have an extension are automatically approved. A lot of times Commissions like those site plans connected to a special permit because when there is a special permit there is no automatic approval on that if it is ties together, if they both come in together. Detail plan comes in with a special permit what that means though to the applicant is they just went through a public hearing on that conceptual plan which we hope would have some rendering and pretty good specificity even though it is a conceptual plan on generally on how it is proposed is going to be laid out and now they have gone to based on that approval the applicant hires the engineers to go down and do a real actual plan where the utilities are going, where the electricity is going, how are they coming into this thing but a very expensive process and if you are backed to a completely discretionary approval like a zone change type of approval there that is almost unworkable for an applicant. A special permit could happen at that stage but more often than not throughout Connecticut by the time the developer gets to that stage if you did not like this thing you have already turned it down. You got a plan you laid and all you are trying to do is fill in the details for that plan and so I think it should be the word is administrative but I think it should be administrative at that stage. The developer had to put together a good enough plan and enough detail for you at the conceptual stage so you know what you are getting close enough that you are going to be satisfied the ways that brings in the detail for that plan. It is a matter of making the details works so I would like you to consider making the

second stage administrative but keeping that first stage very discretionary which means zone amendments, zone change type of review.

There is a statement at 36.4.4 at the very last four lines on 23 through 26 it says an amended conceptual plan of detail site plan may not in the opinion of the Commission be in conflict with an approved conceptual plan or a approved detailed site plan I just did not know what that meant. So you can read it again and figure it out.

At 36.4.51 consistency of the plan of development again providing the area permitted by this regulation resumes the availability for application in this section. I just did not want to get all the way to this regulation and not be able to go forward. The sections on the effect on municipal services, the effects on business sprawl, the effects on quality of life and town character, street circulation, changes in traffic, fire hazard, panic hazard, public and environmental effects, these are all very important threshold issues. They really belong at the conceptual plan zoning amendment stage and then once you have gotten through that they shouldn't be as broad of a concept at the detailed plan stage. You should make that decision up front and have to get through it and know that it is going to meet your requirements once the developer shown that the environmental impacts are reasonable that the street circulation can work out that it does not affect the quality of life in the town character. You might have to think about those words and what those things mean. All of these things are workable and he has done that. When it comes to a detail plan it couldn't be less than that because all that detail is doing is filling in the actual much more detailed engineering type site plan analysis on something that is already been (inaudible) for those same concerns. I don't know how you would make a decision on the detailed plan that it affected values in the district. If you previously just determined it didn't affect the value in the district. You would be making two inconsistent determinations on the same application basically on the same sort of facts. So I think you should keep the big threshold issues to that first stage and then once the developer has proven that he can do all those things and you have a lot of discretion on deciding that and then when they get to that detailed stage they should have an assurance that you are not going to turn it down because you think it could affect the quality of life in Watertown. You should have already determined that.

On 36.46 line 19 on page 7 I noticed that the later on in the regulations that you have a provision where they were going to provide notice to neighboring land owners. I moved that from the site plan up to the conceptual plan. It is at that stage when everybody is trying to determine does this make sense for our community and our neighborhood here that the neighbors to that area should be notified and be here when you are making those threshold decisions and they should be before this public hearing saying some of the things they talked about tonight. When you get down to the detailed plan stage you already made those

decisions and those determinations and it should be matter of just again filling in so I just moved that around a little bit. It is my recommendation that you do.

I had the same, the comment at of COG regarding line 24 page 8 that dealt with the existing topography and contours to show how general radius decide existing contours throughout the work. He had a comment about quantities of materials, you can decide how much detail maybe you could some engineering advice from your own engineer on how much the quantities of materials are. You have an excavation section to your regulations this is another situation where you have a built in standards on excavation that are already there. I think it is 61, for earth removal you could work through some of that and get the quantities worked into this regulation to make that work for you.

Again perhaps against my client's interests but I do agree at 36.4.6.31 which is page number 9 line 18 I have to tell you on every application that I have ever been involved with levels of service where there is going to be a high traffic generator our traffic engineers do provide recommendations regarding mitigation that address the mitigation. I think it is reasonable for you to ask for it. I think the traffic engineers expect it, I think it could be asked for it gives you an idea up front what is going to happen with those roadways and it going to give more confidence to the public that you have that information I think at that level. I had actually a question that probably Mr. Masayda can answer better than I can but I thought when we talked about the greater service I thought that was level of service. But I can be corrected.

Masayda: It was level.

