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4 CITY OF STAMFORD

5 ZONING BOARD  
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8 SPECIAL MEETING  
9

10 Tuesday, May 22, 2018  
11

12 on

13 Application 217-01  
14

15 (High Ridge Real Estate Owner LLC)  
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20  
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22 Stamford Government Center Building  
23 888 Washington Boulevard  
24 Stamford, Connecticut  
25

P A R T I C I P A N T S:

For the Board:

Thomas Mills, Chair  
David Stein, Secretary  
Joanna Gwozdzowski  
William Morris  
Keith Silver

For the Staff:

Ralph Blessing, Land Use Bureau Chief  
David W. Woods, Principal Planner  
Vineeta Mathur, Associate Planner

1 CHAIRMAN MILLS: All right. Good evening,  
2 everyone. Welcome to our meeting tonight, May  
3 22. This is a continuation of an application  
4 that we've already heard. The pending  
5 application itself that's before us tonight is  
6 217-01 High Ridge Real Estate Owner LLC, in care  
7 of agent Lisa Feinberg, Carmody Torrance Sandak &  
8 Hennessey. It's a text change. And this is in  
9 regards to the Lifetime Fitness area up in the  
10 High Ridge Park itself.

11 Ralph, why don't you just do a quick recap,  
12 maybe, on where we are at today before we go into  
13 this.

14 Again, this is not a public hearing so there  
15 won't be any comments from the public and I would  
16 appreciate if you could keep those tones down. I  
17 know the groans will be there, either side. And  
18 we'll go then -- if we could shut off the phones,  
19 I would greatly appreciate that as well. Thank  
20 you very much for attending.

21 Go ahead, Ralph.

22 MR. BLESSING: So, as the chairman mentioned,  
23 we are here today to deliberate a text change.  
24 Once again, the text change will apply to all CD  
25 Districts in the city, District 5 that this will

1       apply to. And as means of background, this text  
2       change is being deliberated and the context says  
3       that the CDs of office parks, over the last  
4       couple of years have seen some issues. You have  
5       generally high vacancy rates and there is not  
6       much going on.

7               And in the High Ridge Office Park that is  
8       part of this deliberation, we actually have seen  
9       a building that has been empty for years for it  
10      was not possible to get an office tenant in  
11      there. And the other buildings have some vacancy  
12      as well.

13              What is before the Zoning Board tonight is  
14      the decision if the text change is compatible  
15      with Master Plan Category 8. Just a reminder,  
16      Master Plan Category 8 prohibits certain uses  
17      such as large scale retail, shopping centers and  
18      entertainment complexes. Category 8 does allow  
19      for office uses. It also allows for adaptive  
20      reuse and redevelopment with the kind of  
21      redevelopment to be determined by the planning  
22      and the zoning board. The massive --

23              CHAIRMAN MILLS: No cell phones, please.

24              MR. BLESSING: The massive plan establishes  
25      five criteria that need to be used for those

1 potential other commercial uses in office parks  
2 that the board should consider. One is the  
3 compatibility with surrounding residential uses.  
4 The second one is the period of design including  
5 landscape management and preserving the park-like  
6 character of those office parks.

7 Superior traffic management. The board has  
8 received a letter from the traffic bureau that  
9 has outlined some conditions that will need to be  
10 met for the site of High Ridge Office Park. And  
11 obviously the traffic bureau would review all  
12 applications in other office parks as well.

13 There shouldn't be any uses that compete with  
14 downtown and there have to be design guidelines  
15 in place for those new uses in office parks.

16 We've heard a recommendation from the  
17 Planning Board. We also got a clarification from  
18 the Planning Board, an email from Ms. Dell, the  
19 chairwoman of the Planning Board, in which she  
20 clarified that the gym and physical cultural  
21 establishment use is an appropriate use for all  
22 CD zones. The concern that the Planning Board  
23 mentioned was that the outdoor uses might or are  
24 a problem in CD uses.

25 The Planning Board also had three other

1 concerns that go forward to the original  
2 recommendation since the applicant had addressed  
3 all those issues, they had to do a review of  
4 parking structures. And with the setback  
5 distance from residential properties, the  
6 Planning Board did not feel the need to clarify  
7 those.

8 So once again, the Planning Board said that  
9 due to physical cultural establishment is an  
10 appropriate use but they have a problem with the  
11 outdoor uses.

12 Yesterday, for those of you who were here,  
13 the board took the opportunity to talk to  
14 corporation counsel about some issues that they  
15 had with regard to the discretion that the Zoning  
16 Board has with regard to establishing strict  
17 guidelines as part of both the tax change  
18 process, but in particular with the site plan  
19 approval process and corporation counsel  
20 determined that the board can in fact establish  
21 criteria that goes beyond what is actually in the  
22 rules.

23 Let's talk a little bit about the proposed  
24 changes to the text now. And the board will go  
25 through those in detail. What was added to the

1 text is a definition of physical cultural  
2 establishment. And then in section 3BB, section  
3 line BBB, what was added was the definition of  
4 new development adaptive reuse and redevelopment.  
5 And the text also establishes gymnasium or  
6 physical cultural establishment as a special  
7 exception use.

8 Once again, a special exception use means it  
9 has to go through an additional step of approval  
10 through which the boards, both the Planning Board  
11 and the Zoning Board can establish additional  
12 controls for that use.

13 Some highlights of standards that the new  
14 text establishes have to do with coverage. One  
15 was introduced under 5A is if the size, like the  
16 one at High Ridge Park is legally non conforming  
17 with regard to impervious surface and building  
18 coverage the applicant now is required to give up  
19 development rights.

20 In the case of High Ridge Office Park, with  
21 the existing non conformities that are there, we  
22 are talking about the applicant literally giving  
23 up more than 100,000 square feet of development  
24 rights if they want to establish a use there.  
25 And those 100,000 square feet is roughly

1 equivalent of a Home Depot, minus the garden  
2 center.

3 But it also means that 300 parking spaces  
4 would go away, cannot be built if that use is  
5 being established in an office park. It could be  
6 built currently as a right.

7 The next thing that the text establishes is a  
8 buffer requirement. This is for special  
9 exception uses. This buffer requirement of a 50  
10 foot landscape buffer does not exist for office  
11 buildings. And as part of the text change is not  
12 incorporated for office buildings.

13 During the last time we came together, the  
14 signage requirements were further reduced so that  
15 they are now very close to what was allowed  
16 anyway. With the important exception that no  
17 illuminated sign shall be visible from any  
18 residential district.

19 The other thing that the special exception  
20 text establishes is that there is a linkage  
21 between the existing parking on site and what can  
22 be developed on site. So the text prohibits the  
23 development of buildings that will require more  
24 parking than is already there currently on the  
25 site with the exception of additional spaces for



1       handicapped places.

2           The special exception text also introduces  
3       hours of operation from 10 a.m. to 8 p.m. unless  
4       modified by the board. In order to grant the  
5       special exception, the zoning text also  
6       establishes a number of findings. These findings  
7       have to do with lighting. There is a prohibition  
8       for -- or all lighting shall be directed outward  
9       and shielded two and two square. And after  
10      hours, lighting is only allowed for safety and  
11      security lighting.

12          The special exception findings also  
13      established the need for screening of all  
14      structures, other uses of parking areas. So the  
15      screening of parking areas would for example take  
16      care of cars coming to the facility at night with  
17      their lights on to make sure that the impacts  
18      would be limited to the largest extent possible  
19      for residential neighbors.

20          And it also establishes a noise standard.  
21      That noise standard would be 55 dBA during the  
22      hours of operation for the outdoor use and 45 dBA  
23      for when the outdoor use is not permitted. Just  
24      to give that some context, 55 dBA is about the  
25      sound of rainfall. And 45 dBA is the sound of a

1 refrigerator, a new one, not the old ones.

2 It also establishes that there has to be an  
3 analysis of noise before the application for  
4 special exception to establish a baseline. And  
5 also a monitoring period after completion of the  
6 project. And the Zoning Board is at liberty to  
7 determine how long the period should be, who  
8 should do the testing. The Zoning Board can  
9 pursue two new ordinances that you have to pick  
10 the expert that is supposed to do the monitoring  
11 to make sure that all the conditions are met.

12 What is also important to keep in mind is  
13 that the 55 and the 45 dBAs that I just  
14 mentioned, those are standards that are used in  
15 the Stamford noise ordinance for residential  
16 properties. They are also used by Greenwich, by  
17 Darien and by New Canaan in their noise  
18 ordinances for residential uses. And the state  
19 of Connecticut also uses those thresholds for  
20 noise emissions for residential receptors.

21 So coming back to what we are here for  
22 tonight, the question is, is the use appropriate.  
23 Does it meet Master Plan Category Number 8. Do  
24 we have sufficient safeguards in place to avoid  
25 any additional adverse impacts compared to the

1 committed as of right use. And, are measures in  
2 place to mitigate those impacts if those exist.

3 And with that, I would like to hand it over  
4 to the board.

5 CHAIRMAN MILLS: Thanks a lot for the update,  
6 Ralph. I appreciate that.

7 I guess maybe the easiest thing to try to  
8 understand so we know what to do at what point  
9 with this text change is get a feel, maybe, from  
10 the board members as far as what concerns you  
11 have about any part of the application to find  
12 out is there anything that is absolute that's not  
13 because if it is something that you don't want,  
14 there is not a lot of time for us to spend going  
15 through this if we're not looking at trying to  
16 find a means to make it something better than  
17 what currently was given to us.

18 So, just put out a quick poll, if you think  
19 it has a possibility of discussing it further  
20 tonight. Then we'll go ahead and do that. If  
21 you don't, tell me now because all it takes is  
22 two votes and this is done and over with. I  
23 don't want to spend all this time only to find  
24 out that you weren't in favor of trying to make  
25 something possibly work.

1           But, I don't know what your feelings are and  
2           if you could just give me a sense of what your  
3           concerns are with everything that we've heard  
4           from the applicants and the neighbors in the area  
5           and so on and so forth, that would help me  
6           understand better how we can hone in on this if  
7           this is something that we want to go ahead and  
8           try to make work.

9           I will start with you as I always do on that  
10          side. So sorry, not to put you on the spot.

11          MS. GWOZDZIEWSKI: Well, you know, I have,  
12          obviously, concerns about the noise and the  
13          outdoor use.

14          CHAIRMAN MILLS: Okay.

15          MS. GWOZDZIEWSKI: I'm willing to have a  
16          discussion about it.

17          CHAIRMAN MILLS: Okay.

18          MS. GWOZDZIEWSKI: But those are -- that  
19          definitely is a concern for me.

20          CHAIRMAN MILLS: Okay. Bill?

21          MR. MORRIS: I agree with Joanna. But I also  
22          would like to talk a little bit about this email  
23          that we got from the Planning Board. I want to  
24          make sure that I understand it correctly and all  
25          the board members understand it correctly.

1 CHAIRMAN MILLS: Okay.

2 MR. STEIN: If you figure it out, would you  
3 tell me?

4 MR. MORRIS: Well, I guess we'll open it for  
5 discussion.

6 CHAIRMAN MILLS: Okay. Well, hold that  
7 thought for a second.

8 MR. MORRIS: Okay.

9 CHAIRMAN MILLS: Again, because again if  
10 there is people that are not interested, then  
11 there is no sense of even going through that.

12 MR. MORRIS: Okay.

13 CHAIRMAN MILLS: Dave.

14 MR. STEIN: Sorry. Where were you, Bill, on  
15 that?

16 MR. MORRIS: Well, Tom wants to --

17 CHAIRMAN MILLS: Are you able to hear us?

18 PERSON IN CROWD: No, we cannot hear.

19 CHAIRMAN MILLS: All right. So Joanne, do  
20 you want to pull around this side as well?

21 Go ahead. I'm sorry, Dave.

22 MR. STEIN: My concerns are traffic noise and  
23 lighting and the outdoor use which is really  
24 primarily a noise issue. And I think that the  
25 revised text has done a pretty good job of

1 dealing with the noise and light issues.

2 I'm still a little concerned about the  
3 outdoor use. And traffic, I don't see how -- I  
4 don't think the text does anything about that and  
5 I'm not sure how it could.

6 CHAIRMAN MILLS: Okay. Keith?

7 MR. SILVER: Yeah, I think it's definitely  
8 worth discussing it.

9 CHAIRMAN MILLS: Okay.

10 MR. SILVER: And obviously, traffic, noise,  
11 those are my two concerns that I think are kind  
12 of addressed, okay. And I do want to get back to  
13 Bill's point because we had a discussion before  
14 about this too. Okay. You can raise that point  
15 too.

16 CHAIRMAN MILLS: Okay.

17 MR. MORRIS: I think there's an important  
18 issue that we have to resolve in the first place  
19 because it, to make a determination whether this  
20 text change actually is consistent with Master  
21 Plan Category Number 8. And I've read this  
22 numerous times and I still don't have a clear  
23 understanding of what it says.

24 MR. SILVER: Well, the way I read it and I'm  
25 going to put it out there that I'm generally

1 supportive of the text change.

2 MR. MORRIS: Okay.

3 MR. SILVER: Okay. So let me --

4 MR. MORRIS: I have no issue with that.

5 MR. SILVER: -- preface that way is that it  
6 was a unanimous of the Planning Board that the  
7 category of gymnasium and physical cultural  
8 establishment was -- was an appropriate accepted  
9 use, and this is what I think, in all CD zones.  
10 So in the five zones that these gave, it's  
11 appropriate to have that.

12 But in the definition and slash or outdoor  
13 uses was not an appropriate slash accepted use.  
14 But again, she states in all CD zones. That, to  
15 me, implies it may not be appropriate in all of  
16 the zones but it might be appropriate in some of  
17 the zones. That's how I read that because if --  
18 and I -- it's murky and that's why we're  
19 discussing it. Okay.

20 Otherwise why say in all CD zones, why not  
21 just say it's an appropriate use in CD zones and  
22 then not an appropriate use in CD zones which  
23 would clearly refer to all of them. But here,  
24 where they preface it by, it's good for all of  
25 the zones, this is good for all of the zones and

1 this isn't good for all of the zones.

2 But maybe I'm reading into it. And that's  
3 why I wanted to put my opinion out there earlier.  
4 Okay. But --

5 CHAIRMAN MILLS: I would debate that.

6 MR. SILVER: All right. Okay. I think --  
7 but that's the way I would repeat that.

8 CHAIRMAN MILLS: Okay. Go ahead.

9 MR. MORRIS: I just want to make a point is  
10 that --

11 MR. SILVER: Like the color blue isn't  
12 appropriate for all the rooms in my house but it  
13 may be appropriate for some of the rooms.

14 CHAIRMAN MILLS: That's not what this states.

15 MR. MORRIS: No.

16 MR. SILVER: Well, okay.

17 MR. MORRIS: It states that the category  
18 gymnasium and physical cultural establishment is  
19 an appropriate and accepted use in all CD zones  
20 as long as the definition does not include the  
21 words and/or outdoor uses.

22 CHAIRMAN MILLS: Correct.

23 MR. MORRIS: That's what I'm trying to  
24 ascertain here.

25 CHAIRMAN MILLS: And that's correct.



1 MR. STEIN: That wasn't what they said in  
2 their letter, right, that if the four changes  
3 were made, that the --

4 CHAIRMAN MILLS: Well if you look at  
5 the three --

6 MR. MORRIS: I'm the one asking for  
7 clarification and now I'm more confused than I  
8 was before.

9 CHAIRMAN MILLS: Well, let me see if I can  
10 help you. The one thing that you haven't read in  
11 here is that as the other three points were  
12 dropped by the applicant, no clarification was  
13 taken by these by the Planning Board. So they  
14 weren't trying to clarify the three things  
15 because they took it out --

16 MR. STEIN: Right.

17 CHAIRMAN MILLS: -- of the application all  
18 together.

19 MR. MORRIS: Exactly.

20 CHAIRMAN MILLS: So the only thing that was  
21 in here and to back up what he's saying, Keith,  
22 is that what's important is that the way you say  
23 that the cultural establishment was appropriate  
24 in all CD zones and the words, in all CD zones is  
25 what you insisted on, remember when was not in

1           there also said in all CD zones.

2           So the same phrasing was used in both ways.  
3           So the only way that I can interpret that is very  
4           clearly, they don't want an outdoor use. They  
5           were -- I guarantee you that if this probably  
6           went back and it was just strictly indoors, this  
7           probably would have gotten approval from the  
8           Planning Board. That would be my guess based on  
9           this letter.

10          MR. MORRIS: See, it's unfortunate we just  
11          got this tonight.

12          MR. STEIN: Yeah.

13          MR. MORRIS: As opposed to, I wish we had it  
14          last night when Jim Minor was here.

15          MR. SILVER: Tom, I agree with you. I think  
16          the intent of the Planning Board was that the  
17          outdoor uses is not appropriate. That's why we  
18          are looking at four to one.

19          CHAIRMAN MILLS: Correct.

20          MR. SILVER: But then I'm curious -- that's  
21          why what I was curious about is that in the  
22          asking for the clarification of it, in my mind it  
23          became a little bit murky, like it was a little  
24          bit of a back step almost and hedge.

25          MR. STEIN: I think it's something that -- I

1 think it was just written in a way that wasn't  
2 clear enough. I mean, when they use all, do they  
3 mean --

4 CHAIRMAN MILLS: All. I don't know how else  
5 you understand all.

6 MR. STEIN: I guess.

7 CHAIRMAN MILLS: All is all. It's not like  
8 maybe, sometimes. It's all.

9 MR. MORRIS: Ralph, do you have any light to  
10 shed on this? Any input?

11 MR. BLESSING: I can't shed any light on this  
12 particular email but what I want to say is that  
13 obviously the Planning Board has an important  
14 role and an important opinion in the matter. At  
15 the same time, you can overturn the vote of the  
16 Planning Board with the super majority. So  
17 obviously --

18 MR. MORRIS: Okay. But in order for us to  
19 overturn it, does it -- is it required that it  
20 has to meet Master Plan Category Number 8 or we  
21 can't overturn it? Is that true or not true?

22 MS. MATHUR: So the board can make that  
23 determination if they want to.

24 CHAIRMAN MILLS: I'm sorry, can you speak up?

25 MS. MATHUR: So the board would have to make

1           that determination. The Zoning Board would have  
2           to make that determination whether it meets  
3           Master Plan Category 8 or not.

4           CHAIRMAN MILLS: Okay.

5           MR. STEIN: That's not a Planning Board --  
6           it's a recommendation?

7           MS. MATHUR: It is a recommendation from the  
8           Planning Board but the Zoning Board can make its  
9           own determination as well.

10          MR. MORRIS: Even though it's their master  
11          plan?

12          MR. BLESSING: Yes.

13          CHAIRMAN MILLS: Yeah, we get to modify it.

14          MR. BLESSING: The zoning implements the  
15          master plan and what you have to decide is if the  
16          zoning implements the master plan or contradicts  
17          the master plan.

18          CHAIRMAN MILLS: But one thing I just want to  
19          clarify, are you saying this is the first time  
20          you saw this letter?

21          MR. MORRIS: Yes.

22          CHAIRMAN MILLS: Because it was dated April  
23          26. That was originally when it was sent out to  
24          me.

25          MR. STEIN: It just wasn't sent to the rest

1 of the board then.

2 MR. MORRIS: I don't know. I don't recall  
3 seeing this.

4 CHAIRMAN MILLS: But I just want to know if  
5 it was not ever passed out to the rest of the  
6 board at the other meetings that we've had  
7 subsequent to this.

8 MS. MATHUR: Because I think there's been a  
9 gap between the last meeting and this one, so I  
10 think it was requested at the last public  
11 hearing.

12 MR. MORRIS: Yeah, and it was brought up --  
13 yeah, and --

14 CHAIRMAN MILLS: Because if you look at it,  
15 the date on it to me was April 26 and David Woods  
16 reaffirmed it on April 30.

17 MR. MORRIS: I understand that. However --

18 CHAIRMAN MILLS: We are in May.

19 MR. MORRIS: I'm not saying I wasn't sent  
20 this but this is the first time that I've seen  
21 it.

22 CHAIRMAN MILLS: And I just want to get  
23 clarification on that.

24 MR. STEIN: I didn't see it before either.

25 MR. MORRIS: That's two of us.

1 MR. SILVER: I just saw it tonight too.

2 CHAIRMAN MILLS: Okay. I just want to  
3 understand whether or not this got assimilated  
4 out to everybody. All right.