McTaggart: Yeah, I thought where it says the word greater at lines page 9 lines 19 through 23 I think we were talking about where you met greater service I think you mean level of service and I just put some suggestions on what I thought that should read. I am not an engineer and I can be correct on it but that is what I thought it meant.

At line 28 is where I thought you could put in the 2004 storm water quality guide lines I think it could be added right in there as a standard as amended I suppose and they are guidelines that come to the DEP but our engineers are using them all over the state you should definitely get that information on this application.

On page 10 I was not sure what the sentence starting at 16 what it was referring to it says the detailed site plan shall be in the opinion of the Commission conforms the conceptual plan be compatible with other detailed site plan approvals. I thought maybe you were talking about that if we had a conceptual plan for several parcels and you approved a detailed plan on one of those that another that came in would have to be compatible. I was not sure you said that. That was it. I guess I

understood it because that is what I got out of that. I was reading it and trying to understand that meant. I think you meant on other parcel of properties.

Minnich: I did.

McTaggart: And then the generally accepted standard at lines 39, 40, and 41 the whole bunch of things that site information and engineering plans are suppose to have and when it talks about traffic circulation, motorists, pedestrian traffic circulation it says generally accepted standards of planned details. I just didn't know where to find that standard. You have site plan details in your general regulations and maybe compare those to this and see if just incorporating that planned detail. I think its saying this is the scale of the plans and you got to put the abutting owners on it and I know it talks about contours already in here but I think whatever that means we need to know.

Page 12 I am not sure the Zoning Commission has the authority to tell the building official when to issue a building permit. But what you can do you can say no zoning permit because after the applicant gets its approvals from your commission before it goes to get its building permit that has to be signed off from zoning which is a zoning permit it shows it has been complied with. Also prior to the issue of certificate of occupancy there would be a certificate of zoning compliance that is issued by the zoning department. So I am suggesting I am not sure you have the authority to state you can't issue a building permit but you do have the authority to say you can't issue a zoning permit and you can't get a building permit without a zoning permit. It accomplishes the same thing but does it a way that under your jurisdiction.

Then there was a section that at 36.5 that is called site design and I did know whether that applied to detailed plans or conceptual plans or both. So I am just asking a question. It has parking lot signs, general design standards some of them you might want to look at it some of them may be more applicable to the conceptual plans and some of them the detailed site plans.

A tiny comment but at page 15 number 16 and 17 because I don't have a strip mall that going on here because that is not what this Commission is looking for and by the way if you get one of those you get to turn it down and not give a reason. Because we don't I don't know what the front of the building might be. So when it says pedestrian sidewalks are required along public streets frontage adjacent to the front of the buildings I was not sure because if you think about a mall any interior space somebody might think that the front is when I am walking inside and looking at the front of the store and that what I see from the street might be the back. I was not sure where the front and back were, just need to take a look at that.

Then I also have a comment about the very specific materials in here. I did see that you have by 2/3 vote you can decide to change these standards. When I first started reviewing I kind of got caught up in it then I finally got to the section that said you can change the standards by a 2/3 vote. But where you see that kind of thing at line 22 and 23 on page 16 is where you say loading docks visible from the public street or adjacent property shall be contained in masonry enclosures. I mean I can imagine that there could be something besides me to read that might be fantastic I just don't know. So I started putting other material acceptable to the Commission. I think in the end what you need to be able to do is to accept a comparable materials that accomplish the same thing, that are acceptable here. So you're telling them masonry is good something else might be too. I actually had the same comment about the sidewalk displays and how that fits in with high quality. Only because I know it's a issue that pops in some of the town's I represented where some store owners are fabulous about how they do their outdoor displays or outside displays and others can make things really junkie. It just again it was mentioned even tonight, I think it is something you might want to look at to see if you want more control over that than you are providing here.

There was also a minor point on page 18 I am looking at 36.5, 10.1 it is shopping cart management; I actually do understand why this Commission is concerned about shopping cart management. Because it is a disaster in some shopping area it drives everybody crazy so I do understand why you do need to have some standards. But a special permit and having a public hearing on shopping carts seems like an over kill to me. Seems like this Commission ought to be able to get a plan for shopping cart management to determine whether it's acceptable is going to keep the shopping carts in certain areas. I do notice as a consumer that a lot of parking areas and shopping areas seems to be doing better job at this than they use to. They get set area where people are pretty good about bringing them back. So I think it's a realistic concern but I think it is something you can handle yourselves.