5 MR. MORRIS: Otherwise I would have asked Jim  
6 Minor about this last night.

7 CHAIRMAN MILLS: Okay.

8 MR. STEIN: Now, fortunately I have got the  
9 original Planning Board letter here. It starts  
10 out by saying, we unanimously voted to deny the  
11 application. Then they go on and say that the  
12 gymnasium and physical cultural establishment is  
13 an appropriate use in all CD zones; however, they  
14 recommended that denial of the text change  
15 proposed by the applicant which is really not  
16 their area to get into. Right? The text change  
17 isn't -- their issue is really is it  
18 appropriate -- does it meet the master plan. And  
19 they are saying that this does meet the master  
20 plan but they don't like the text. So it's --  
21 they --

22 CHAIRMAN MILLS: I still only see it one way.

23 MR. STEIN: It's an area that they don't get  
24 into.

25 CHAIRMAN MILLS: Yeah. I still see it one

1 way. They see it that the bottom line is that it  
2 was brought before them. They were not taking  
3 the outdoor use out of their application. And  
4 they said, well, if you're not going to do that,  
5 we're denying it. So let it go back to the  
6 Zoning Board and let them figure out whether or  
7 not they think it is appropriate. I don't see  
8 how you read it anything else other than that.

9 They didn't want it based on the outdoor use.  
10 So if you want to go ahead and say, this text  
11 change is great and take out the outdoor use, we  
12 can do that as well. I mean --

13 MR. STEIN: I'm agreeing with you because  
14 they do say -- first they say or second they say  
15 that it is consistent with the master plan. Then  
16 they say they are going to deny it and they don't  
17 like the outdoor use.

18 CHAIRMAN MILLS: Because I think they're  
19 saying it is a good idea for the re adaptive use  
20 of the property. Again, because it is confining  
21 within a building. It's no different than an  
22 office building. Everybody that is going there  
23 is going to the interior, so there is no outdoor  
24 noise.

25 But as soon as you add the outdoor facility,

1 the pool, this throws it into a whole different  
2 mix for them saying, you know what, now this  
3 doesn't match up with everything else we want to  
4 do in that area because there are neighborhoods.  
5 And that's why we have to decide and that's why  
6 I've been trying to hone in on what Jim Minor was  
7 talking about last night, if we are going to do  
8 this, there has to be an understanding before  
9 they even bring an application what's expected of  
10 them.

11 But again, we can take it one step at a time.  
12 So I don't know if that helps answer your  
13 question.

14 MR. SILVER: I would say for our points of  
15 the discussion, let's say the Planning Board  
16 decision was, outdoor uses are not a good idea.  
17 Okay. And they recommend denial because of that.  
18 But it comes to us and we get a chance to vote.  
19 So maybe what we should discuss is, you know,  
20 let's talk about what we think about it.

21 Okay. And just, you know, figure it out.  
22 And factor in, Planning Board said no. Okay.  
23 Planning Board said no. Put that in as a fact  
24 and let's go on and discuss it. Okay.

25 CHAIRMAN MILLS: It's a fact because we need



1 four votes.

2 MR. SILVER: Okay.

3 CHAIRMAN MILLS: So there's no other way  
4 around it. So that doesn't change any facts.  
5 Does that help clarify your thoughts on the  
6 master plan?

7 MR. MORRIS: You see I was under the  
8 impression, and obviously incorrectly, that if it  
9 did not meet Master Plan Category Number 8, then  
10 we shouldn't vote on it. But obviously that's  
11 not the case. I missed --

12 MR. STEIN: But they say in their letter that  
13 it does meet Master Plan Category Number 8.

14 MR. MORRIS: As long as the definition does  
15 not include and/or outdoor uses.

16 MS. GWOZDZIEWSKI: According to the Planning  
17 board, it does.

18 CHAIRMAN MILLS: Exactly.

19 MR. STEIN: Right.

20 CHAIRMAN MILLS: Don't mix the two up. It is  
21 okay for them, for the master plan, as long as  
22 it's indoors. You take it outdoors, it's no  
23 longer part of our master plan that we believe we  
24 like. I don't know how we go around that.  
25 That's the facts, as far as I know.

1 MR. MORRIS: But according to what Ralph said  
2 earlier, and correct me if I'm wrong, is that  
3 even if that is the case, that the Zoning Board  
4 still has the authority to make the determination  
5 whether it meets that master plan category number  
6 or not, regardless of the feelings of the  
7 Planning Board.

8 CHAIRMAN MILLS: Which we've had other  
9 applications and that has happened before.

10 MR. MORRIS: I realize that but I didn't  
11 realize that --

12 MR. BLESSING: And that's why we need the  
13 super majority.

14 CHAIRMAN MILLS: Exactly.

15 MR. MORRIS: Okay. Press on.

16 CHAIRMAN MILLS: Okay. We'll go past that  
17 part of it. Now, you want to deal with the  
18 hardest one first or the easiest ones first?

19 MR. MORRIS: Well, we'll start at number one  
20 and --

21 CHAIRMAN MILLS: Or we can go one by one.  
22 That's fine too.

23 MR. MORRIS: Which one are you looking at?

24 CHAIRMAN MILLS: I think it's two-fold. I  
25 think it's -- you got to look at what was

1 previously -- and I'm assuming, Ralph, when you  
2 passed this one out, this is the one that  
3 originally was the applicant's text change or --

4 MR. MORRIS: No. I think --

5 CHAIRMAN MILLS: Well, that's why I wanted to  
6 make sure.

7 MR. MORRIS: -- we need to make several  
8 changes to that.

9 CHAIRMAN MILLS: I know.

10 MS. MATHUR: That's what they passed out  
11 yesterday was in the package. The --

12 MR. BLESSING: This is the latest one.

13 MR. STEIN: But it's not the cumulative black  
14 line of all the changes that have been made from  
15 the application.

16 CHAIRMAN MILLS: So what I was just curious  
17 about was whether or not, do we have the original  
18 text change that we could pass out because if you  
19 remember yesterday in Jim Minor's things, how far  
20 can you go in modifying a text change. But it  
21 seems like we've modified it quite a bit already  
22 to get to this level.

23 MR. STEIN: I think we can do whatever we  
24 want.

25 MS. GWOZDZIEWSKI: I have the --

1           CHAIRMAN MILLS: Well, I don't know that I  
2 would go that far, but yes, we should be able to  
3 go pretty far.

4           MS. GWOZDZIEWSKI: I don't have the original.

5           MS. MATHUR: I have to go make copies.

6           MR. STEIN: Do you have it or do you want --

7           MR. MORRIS: Okay. I'm trying to get there.

8           MS. MATHUR: If you don't mind, I have to go  
9 make more copies.

10          CHAIRMAN MILLS: If you don't mind, we can  
11 wait. I mean, there's nothing else on the  
12 agenda, so --

13          MR. MORRIS: I'm sure I've got it here, along  
14 with maybe another matter.

15          MR. STEIN: You're looking for the --

16          MR. MORRIS: Original.

17          CHAIRMAN MILLS: She's going to make copies.

18          MR. MORRIS: Yeah, but I'm --

19          MR. STEIN: It's in here.

20          MR. MORRIS: Oh, it is? I got that.

21          MR. STEIN: Yeah, it's got to be in here. I  
22 think it's right there on the first page.

23          CHAIRMAN MILLS: Absolutely. You want to  
24 tell Vineeta to come back?

25          MS. GWOZDZIEWSKI: Is that 380 --

1 CHAIRMAN MILLS: 380-18.

2 MR. STEIN: Now, it does -- yeah, and it  
3 shows the changes from the current text.

4 CHAIRMAN MILLS: I don't know, did you want  
5 to try to get a hold of her or we continue  
6 without -- want me to just call her? What if she  
7 didn't bring her phone?

8 MR. STEIN: Do you have her cell?

9 CHAIRMAN MILLS: I have her cell, yeah.

10 MR. STEIN: What's her cell?

11 CHAIRMAN MILLS: Vineeta's?

12 MR. STEIN: Yes.

13 CHAIRMAN MILLS: Ask her for it when she  
14 comes back. I don't like to do that.

15 I think it's appropriate to work off of what  
16 is in the book. That's what started everything.

17 MR. STEIN: Well, except it has changed so  
18 much. What's the benefit of looking at where the  
19 start --

20 CHAIRMAN MILLS: I think it has a benefit.  
21 I'll get to that point.

22 (Brief delay in meeting.)

23 CHAIRMAN MILLS: All right. If we can settle  
24 down, then we can get back onto this matter. So  
25 Keith, do you have now in front of you what you

1           needed?

2           MR. SILVER:   Okay, yeah.

3           CHAIRMAN MILLS:   So the only point that I  
4           wanted to start out with, Ralph, because  
5           yesterday I remember Jim making a comment -- and  
6           tell me if I'm wrong in what I was hearing about  
7           that -- is that you can make modifications to a  
8           text change as long as it doesn't go so far to  
9           the extent that it modifies it to the point where  
10          it should have been redone at a new public  
11          hearing.

12          MR. BLESSING:   Yeah, it cannot change the  
13          scope of the text change.   So obviously, when  
14          this is about city commercial district, it cannot  
15          change our three residential districts.   So it  
16          has to be within the scope of the original  
17          application.

18          At the same time, the purpose of the public  
19          process is to take input from the public during  
20          the course of the deliberations and include them  
21          in the text as they pertain to the particular  
22          application because otherwise we wouldn't need a  
23          public hearing process and get input from the  
24          public.

25          So there were, for example, with regard to

1       this particular text a couple of changes --

2           CHAIRMAN MILLS: Well, it wasn't so much  
3       that. I just wanted to state for the record  
4       because my whole conversation with him last night  
5       was, can I make it more restrictive?

6           MR. BLESSING: You can.

7           CHAIRMAN MILLS: But again, he was going back  
8       and forth on whether or not it could be done  
9       because then it changes the application. And I  
10      still feel it doesn't change the application. It  
11      just tells us what we want to happen in this  
12      district and that's all that is relevant. You  
13      just clarified, as long as it's within this  
14      district, and I don't make it about an R zone,  
15      why can't I make this more restrictive. And the  
16      applicant or whoever wants to come into that zone  
17      should know what the guidelines are. And no  
18      matter what --

19          MR. STEIN: I think the issue may be though,  
20      you can't make it significantly broader.

21          MR. BLESSING: No. You can't make it  
22      broader.

23          MR. STEIN: Even if it's in the same zone.

24          CHAIRMAN MILLS: I'm trying to make it  
25      restrictive. That's all.

1 MR. STEIN: Yeah.

2 MR. BLESSING: And the other thing, it also,  
3 the proposed text change is for special exception  
4 uses. They are what was published in the legal  
5 notice. So what we cannot do is change the  
6 regulations for the as-of-right uses because that  
7 was not part of the legal notice and the original  
8 text change.

9 So, for example, for the special exception  
10 uses, they decided to put in a 50 foot wide  
11 planted buffer. That planted buffer requirement  
12 is not in the as-of-right requirement. But  
13 because that wasn't part of the scope of the text  
14 change, we cannot now, without a new public  
15 hearing and without a new public noticing, add  
16 that buffer requirement for an as-of-right use as  
17 it exists.

18 CHAIRMAN MILLS: Right. But if you wanted to  
19 make a 50 a 100, you are more than applicable --

20 MR. BLESSING: This special exception use,  
21 you are probably fine.

22 CHAIRMAN MILLS: Okay. I just wanted to make  
23 sure before we get started on this one by one.

24 All right, so everybody has it in front of  
25 them now. The first part, nothing significant



1 had a change until we get down to the area of new  
2 development. Is that correct?

3 And that's where -- well, let's see, NBB was  
4 below. What did we do to that, Ralph? I'm  
5 trying to understand here.

6 MR. STEIN: The idea there is that there are  
7 standards listed throughout this section, not  
8 just in BBB3.

9 CHAIRMAN MILLS: Okay.

10 MR. STEIN: So there are several different  
11 places and that's why --

12 CHAIRMAN MILLS: The standards are listed  
13 below.

14 MR. STEIN: Yeah.

15 CHAIRMAN MILLS: So everybody is fine with  
16 that simple housekeeping matter, correct?

17 MS. GWOZDZIEWSKI: Yes.

18 CHAIRMAN MILLS: All right. And that goes  
19 for B which is the adaptive reuse stating the  
20 same thing. C, redevelopment, which is the same  
21 thing.

22 MR. STEIN: Any issues with the definitions  
23 of these?

24 CHAIRMAN MILLS: As far as what the new  
25 development consists of?

1 MR. STEIN: No, what each of those --

2 CHAIRMAN MILLS: If you want to get into that  
3 detail, we can do that as well right now. Is  
4 there something that stands out to you that  
5 not --

6 MR. STEIN: No, I'm okay with the  
7 definitions. I just wanted to --

8 CHAIRMAN MILLS: No, I just -- if there's  
9 something I just want to make sure we get there.

10 All right, so then it goes to everything  
11 except for -- everything is fine until we get to  
12 this special exception. That's where things have  
13 definitely been modified and changed. So the  
14 first part of it is the wording is standard for  
15 special exception uses instead of just  
16 redevelopment is being used. The standard shall  
17 apply for the special exception uses set forth in  
18 all those paragraphs. So that's all the same.

19 I don't know why where is highlighted in  
20 coverage.

21 MR. STEIN: Because the text was changed a  
22 couple of times. And --

23 CHAIRMAN MILLS: So in the original, where  
24 was not in there. So that's why you highlighted  
25 it?

1 MS. MATHUR: I think when they started, it  
2 started with this definition, legally  
3 nonconforming non porous surface area is greater  
4 than 40 percent.

5 In the intermediate iterations we specified  
6 that it was for redevelopment uses or  
7 redevelopment projects or reuse. You know, we've  
8 gone back to, you know, leave it. Go back to  
9 just saying where legally nonconforming porous  
10 surface area is greater than 40 percent because  
11 we are capturing all the special exception uses  
12 in the heading.

13 So -- because we were able to, you know, make  
14 this section applicable --

15 MR. STEIN: Look, most of this is new under  
16 coverage. For example --

17 CHAIRMAN MILLS: I'm talking about --

18 MR. STEIN: That's what I'm saying, most of  
19 this is new and it's not black lined. So, just  
20 because they have like where 12 percent --

21 CHAIRMAN MILLS: Yeah, but point five foot  
22 was not in the initial --

23 MR. STEIN: Right.

24 CHAIRMAN MILLS: -- text change.

25 MS. MATHUR: Yes.

1 MR. STEIN: There were a lot of changes made  
2 from the initial. They are not all black lined  
3 in this text.

4 CHAIRMAN MILLS: What I'm saying is just like  
5 what we saw last night with the Gateway project,  
6 we had four different colors. They still had  
7 things -- we don't have any of that here.

8 MR. STEIN: This is not a -- this does not  
9 show all the changes from the beginning.

10 CHAIRMAN MILLS: Okay.

11 MS. MATHUR: So what we did for that purpose  
12 was that we did a chart which compared the legal  
13 notice as it was published and then the text  
14 amendment as it is recommended by staff at  
15 present. So do you have that chart that we  
16 handed out yesterday?

17 CHAIRMAN MILLS: No, I do not have that.

18 MR. STEIN: Oh, you know what, I --

19 CHAIRMAN MILLS: I don't have that with this  
20 package. This is my other package.

21 MR. MORRIS: I have one.

22 CHAIRMAN MILLS: I will look at Bill's,  
23 that's fine.

24 MS. MATHUR: Okay.

25 MR. STEIN: Here, we'll share.

1 MS. MATHUR: Yes.

2 CHAIRMAN MILLS: That's --

3 MR. MORRIS: Schedule B, based on what's  
4 here.

5 CHAIRMAN MILLS: No, it's not that one. It's  
6 a different one. Yeah, it's that one there.

7 And just for the record just to make sure,  
8 Rosanne's not here tonight and Keith is seated in  
9 her place.

10 Do you have this one, Joanne?

11 MS. GWOZDZIEWSKI: I'm sure I do.

12 CHAIRMAN MILLS: So what was your statement,  
13 Vineeta?

14 MS. MATHUR: So we did compare the text as it  
15 was published with the text that you're seeing  
16 now.

17 CHAIRMAN MILLS: Okay.

18 MS. MATHUR: And then we can go section by  
19 section as we see what the changes were. The  
20 first part talks about definition. The way it  
21 was published, there were two categories, new  
22 construction. And the second was adaptive reuse  
23 and or redevelopment.

24 What we've since done is separate out  
25 adaptive reuse from redevelopment to make those

1 entirely distinct. And we can look at the  
2 definitions but that's basically the change that

3 --

4 CHAIRMAN MILLS: No, that's fine with that.  
5 We are up at the building coverage, so --

6 MS. MATHUR: Okay. Yes, so with the building  
7 coverage there is no proposal that the applicant  
8 requested was the building coverage, that  
9 standard of 12 percent could exclude building  
10 compounds on culturally or historically  
11 significant buildings. So because the  
12 demonstration site which is the High Ridge Park  
13 has buildings which all enhance the standard  
14 would have allowed them to exempt those  
15 overhangs.

16 Since then, we've changed that, you know, in  
17 the definitions I think the board raised  
18 concerns why the coverage was related to the  
19 historic character that Nexus wasn't clear or  
20 appropriate. So what we've instead put in place,  
21 is that if the building coverage exceeds 12  
22 percent, then the -- for every square foot of  
23 building coverage that is over, the floor area  
24 would be reduced by five square feet.

25 CHAIRMAN MILLS: But before that though, it

1 was at two square feet. How did that get  
2 modified?

3 MS. MATHUR: We've discussed -- so we've seen  
4 how much could be -- restrict the floor area,  
5 what's there currently and what reduction would  
6 result in the most restrictive development not  
7 exceed the standards. So the --

8 CHAIRMAN MILLS: Well, my question to you  
9 would be easier.

10 MS. MATHUR: Yes.

11 CHAIRMAN MILLS: The board didn't make the  
12 decision of going two to five?

13 MS. MATHUR: Yes.

14 MR. BLESSING: It was, I mean we did some  
15 modeling in trying to figure out how can it be as  
16 restrictive as possible.

17 CHAIRMAN MILLS: And the five was better than  
18 the two on that matter?

19 MS. MATHUR: Yes.

20 CHAIRMAN MILLS: Okay.

21 MR. BLESSING: And the point six is better  
22 than the point five.

23 CHAIRMAN MILLS: All right. Is everybody  
24 comfortable with that on the board right now  
25 since we are on this one area?

1 MS. MATHUR: Right. And --

2 MR. BLESSING: And really the important  
3 thing, what I mentioned before is that means that  
4 the applicant in this for High Ridge Office Park  
5 and potentially for other office parks as well is  
6 giving up development rights.

7 So there is a direct linkage between non  
8 conformance and giving up development rights.  
9 And this is what I mentioned before, that's the  
10 Home Depot. That's the kind of floor area they  
11 can't build on in High Ridge Office Park that  
12 they would allow to build as office space.  
13 Obviously not as a Home Depot because large scale  
14 retail is not -- prohibited.

15 CHAIRMAN MILLS: Correct.

16 MS. MATHUR: So, I mean, the building  
17 coverage standard is a means of restricting the  
18 amount of development and the amount of floor  
19 area that is a strict standard. And so is the  
20 floor area ratio, some -- you know, usually the  
21 districts have one or the other. Either the  
22 floor area ratio is the determining factor or the  
23 building coverage.

24 CHAIRMAN MILLS: Okay.

25 MS. MATHUR: So that's why the --



1 CHAIRMAN MILLS: I'm fine with that.

2 Everybody is fine with that? All right. So  
3 let's move on to B.

4 The buffer requirements: Again, it currently  
5 states a 50 foot landscape buffer shall be  
6 maintained between a building or outdoor use and  
7 any boundary with a residential district as  
8 unoccupied landscape, open space, with a  
9 combination of dense plantings, berms, fencing,  
10 walls or other screening techniques.

11 Pedestrian walkways may be located within  
12 said buffer area; however, no recreational uses,  
13 structure or facility is permitted within any  
14 area buffer.

15 When you say that, are you referring to that  
16 if there was a walkway there, they can't take a  
17 bicycle on that path?

18 MR. BLESSING: A bicycle I think would be  
19 okay, but --

20 CHAIRMAN MILLS: But I don't -- when you say  
21 that there is no recreational uses there, a  
22 bicycle is a recreational use.

23 MR. STEIN: I think they mean by the  
24 applicant. They can't go and have a class out on  
25 the lawn.

1           CHAIRMAN MILLS: So the spin class isn't out  
2 there?

3           MR. STEIN: Right.

4           CHAIRMAN MILLS: Okay. I got you.

5           MR. BLESSING: You couldn't have a playground  
6 there. You couldn't have part of the pool  
7 deck --

8           CHAIRMAN MILLS: Okay.

9           MR. BLESSING: -- or anything like that in  
10 that area.

11          CHAIRMAN MILLS: All right. So now, board,  
12 your thoughts on the 50 foot or should that be  
13 increased to give more barrier between the  
14 residential use?