And then at page 20 at 36.613 and have something shaded and didn't show up on my copy here so you will have to mark it yourselves. But at 36.613 again that was the section where I looked at those the colors and the textures and the material changes and expressions of architectural structural all of that I thought I don't know if that was the only way that could happen or if you looked at some shopping centers that had just looked great and said you would be fine with it and again I got back to finding out as I move along here that you were able to by vote accept other standards where they were comparable and provided you the same level of quality.

And that is it, I guess on page 24 I noticed at 36.10.5 that is the one place where you are going to get a special permit for some of those uses. I did figure out the very end there were some things that were special permit uses. Maybe that is what you meant at the beginning I was not sure.

The only other thing I was not sure whether on accessory uses whether you need to add utilities we have had some issues come up in town that I represent lately on people challenging where you utilities go and what those facilities look like and whether there is structure and was there a setbacks and where they are you definitely need to make sure that not only the interior which is talked about on page 24 there is a provision that says you have a provision that talks about what is need for inside the building. But I just think you want to make sure that the utilities necessary for the operation of the uses of the district are there and if you want to add something about wherever possible that they shall be screened or buffered to make it attractive that works. Actually in the process with the town of Roxbury talking to the utilities companies about what they absolutely require because of we are seeing more and more of these kind of facilities show up within setback area where we never suspected them, they use to be connected onto houses and so forth and now they are showing up in street side locations. I have a private study going on with one of my towns to try to see if the Commission is being reasonable about not allowing those within setbacks.

And that is it and actually I thought that some of the comments tonight were really handled by these regulations. It just that you need to read through it to really look at it and see that it is all there. I think that the cross references to your regulations if you can through and look at the cross references to your regulations you would have a lot of the standards that need to be there and again I would think it could be simplified by making sure that you got these two discrete parts of your review process. That conceptual plan really becomes part of the zoning regulation for the piece of the property. Let me just say something about spot zoning this is not spot zoning it will not be spot zoning almost no cases in Connecticut are ever determined to be spot zoning. There is not spot zoning if you have a large piece of land right off the bat it is not and these are huge areas that we are talking about here and secondly it has to be inconsistent with plan of conservation and development so if you end up with a plan it gets studies and you regulations allow you it be studies which it does here. You are not going to have a spot zoning problem it is just way to big of a piece of property that it happened. There is even cases where a quarter of an acre is rezoned in some towns and the court has ruled that it is not spot zoning because if it is also good for the community if you are looking at something that is good for the community consistent with the plan of conservation and development for the community not on a tiny piece of land. It is outside the definition of spot zoning in Connecticut so in almost in no cases has our courts have found spot zoning. This Commission is allowed to look at this area of town and determine what is good for this

community. Not just what is good for my client but what is good for the community. If you do that and you do what is good for the community there is no worry at all for spot zoning.

That is it.

Minnich: Thank you Gail for your comments on this.

Rondeau: I just have a question for you I was interested in your definition of the detailed plan and conceptual plan and I know a lot of people for instance today discussing the issues of the big box store, Wal-Mart and so on and so forth and you are repeating that the way this is currently written it seldom conceivably, let me just back up when you mention something about having and I don't want to just quote you but you mention about making a little bit of the board's ability to make changes when it gets into the detail plan because nobody developing this is going to want to go all the way through knowing that after doing the detailed plan somebody would be able to make a determination if they did not want to go through with this project.

McTaggart: Actually what I was saying is that the very general subjective types of decisions that you make about an application need to be made at the beginning. To get down to a detailed plan when a developer is hiring people to do very specific plans for specific buildings and the interiors of those buildings and so forth giving you elevations and all those footprints and all those things. It is too late for you to say we don't think it is consistent with neighborhood or something that is very, very conceptual. You get to decide those conceptual things when you do an amendment to the zoning regulations. So if you did if you set this up more like a planned development district or just called it that and at the beginning instead of you know you would then somebody could come in this zone and this area they could come in and apply a zone text down to the piece of property in the same way. But what you would be getting as a conceptual plan with enough information that you could make a determination that it is consistent with the community it does not cause congestion in the streets, you are going to have to traffic studies you would have a physical impact study would have made that. To have a developer go all the way through that get through that stage and then come in to you for the designing where the little foot area is going to be exactly inside of the building and then have you say I don't think this is consistent or we have traffic problems it just does not make sense. You need to address those issues but you need to be satisfied once you have that conceptual plan you need to be satisfied that that plan addresses all of those problems for you. To turn it down for those reasons on a detailed plan I think would invite a problem. It would definitely chill a developer who thought that they went to the very last stage of brining a proposal to you and to know that this Commission could somehow at the detailed plan stage decide that you did not think that this plan worked in this

community but it might have a negative impact on our property value across the street. You really need to figure that out at the conceptual plan stage that is all I am saying.