15          MR. SILVER: What is the current?

16          CHAIRMAN MILLS: It's 50 on here right now.

17          MR. SILVER: No, I know, but as an office  
18 park, what is the --

19          MR. BLESSING: There is no buffer  
20 requirement.

21          CHAIRMAN MILLS: There is no buffer  
22 requirement.

23          MR. SILVER: Oh, there is no buffer  
24 requirement for -- on the office park.

25          MR. BLESSING: You have a setback requirement

1 but you don't have a requirement to put  
2 plantings -- 50 feet of plantings.

3 CHAIRMAN MILLS: But they're also not trying  
4 to do an outdoor use at an office park, so that's  
5 why this is coming into play.

6 MR. BLESSING: But I mean a lot of things  
7 arguably would also come into play in an office  
8 use when we talk about, for example, parking.

9 CHAIRMAN MILLS: Parking.

10 MR. BLESSING: Couldn't be that close --

11 MEMBER FROM AUDIENCE: Could you please use  
12 the microphone, please?

13 CHAIRMAN MILLS: I wish we had more mike's  
14 but please do not feel that you are going to  
15 bother us, come closer. I have no problem with  
16 that at all. It just makes it hard for some of  
17 them who don't speak loud to begin with. I don't  
18 need the mike. I talk loud enough as it is but  
19 they all don't do that. So if you want, please  
20 come up closer.

21 MR. STEIN: We have a shortage of mikes so  
22 please move up.

23 CHAIRMAN MILLS: I appreciate it, otherwise  
24 we would be longer just moving the mikes around.

25 MR. BLESSING: So in an as-of-right, you can

1 actually have parking within that 50 foot buffer.  
2 So this is a significant restricter buffer that  
3 also helps with not only outdoor uses but also  
4 with issues such as like at night time, cars pull  
5 into the parking lot and the lights light go  
6 obviously over the property line or something  
7 like that.

8 So that is not only something that makes it  
9 better for a potential outdoor use but also with  
10 regards to other aspects of the site or the  
11 lights are on in the building that would also  
12 obviously be mitigated by the planted buffer  
13 requirement.

14 CHAIRMAN MILLS: And that's why my thought  
15 was is 50 enough or do we go a little bit further  
16 with the 50, whether it is 75, 100, whatever it  
17 is, but it's going to help.

18 MR. STEIN: I would think anything greater --

19 MS. GWOZDZIOWSKI: I would say, what is the  
20 frontage of the building? I mean, what is the  
21 width of the building?

22 CHAIRMAN MILLS: We don't have the  
23 application before us to know.

24 MS. GWOZDZIOWSKI: No, but let's say the  
25 current building because I'm just trying to

1 think, if you could look in proportion to how  
2 much 50 feet would be to that building.

3 CHAIRMAN MILLS: I would say the current  
4 building has got to be well over 100 feet away  
5 from the property line.

6 MR. MORRIS: Oh, at least. It's more than --

7 CHAIRMAN MILLS: Yeah, it's over 100 feet.

8 MS. MATHUR: Right. So the standards for the  
9 setback is still 100 feet.

10 CHAIRMAN MILLS: But the parking is probably  
11 closer than 50 feet there now. No?

12 MS. MATHUR: Yes. I think it is.

13 CHAIRMAN MILLS: And that's what I'm saying,  
14 by changing this, we can also get the parking  
15 further away from the residential areas as well.

16 MR. STEIN: I would --

17 MR. MORRIS: The way this is written, Ralph  
18 or Vineeta, as the 50 foot landscape buffer, what  
19 type of activities could occur at the end of that  
20 50 feet? What could go there?

21 MR. STEIN: Within the 50 feet?

22 MR. MORRIS: No, outside -- once you get to  
23 50 feet, for the buffer, 50 foot buffer, at 51  
24 feet, what could be there? Could it be a parking  
25 lot? Could it be a --

1 MR. BLESSING: It could be a parking lot. It  
2 could be a pool.

3 MR. MORRIS: It could be a pool?

4 MR. BLESSING: Yes.

5 MR. MORRIS: Anything?

6 MR. BLESSING: Yes.

7 MR. MORRIS: I think we should go to 100  
8 feet.

9 MR. BLESSING: Just as a point of reference,  
10 the -- our most restrictive requirement without  
11 any requirement for a buffer in a RA-3 district  
12 is 70 feet. So here in the CD district, you have  
13 a 100 foot setback requirement and you have a 50  
14 foot planted buffer requirement. So taken  
15 together, I think --

16 MR. STEIN: But that's not 100 -- you're  
17 saying it's 150 feet if you combine them?

18 MR. BLESSING: No, no, no.

19 MR. STEIN: Or the 50 is within the 100?

20 MS. MATHUR: Yes.

21 MR. BLESSING: The 50 is within the 100, but  
22 in our most generous residential district, the  
23 RA-3.

24 MR. STEIN: But the 50, that doesn't apply to  
25 the outdoor use, though, right? It's just to the

1 building?

2 MR. BLESSING: No, the 50 also goes to the  
3 outdoor use.

4 MR. STEIN: Right. So the outdoor use could  
5 be 50 feet.

6 MR. BLESSING: Yes.

7 MR. STEIN: The building would have to be --

8 MR. BLESSING: 100.

9 MR. STEIN: 100 feet. So if the issue is the  
10 outdoor use, then maybe we want to increase the  
11 buffer.

12 CHAIRMAN MILLS: Well, it would keep the pool  
13 being from closer to the neighbors.

14 MR. STEIN: Yeah.

15 CHAIRMAN MILLS: That's the whole intent here  
16 is to try to make sure that if we are going to  
17 try to mitigate noise, this is going to help them  
18 as well.

19 MR. BLESSING: I mean, the other thing is  
20 also that noise is not only mitigated by a buffer  
21 itself, but how the buffer is designed.

22 CHAIRMAN MILLS: Correct. Absolutely.

23 MR. BLESSING: So if you were to put a berm  
24 or something like that you might not need as much  
25 space as if you just had flat terrain between you

1 and the neighbor, so --

2 CHAIRMAN MILLS: Again, but the thing that's  
3 different about this is we are having a text  
4 before we have an application to show where the  
5 intent is.

6 MS. GWOZDZIOWSKI: Yeah.

7 CHAIRMAN MILLS: So without an intent, how do  
8 we go ahead and take care of this?

9 MR. BLESSING: I believe that actually goes  
10 to the findings in 7B where it says, that they  
11 have to be screening. So 7B says, screening  
12 structure outdoor uses and parking area shall be  
13 appropriately screened by walls, fences,  
14 plantings and other devices to protect the  
15 privacy of any adjacent residential district.

16 So once again, in our most generous  
17 residential district, you have to have only 70  
18 foot setback of the building on the property line  
19 and you don't have to plant anything. You can  
20 have a lawn and nothing else.

21 So here, there is not only the planting  
22 buffer requirement, there is also the screening  
23 requirement and this is also a commercial  
24 district. So I think what -- from a planning  
25 perspective, what I think is important is to keep



1 in mind that we have residential district because  
2 we want to protect residential uses and we have  
3 commercial districts so that the commercial uses  
4 can operate.

5 CHAIRMAN MILLS: So you are saying the 100  
6 feet would not allow them to operate?

7 MR. BLESSING: I don't know, but why should a  
8 standard for a commercial district be stricter  
9 than for a residential district?

10 CHAIRMAN MILLS: Because we are trying to put  
11 an outdoor use that is not within what the  
12 Planning Board thinks is a good idea. And we're  
13 still trying to come around the grips of even  
14 allowing this.

15 MR. BLESSING: No, I'm just saying --

16 CHAIRMAN MILLS: So that's why we are doing  
17 it otherwise we wouldn't.

18 MS. MATHUR: So I think there are several  
19 things that need to balance. So when you look at  
20 use that would be allowed beyond the 50 feet  
21 including parking and other outdoor activities.  
22 So the Planning Board also has an opinion that  
23 the parking should be at grade or in a structure.  
24 I think the applicant is going to discuss not  
25 having a parking structure because most of the

1 parking provided would be at grade.

2 So the additional buffer -- no, setback or  
3 buffer requirement restricts the amount of  
4 surface area that would be available for on grade  
5 parking. So we don't want to go to a structured  
6 parking from my perspective. So that's another  
7 thing that we need to talk about here.

8 MR. MORRIS: Yeah, but as I recall, nothing  
9 in this text change would eliminate the  
10 possibility. I think you could still put a  
11 structured parking --

12 MS. MATHUR: I think what --

13 MR. MORRIS: I'm not saying they would, but  
14 they could.

15 MS. MATHUR: No, that's right. But the  
16 landscape requirements and the setback  
17 requirements, buffer requirements in a sense  
18 limit the square footage remaining. And then --

19 MR. STEIN: Well, if you have enough parking,  
20 why couldn't you -- why couldn't you build a  
21 parking garage where the parking lot is?

22 MS. MATHUR: No, it's building permitted.  
23 But, you know, we have to see if that becomes  
24 part of the proposal or not. And then it says  
25 what the (unintelligible) is of that.

1 CHAIRMAN MILLS: All right.

2 MR. STEIN: Two thoughts here.

3 CHAIRMAN MILLS: Go ahead.

4 MR. STEIN: Well, one is: Ralph said the 70  
5 foot is used in other areas. Make this 75, which  
6 is approximately the same as that. Or, if you  
7 want to make it 100, we could say, you know,  
8 subject to Zoning Board's right to reduce it when  
9 it gets an application in.

10 CHAIRMAN MILLS: Well, that's what I was  
11 going to get into next. So if we put this in at  
12 a 100, there is nothing to say that the  
13 applicant, when they bring the application, say  
14 we would like to amend your 100 and we are going  
15 to show you why and this is how it is mitigated.

16 MR. STEIN: But then they have to do a text  
17 change.

18 CHAIRMAN MILLS: But they are bringing the  
19 application. It's a modification to the same  
20 text change.

21 MR. BLESSING: Or what you could do you could  
22 make it as part of the special exception  
23 application that you could --

24 CHAIRMAN MILLS: Because that is part of the  
25 special exception there now.

1 MR. STEIN: That's what I'm saying.

2 MR. BLESSING: Yeah.

3 MR. STEIN: If we just say it's subject --  
4 it's 100 feet but subject of --

5 MR. BLESSING: The Zoning Board may waive  
6 this requirement or reduce this requirement.

7 MR. STEIN: Yeah.

8 CHAIRMAN MILLS: That's what I was getting  
9 at, can we put that language in there. That's  
10 where I was going with it.

11 MR. STEIN: Yeah.

12 CHAIRMAN MILLS: All right. So how do you  
13 want to word that there? So we are going to  
14 change it from 50 to a 100 feet buffer subject  
15 to -- you do the verbiage. Subject to --

16 MR. STEIN: Hold on. The Zoning Board may  
17 reduce --

18 CHAIRMAN MILLS: This requirement.

19 MR. STEIN: Yeah. This buffer requirement.

20 MR. BLESSING: What I would put in though is  
21 something --

22 CHAIRMAN MILLS: But why is it allowed to?

23 MR. BLESSING: Because of site conditions.

24 But what you should put in is a minimum

25 requirement that you can't go below 50 feet of a

1 planted buffer.

2 MR. STEIN: Yeah, that's good.

3 CHAIRMAN MILLS: All right. So rewrite that  
4 and then let's state that into the record the way  
5 it's being done.

6 Are you fine with that, Joanne?

7 MS. GWOZDZIEWSKI: Yeah, that's fine.

8 CHAIRMAN MILLS: Bill?

9 MR. MORRIS: Yeah.

10 CHAIRMAN MILLS: Keith?

11 MR. SILVER: Yeah, sure.

12 CHAIRMAN MILLS: All right. So why don't you  
13 find the word smithing of that.

14 MR. STEIN: Here we go. The Zoning Board may  
15 reduce this 100 foot buffer requirement but to no  
16 less than 50 feet.

17 CHAIRMAN MILLS: Is that good?

18 MR. BLESSING: I think it meets --

19 CHAIRMAN MILLS: Okay.

20 MR. BLESSING: -- it creates a minimum  
21 standard that you can't go below which is  
22 important.

23 CHAIRMAN MILLS: All right. Sounds good.

24 Let's go onto C. C talks about signage. The  
25 rights available -- oh, that's the wrong one.

1 Let me get to the correct one.

2 Signage, notwithstanding the rights  
3 available in accordance with section 9-BB, 3-E,  
4 the total area of signs placed on all walls  
5 should not exceed one square foot per lineal foot  
6 of total building facade. No illuminated sign  
7 shall face or be visible from any residential  
8 district.

9 So again, that would be taking care of they  
10 have one of two ways, if they had a sign, not  
11 that it's illuminated to begin with -- so when  
12 you have illuminated, we always talk about the  
13 back lit type illumination. What about when you  
14 have a light overhanging a building, a canopy  
15 light, that comes down and washes onto a sign?  
16 Does that not also have a problem with it being  
17 visible to a residential district? How do you do  
18 that?

19 MS. MATHUR: I think --

20 MR. STEIN: It's not going to illuminate --

21 MS. MATHUR: I'm sorry.

22 CHAIRMAN MILLS: That's what I'm saying, it's  
23 a canopy. So if you're up at a two plus story  
24 height, and you have got a light over hanging the  
25 parapet coming down washing on a sign, that's

1 just as much as saying, hey, I'm illuminating it.  
2 Right? This here doesn't do anything to stop  
3 that. I'm trying to make sure that something  
4 like that doesn't occur.

5 MS. MATHUR: I think that's, you look at the  
6 lighting standard and you make the findings of  
7 whether the lighting that is proposed is  
8 appropriate or not. That could be even in the  
9 conditions that there is no lighting, the  
10 building lighting is reduced at, you know,  
11 certain hours or however you want to word it.  
12 That could be part of the overall lighting of the  
13 building.

14 MR. STEIN: Or if what you're trying to say  
15 is no illuminated sign, whether it's illuminated  
16 internally or externally.

17 CHAIRMAN MILLS: Well, we are undecided so,  
18 yeah, that's what I'm getting at. That goes back  
19 and forth, Vineeta, to the same point again, if  
20 we do it in the special exception of the  
21 conditions, and I'm trying to make this a  
22 restrictive area --

23 MS. MATHUR: Yeah.

24 CHAIRMAN MILLS: -- why am I not doing it in  
25 here. Why are we waiting to that point. They

1 understand they shouldn't bring an application  
2 that has a lit sign of any magnitude that would  
3 be visible to the residents. Is that not  
4 appropriate?

5 MR. STEIN: No, it is.

6 CHAIRMAN MILLS: And if not, they find a way  
7 to buffer it.

8 MR. STEIN: Right. I think the applicant  
9 needs to know what its requirements are when they  
10 come in with an application.

11 CHAIRMAN MILLS: So how do you want to change  
12 that, that takes care of the canopy, overhanging  
13 the parapet that could be well lit that somebody  
14 sees three stories up in the air?

15 MR. STEIN: Would you call it internal or  
16 external lighting? Does that capture it? If  
17 it's back lit, it's sort of internal it seems to  
18 me. If it's in a canopy, it is external.

19 MS. GWOZDZIEWSKI: Sure. Externally --

20 CHAIRMAN MILLS: Well, we have the findings  
21 as well, 7A, right? Does that take care of it  
22 there? All artificial lighting shall be directed  
23 so as to reduce glare and insure all direct rays  
24 fall on the subject property --

25 MR. STEIN: What's it -- is that artificial



1 lighting as opposed to real lighting?

2 CHAIRMAN MILLS: I guess it's maked (sic) up  
3 lighting. It's not real.

4 MR. STEIN: Yeah, right. I don't think we  
5 need artificial.

6 CHAIRMAN MILLS: All lighting. All lighting  
7 shall be directed so as to reduce glare and  
8 assure all direct rays fall on the subject  
9 property and do not adversely -- so 7A actually  
10 takes care of it at least in my understanding.

11 MS. MATHUR: Yes.

12 CHAIRMAN MILLS: So we don't need to take  
13 care of it in the signage.

14 MS. MATHUR: That's what I meant, yes.

15 CHAIRMAN MILLS: Okay. That's all you had to  
16 say. All right. So right now, is everybody fine  
17 with C the way it is?

18 MS. GWOZDZIOWSKI: Yes.

19 MR. SILVER: Yes.

20 CHAIRMAN MILLS: Okay. D, parking. In  
21 furtherance of the master plan objectives, there  
22 shall be no net increase in parking spaces on the  
23 property excluding any additional handicapped  
24 spaces required to meet building code for  
25 redevelopment and adaptive reuse projects in any

1 application. Period.

2 Any application for a special exception use  
3 shall include a parking needs assessment to  
4 determine the maximum number of parking spaces  
5 for said use. Shared parking is encouraged. I  
6 don't have a particular issue with that. Does  
7 anybody --

8 MR. STEIN: When you say, for said use, is  
9 that supposed to mean for redevelopment and  
10 adaptive reuse?

11 MR. BLESSING: Yes.

12 MR. STEIN: So they don't have to do a  
13 parking needs assessment if it's new development?  
14 Don't we want it for all three?

15 CHAIRMAN MILLS: So where do you want to  
16 stick that in?

17 MR. STEIN: For maximum number of parking  
18 spaces for --

19 CHAIRMAN MILLS: Well, you want to put it  
20 after the parenthesis, right?

21 MR. STEIN: No. I want to take out said use  
22 and parking spaces for any project, right?

23 MR. BLESSING: Yeah.

24 CHAIRMAN MILLS: For any project?

25 MR. BLESSING: Or for all special exception

1 uses.

2 CHAIRMAN MILLS: Why don't we do that. For  
3 all --

4 MR. STEIN: Okay.

5 CHAIRMAN MILLS: -- special exception uses?  
6 Okay.

7 MR. STEIN: Leave the word for in but take  
8 out said use.

9 CHAIRMAN MILLS: E. Outdoor uses shall be  
10 limited to the hours of 10 a.m. to 8 p.m. unless  
11 modified by the Zoning Board.

12 Again, thinking about more restrictive,  
13 again, not trying to -- huh?

14 MR. STEIN: Ten till noon?

15 CHAIRMAN MILLS: Ten till 10:01. But when  
16 that's stated in that manner, that's even on a  
17 Sunday.

18 MEMBER OF AUDIENCE: Sunday it should be  
19 closed.

20 CHAIRMAN MILLS: Again, this is not  
21 something -- please keep your comments to  
22 yourself. We've heard that already. That's why  
23 we are talking about it.

24 So again, that is 8 p.m. even on a Sunday  
25 which I don't think is what the intent was here.

1 MR. STEIN: Well, but you know, when families  
2 go to the pool, don't you think that they are  
3 going to want to --

4 CHAIRMAN MILLS: 8 o'clock, put the kids to  
5 bed. All right. Let's move on.

6 MR. BLESSING: There's two things here. So,  
7 first of all, the unless modified by the Zoning  
8 Board --

9 CHAIRMAN MILLS: Gives us the discretion --

10 MR. BLESSING: -- gives us the discretion to  
11 make it tighter than that. And if you go to 7C,  
12 when we talk about the noise standards, we  
13 actually say that for Sundays, after 5 p.m. the  
14 noise levels shall not exceed 45 dBA which is the  
15 night time -- the maximum allowed night time  
16 noise level.

17 CHAIRMAN MILLS: So then, what is the harm in  
18 changing 10 to 5? Well, because that doesn't  
19 work during the week.

20 MR. BLESSING: Yes. Right.

21 CHAIRMAN MILLS: Got you. Okay.

22 MR. BLESSING: They can be outside but they  
23 have to be quiet.

24 MR. STEIN: But on Sundays, the noise  
25 restriction, the lower noise starts at 5.

1 MR. SILVER: It can be open, but quiet.

2 MR. BLESSING: Yeah. The other thing I'm  
3 thinking that you have to consider is that, and  
4 that is part of the site plan application is that  
5 an outdoor use might be a yoga class that doesn't  
6 create a whole lot of use. So you can have quiet  
7 outdoor uses.

8 MR. STEIN: So when the applicant comes in  
9 they could say, I'd like to do exercise classes  
10 --

11 MR. BLESSING: Yes.

12 MR. STEIN: -- in the morning before 10  
13 o'clock.

14 MR. BLESSING: Exactly. And it's this type  
15 of class and there would be no yelling and  
16 it's -- but obviously, there's other outdoor  
17 uses, like if you have a water slide or  
18 something, that might create more noise and that  
19 wouldn't --

20 CHAIRMAN MILLS: So you're telling me that  
21 when we get into the special exception side of  
22 that with conditions, we are going to start  
23 telling them what equipment they can use at what  
24 point in time?

25 MR. STEIN: Actually, they are stuck with

1       this unless they come to us and say we want to  
2       make it earlier than 10. In which case we'll  
3       say --

4             MR. BLESSING: Exactly.

5             CHAIRMAN MILLS: Well, I'm not worried about  
6       the earlier than 10, it's the after 8 that I'm  
7       concerned with.