Rondeau: Do you see for instance us giving a (inaudible) on that which show a building 300,000 square foot building and not having that building divided up in terms of individual stores, getting a plan that would show 300,000 square feet and then saying to us we don't know what is going into that building we don't know if it is going to be a Super Wal-Mart, or if it is going to be six smaller stores. Then when you get to the detailed plan we see that in fact it is Wal-Mart and maybe didn't fit in with what the community felt that they wanted we would then be stuck because ...

McTaggart: You need to make your conceptual plan detailed enough and the information that you get that you are not surprised by a Wal-Mart coming in and you could do that by looking at the number of square feet that can occupy a single store there is ways that you can do that. You could either do square footage or you can indicate that you need in a certain number of square feet you need a number of stores, there is a lot of different ways to do it but you can do that. You could design this so that you don't (inaudible) a big box or a series of big boxes which I can tell in my conversations I just had with my client. He does not want that either so we have an applicant who does not want that.

Masayda: We tried that but it was denied by the Commission (inaudible)

McTaggart: You might have to work it through and then maybe you need to come up with something where you have a lot of discretion at that first stage and if you don't get the information you need you are not satisfied you don't have to approve this. I can tell you that the developer can't always tell you what the name of every store is going to be in a good size project, they have to have something to be able to sell to somebody they have to have something to market to somebody and at the very, very beginning stages the conceptual stages they don't have that/ I can tell you the detailed plan stage they do have it. Because know they are looking out for leases and figuring out who is going to be there and they will have that information but you should be able to design a regulation that if that is what the consensus on this Commission what you don't want you should design so that you get that information at the conceptual stand plan stage you may not identity of the use but you know the types of uses and should be able to determine some sort of guidelines about if you got 100,000 square feet that it has to be at least that to know how many stores. There is a whole bunch of different ways to do it. If you drive the one in Canton for example but if you go and drive down Main Street of Southbury and look at the green that is one the left hand side it is a PED I did a copy of those regulations to your Commission. It is a PED all the store are broken up they do have a big Shaw's grocery store there but the clothing stores that are

there, down on Main Street there is a little store that is there, they have some small stores. Some of them are national stores but they're not huge stores and they are also broken up into separate buildings. So that you don't have one big mass structure and it sort of makes the village look the scale is better for that town and it has a green. They went through 2 or 3 conceptual or what they call general plan but a conceptual plan the Commission turned down until they got it. They finally came in with a plan they communicated to the developers what they were looking for and when they finally came in with it, they finally got a plan that they liked. It seems to be working. There is not a lot of empty space there it has a good amount of business it has not destroyed the parking works, it has not destroyed the Main Street, there is still Main Street business that are working there. You have also some other uses it is not just store uses you have some other uses here that I would think you might want an incentive for a developer to come in. If he is going to put a store in that he does some of this community stuff that is on the side here you could make that stronger if you wanted in your regulation.

- Minnich: Thank you. Let's see before we let just see how far we are going tonight. How many more people would like to make a presentation? It came to that hour of the night. We probably then should consider continuing this public hearing public hearing date and time.
- Mancini: I make a motion that we continue the public hearing to Thursday, November 6th at the same time and same place.
- Minnich: 7 pm at the Swift Junior High School auditorium on 250 Colonial Street. Is there a second to that motion? Is there any discussion?
- Masayda: I would just like to check with council I am not sure do we have to make a date tonight?
- Minnich: Yes we do because (inaudible). Is there any further discussion?
- Masayda: Would it be best to have two meetings on the same week it just the Wednesday following would be the meeting?
- Minnich: We have a motion on the floor are there any other comments? All those in favor of the motion for November 6th at 7PM here at this same room please say I, all those opposed.
- Masayda: Opposed to the following week.
- Minnich: The motion is carried with a vote of six in favor and one opposed. This meeting is continued until November 6th.

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Text of Motion to Continue public hearing to November 6, 2008 at 7 PM at Swift School.

Motion made by C. Mancini and seconded by G. Dupliese.

Aye: 6 Opposed: 1

Adjournment (11:30)

Michael Masayda _____
Secretary