8             MR. STEIN: Well, they can't do it after 8  
9       unless they get our permission. So they come  
10      here and they say I want to go -- keep the pool  
11      open until 9. We say, forget it. Or they say, I  
12      want to have a yoga class at 9 and we might say,  
13      okay, well 9 o'clock yoga isn't that disturbing.

14            But what this does is it sets kind of strict  
15      boundaries and then it's up to us when the  
16      application is set to expand, it would go in.

17            CHAIRMAN MILLS: All right. I'll go to the  
18      board, your feelings and thoughts?

19            MS. GWOZDZIOWSKI: About the hours?

20            CHAIRMAN MILLS: About the hours as it is  
21      listed on the text.

22            MS. GWOZDZIOWSKI: I think if we have the  
23      discretion, saying it's modified by the Zoning  
24      Board if we have an issue about the hours, so I'm  
25      fine with that.

1 CHAIRMAN MILLS: Bill?

2 MR. MORRIS: Well, I'm okay with it except or  
3 subject to what's considered an outdoor use. I  
4 mean, what are we including in there, tennis  
5 courts, basketball, volley ball, hand ball,  
6 pools? I mean, what are -- we have no definition  
7 of what outdoor use is. So obviously, some would  
8 be less acceptable than others.

9 CHAIRMAN MILLS: Yeah, because in here we are  
10 talking about the pool but there could be other  
11 things like you're saying, could that be done in  
12 the outdoors.

13 MR. STEIN: Some are better and some are  
14 worse but --

15 MR. MORRIS: Well I know, but you see --

16 MR. STEIN: -- they are all outdoors though.

17 MR. MORRIS: Yeah, so, that's my point.

18 MR. BLESSING: But for all outdoor uses,  
19 whatever they are, they have to prove that they  
20 meet the noise requirements.

21 MR. MORRIS: Well, we'll get to that when we  
22 get to that.

23 CHAIRMAN MILLS: Okay.

24 MR. MORRIS: When we get to the noise  
25 requirements.

1 MR. STEIN: But the point is that it covers  
2 everything.

3 MR. MORRIS: Okay. I'll wait until we get to  
4 the noise part. That's where I'm concerned.

5 MR. STEIN: It's the noise --

6 MR. MORRIS: Yeah.

7 MR. STEIN: Okay.

8 CHAIRMAN MILLS: I would tend to agree with  
9 that. So right now we will put a little asterisk  
10 next to E that we'll come back to if we have to.

11 6 is the design guidelines. Any new  
12 development, adaptive reuse or redevelopment at  
13 principal or accessory building on a property  
14 with other buildings considered historically or  
15 culturally significant shall be designed in a  
16 manner which is compatible with the color  
17 palette, materials, design, general massy (ph)  
18 and architectural features of the remaining  
19 architecture within the property. For the  
20 purpose of this requirement, a structure listed  
21 or eligible for listing on a national register of  
22 historic places or a state register of historic  
23 places either as an individual building or as a  
24 contributing building in a district shall be  
25 deemed historically or culturally significant.



1           So the thought that I had that I had a brief  
2 conversation with you today then Ralph, we  
3 couldn't even do. And -- well, let me --

4           MR. STEIN: Which is what?

5           CHAIRMAN MILLS: So, when I went ahead and I  
6 visited the facility in Harrison today for the  
7 first time and what I've seen in the other stuff  
8 is it's always a brick facade. We talked about  
9 noises being an issue. Well, brick isn't going  
10 to help us with a noise issue.

11           So, no different than you go into a town and  
12 they say, you know what, we don't want to know  
13 that your McDonalds is here but it can be here.  
14 I want Lifetime to be here but maybe I don't want  
15 to hear them here. And the way to do that is a  
16 wood surface on the structure that would blend  
17 in. But that would not go to the historic part  
18 of it because the way this is written.

19           MR. STEIN: Those are stuff --

20           CHAIRMAN MILLS: So it gets --

21           MR. STEIN: Yeah.

22           CHAIRMAN MILLS: -- nixed because things  
23 right now are bouncing off the existing  
24 structures.

25           MR. STEIN: They would have to come up with

1 other noise mitigation.

2 CHAIRMAN MILLS: Separate from that if we  
3 don't go ahead -- because the brick is going to  
4 increase that.

5 MR. BLESSING: And, I mean, it also depends  
6 on --

7 MS. MATHUR: I mean, it's not completely --

8 CHAIRMAN MILLS: Well, again, I don't have  
9 drawings so I can't talk about --

10 MR. STEIN: But your point is the same. It's  
11 still a hard surface.

12 CHAIRMAN MILLS: It's a hard surface.

13 MR. STEIN: Yeah.

14 MR. BLESSING: But I think it's also -- you  
15 have the discretion to make the decision and you  
16 might decide that on the outside facade, it does  
17 not face the outdoor use. It's more important to  
18 you that you keep, sort of, the historical  
19 character of the building while when it's  
20 internally facing, your emphasis is on noise  
21 mitigation and the materials that can sort of  
22 absorb noise better like wood or it could also be  
23 some sort of fabric.

24 Since this is a seasonal use, there could be  
25 some sort of fabric --

1           CHAIRMAN MILLS: You mean ivy all over the  
2 building?

3           MR. BLESSING: Well, ivy, yes. The point is  
4 here, I think there is a lot of strategies that  
5 can be used and you are the master through the  
6 special exception process to determine --

7           CHAIRMAN MILLS: Hold on one second. Ladies,  
8 all night you've been talking with a side bar.  
9 This is the side bar going here. If you want to  
10 do that you can go downstairs, please. It's  
11 annoying. Please. Thank you.

12          Go ahead. I'm sorry.

13          MR. BLESSING: So the special exception gives  
14 you the ability to make that decision, what is  
15 appropriate. And obviously if there are historic  
16 buildings, there would also be input from HPAC  
17 and other --

18          CHAIRMAN MILLS: Yeah, they are going to want  
19 to weigh in on it, yeah. So it's a fine line.  
20 I'm trying to go ahead and take care of noise  
21 mitigation and also trying to give the  
22 architectural -- well, let's put it this way.  
23 You are going to lose the architecture because  
24 whatever is going there is not going to look like  
25 the rest of the space ships (sic) that are there.

1 MR. BLESSING: But it also depends on the  
2 facade or which side of the building you're  
3 looking at, so --

4 CHAIRMAN MILLS: Okay.

5 MR. STEIN: But it does have to be compatible  
6 with the design of the other buildings. So  
7 whatever that means.

8 CHAIRMAN MILLS: That makes it harder.

9 MS. GWOZDZIOWSKI: That would be the  
10 applicant's choice. If they don't want to change  
11 it to be adaptable then it doesn't work for them,  
12 right? Ultimately.

13 MR. MORRIS: Right.

14 MS. GWOZDZIOWSKI: That's the way I look at  
15 it. If they don't want to adapt the design to  
16 what we have written here, then --

17 MR. MORRIS: Right.

18 MS. MATHUR: I think the purpose of this here  
19 is to emphasize that the design has to be  
20 compatible, I think. You know, if they can come  
21 up with a design or materials that meet both the  
22 concerns of both historic and noise.

23 CHAIRMAN MILLS: Okay. So everybody is fine  
24 with 6 then?

25 All right, 7. In order to approve an

1 application, the Zoning Board shall make a  
2 finding that any commercial, special exception  
3 use conforms to section 19.3, subsections BBB-3  
4 and BBB-5. And the requirements below, the  
5 Zoning Board may hire one or more independent  
6 consultants to be paid for by the applicants or  
7 applicant in accordance with the ordinance number  
8 1236 to insure that all such requirements are  
9 satisfied.

10 The first one with that is the lighting. We  
11 already spoke about it, Dave and I, where we  
12 talked about lighting, the first one, A, the word  
13 artificial is in there. I don't know what  
14 artificial lighting is. If somebody -- can you  
15 clarify that?

16 MS. MATHUR: It's, you know --

17 MR. BLESSING: Natural light is the sun.

18 MS. MATHUR: -- the sunlight versus the --

19 MR. STEIN: Oh, so you mean real light?

20 MR. BLESSING: Yes.

21 MR. STEIN: They don't have to direct it or  
22 control it.

23 MR. BLESSING: Yeah.

24 MR. STEIN: Okay.

25 MR. BLESSING: They don't have to turn the

1 sunlight off.

2 MR. STEIN: Okay. Good.

3 CHAIRMAN MILLS: So you want to leave  
4 artificial in there?

5 MR. STEIN: No.

6 CHAIRMAN MILLS: So the way it will read is:  
7 All lighting shall be directed so as to reduce  
8 glare and insure all direct rays fall on the  
9 subject property and do not adversely impact an  
10 adjacent residential area. Lighting of outdoor  
11 facility shall be limited solely to the safety  
12 and security of lighting. On the lighting --

13 MR. STEIN: I think that last sentence  
14 does -- I mean the issue is really for night  
15 time.

16 CHAIRMAN MILLS: Correct. So, I mean, as we  
17 have it now, so explain this to me because this  
18 is something I was going to talk about with the  
19 lighting aspect of this to begin with.

20 So the property is currently having lighting  
21 for all their parking requirements. That's been  
22 there for quite some time. I don't know what the  
23 height is, if it's 12 feet, 15 feet, whatever the  
24 case may be.

25 Do we say that the confines should stay

1 within those parameters or do we say that the  
2 lighting comes down in height? You could put  
3 more lights but bring the height of it down so  
4 that way it doesn't wash out.

5 MS. MATHUR: I think that's the purpose of  
6 the special exception. It goes on the criteria.  
7 Otherwise, an as-of-right use wouldn't have to  
8 meet those standards. The special exception  
9 process exactly tries to do that. So you can  
10 restrict the height, the intensity and the  
11 direction of the light.

12 CHAIRMAN MILLS: Yeah, because again, I think  
13 what you talked about, you put shields on it.  
14 That's great. But in all honesty, when you are  
15 20 foot up in the air, you are shielding only to  
16 an extent. If I'm sitting in my living room and  
17 I look up and there's a light there, it's  
18 annoying. So if it was down lower, I don't mind  
19 you having more of them dispersed to the area of  
20 security and safety but why does it have to be  
21 higher?

22 MR. BLESSING: So it's our expectation that  
23 this greatly improves the light that's there.

24 CHAIRMAN MILLS: Okay.

25 MR. STEIN: Yeah.

1 MR. BLESSING: For that special exception  
2 use.

3 CHAIRMAN MILLS: Okay. So you feel that this  
4 takes care of that and we'll address that if the  
5 application comes forward with that?

6 MR. STEIN: Do we need to address the night  
7 time lighting coming from the inside of the  
8 facility or do you think that's already --

9 CHAIRMAN MILLS: Just talk into the mike so  
10 people can hear.

11 MR. STEIN: Is lighting inside the facility  
12 that goes out, is that covered somewhere?

13 MR. SILVER: I think we had a discussion  
14 about that, about screens.

15 MR. STEIN: Yeah, and the applicant said --

16 MR. SILVER: And they'd come down.

17 MR. STEIN: Maybe just saying something like,  
18 applicant shall take measures to --

19 MR. BLESSING: Minimize.

20 MR. STEIN: -- minimize indoor lighting  
21 effect on neighboring residential areas.

22 MS. MATHUR: Should we word it or shall we  
23 structure it as regulations?

24 MR. STEIN: I'd like -- I'd rather have it be  
25 more as a condition.



1 MS. MATHUR: Okay.

2 MR. STEIN: So what would you say?

3 MS. MATHUR: Applicant shall (unintelligible)

4 CHAIRMAN MILLS: From indoors to outdoors.

5 MS. MATHUR: During -- to be specified  
6 during --

7 MR. BLESSING: Working hours.

8 CHAIRMAN MILLS: No. Working hours.

9 MR. STEIN: Well, in the day time you  
10 don't really --

11 CHAIRMAN MILLS: Well, I'm just thinking  
12 about that for a second.

13 MR. MORRIS: You don't say working hours  
14 because you don't want them on at 3 o'clock in  
15 the morning.

16 CHAIRMAN MILLS: Yeah, I don't want them on  
17 at 3 o'clock in the morning while they are trying  
18 to do cleaning as well.

19 MR. BLESSING: They can do cleaning but they  
20 have to screen it.

21 MR. MORRIS: Correct.

22 CHAIRMAN MILLS: Correct. Yes, it has to  
23 have the screening somehow or another if it's  
24 going onto a residential --

25 MR. STEIN: How about this, applicant will

1 take measures to reduce indoor lighting from  
2 adversely affecting residential area --  
3 neighboring residential area. And then, so look,  
4 if it's during the day, it's not going to  
5 adversely affect it, so you don't have to worry  
6 about it.

7 CHAIRMAN MILLS: Correct. That's fine. Say  
8 that one more time.

9 MR. STEIN: Applicant shall take measures to  
10 reduce indoor lighting from --

11 CHAIRMAN MILLS: Applicant or applicants, do  
12 you put that apostrophe in there?

13 MR. STEIN: Well --

14 CHAIRMAN MILLS: Because we started that out  
15 above in the findings.

16 MR. STEIN: We did.

17 CHAIRMAN MILLS: Do you want to --

18 MR. STEIN: Okay.

19 CHAIRMAN MILLS: -- parenthesize the s?

20 MR. STEIN: Go ahead, yes.

21 CHAIRMAN MILLS: So applicant or  
22 applicants what?

23 MR. STEIN: Shall take measures to reduce the  
24 adverse effect of indoor lighting on neighboring  
25 residential areas.

1 CHAIRMAN MILLS: Okay. Okay. Good.

2 Everybody is fine with that?

3 MS. GWOZDZIOWSKI: Yes.

4 CHAIRMAN MILLS: Bill?

5 MR. MORRIS: Uh-huh.

6 CHAIRMAN MILLS: Keith?

7 MR. SILVER: Uh-huh.

8 CHAIRMAN MILLS: Okay. B, screening.

9 Structures, outdoor uses and parking areas shall  
10 be appropriately screened by walls, fences,  
11 plantings or other devices to protect the privacy  
12 of any adjacent residential districts.

13 What's an other device?

14 MR. BLESSING: Everything that we haven't  
15 thought of.

16 CHAIRMAN MILLS: And it's considered a  
17 device?

18 MR. STEIN: Are you getting technical?

19 CHAIRMAN MILLS: Well, I'm just trying to --  
20 when people read this --

21 MR. MORRIS: Other methods.

22 MR. STEIN: Other methods. Other measures.

23 CHAIRMAN MILLS: Other measures I think would  
24 be more appropriate, not devices.

25 MR. BLESSING: I mean, a measure could also

1 be increasing, for example, the setback or  
2 something like that.

3 MR. STEIN: Yeah.

4 CHAIRMAN MILLS: Okay. Everybody is fine  
5 with that change?

6 MR. MORRIS: Uh-huh.

7 MS. GWOZDZIOWSKI: Yeah.

8 CHAIRMAN MILLS: All right. The fun one, C.

9 MR. STEIN: Can I -- I'm sorry, go back where  
10 we said, neighboring residential areas, just I  
11 think we -- which probably is adjacent  
12 residential.

13 MR. BLESSING: So we'll change it to adjacent  
14 residential.

15 MR. MORRIS: Okay. The elephant in the room.

16 CHAIRMAN MILLS: The elephant is here.  
17 During the hours when outdoor uses are permitted  
18 as per 5E of this section, noise levels for  
19 outdoor recreational uses at the property line  
20 where such use is located shall not exceed 55 dBA  
21 except for Sundays when noise level shall not  
22 exceed 55 dBA between the hours of 10 a.m. and  
23 5 p.m. During all other times, the noise level  
24 shall not exceed 45 dBA at said property line.

25 A detailed noise analysis may be required

1 prior to the special exception for the site plan  
2 approval application and for a certain period  
3 after completion of the project to be determined  
4 by the Zoning Board. No final certificate of  
5 occupancy for the outdoor use shall be granted  
6 until the board is satisfied with the acoustical  
7 performance of said outdoor recreation uses as  
8 specified.

9 All right. So to that, remember the whole  
10 conversation we had with Jim yesterday and it  
11 goes to the whole other application we had with  
12 Viti that we have to worry about a police officer  
13 coming to measure sound criteria. I'm waiting  
14 for a call back from somebody that I've done  
15 business with in the past. They are going to let  
16 me know whether or not they could but Ralph can  
17 you explain what you mentioned to me earlier  
18 today.

19 MR. BLESSING: This is not the police  
20 officer. This is --

21 CHAIRMAN MILLS: I know it's not the police  
22 officer. It's the device that I said I would  
23 like to have on site that takes a measurement so  
24 that way there is no discrepancy of saying what a  
25 neighbor has for a device, whether it's legal or

1 not legal, or if it's a device that the police --  
2 it's on site and it's monitored by a  
3 professional.

4 MR. BLESSING: What we did was a little bit  
5 of research into different sound monitoring  
6 devices and there is lots of them available.  
7 They are often used, for example, in the airports  
8 or other sources that generate a lot of noise.  
9 And they basically work remotely. So you put a  
10 sensor there and you can, in real time see the  
11 noise levels that are going on at that specific  
12 location such as the property line of that  
13 property.

14 CHAIRMAN MILLS: Correct.

15 MR. BLESSING: What you could do -- what you  
16 could require is that for a certain period of  
17 time or a longer period of time that there would  
18 be such sensors in place.

19 MR. STEIN: How about at any time. Let's say  
20 things are going along great for a year and then  
21 all of a sudden there is an issue that comes up.  
22 Would we want the right to say to them, okay, now  
23 you need to put it in now?

24 MR. BLESSING: I think you have the right to.

25 MR. STEIN: Under this?

1 CHAIRMAN MILLS: Well, there is an expense  
2 for the piece of equipment.

3 MR. STEIN: Yeah.

4 CHAIRMAN MILLS: Okay. Again, as all of us  
5 trying to be good neighbors with one another, I  
6 don't see how leaving a device on site is  
7 anything that harms it once it's installed. But  
8 if you are talking about a temporary device,  
9 that's one thing. But it's easy enough and  
10 that's why I told you, I knew it existed no  
11 matter what Jim was saying. I know it's out  
12 there. You can definitely measure this and then  
13 it's not, well he said, she said, well this is  
14 disturbing me. Then we have got to worry about  
15 going to court and this and that. I don't want  
16 any of that.

17 It's very clearly understood and we'll deal  
18 with that later on as far as finding out what  
19 happens when you go past your guidelines. And  
20 that's a whole separate issue on its own. But to  
21 record it is a simple matter. It's not that  
22 difficult. All you do is you put a sensor up and  
23 it records constantly. What that cost could be  
24 is not significant, believe me.

25 If you want to say, monitoring it and making

1       sure that's one thing at all, but it's easy  
2       enough -- it's no different than somebody with a  
3       security camera saying only show me the motions  
4       when somebody walks on my property. That's the  
5       only time I want to get it when it spikes. And  
6       all of a sudden I'm above the thing, I've got a  
7       recording. Don't tell me that it didn't happen  
8       because it did happen and now how do we remedy  
9       it. That's all.

10       And that's all I'm trying to do is making  
11       sure that the problem is always taken care of.  
12       We don't have to worry about a police officer or  
13       citizen of their own type of device comes up and  
14       says, they're not staying within the confines of  
15       their agreement. I don't want to hear that.  
16       It's real simple just to put it there and it's  
17       over with.

18       MR. BLESSING: And I think that this gives  
19       you -- the special exception process gives you  
20       the right to demand that.

21       MR. STEIN: But it doesn't give you the right  
22       to go back later and ask that it go in.

23       CHAIRMAN MILLS: That's what I'm saying,  
24       never take it out. It's sitting up on a pole or  
25       whatever at the property line where your concern



1 is.

2 MR. BLESSING: I mean --

3 CHAIRMAN MILLS: What are we talking about,  
4 maybe three devices at best on the property?

5 MR. BLESSING: With all special exceptions,  
6 that's the issue with all land use approvals  
7 here. You have anticipate what's sort of coming  
8 out. But if you, when in doubt, you can put a  
9 condition in that it has to be forever --

10 MR. STEIN: It does say --

11 MR. BLESSING: -- or when they come back, you  
12 give them the option to come back at a certain  
13 time after five years when all agrees --

14 MR. STEIN: It does say for a period to be  
15 determined by the Zoning Board.

16 MR. BLESSING: Yeah. And I mean, that's the  
17 thing, do you want it for one season, do you want  
18 it for two seasons or do you want it for all  
19 seasons?

20 CHAIRMAN MILLS: Well, we take care of  
21 parking management by seeing if something works  
22 for at least three years at a minimal. So I  
23 don't see that this would be anything less than  
24 three years.

25 MR. BLESSING: No.

1           CHAIRMAN MILLS: But to Dave's point earlier,  
2           that if three years goes by and they say, you  
3           know what, we're past our plateau, we're having  
4           parties, baby. And then it changes, there's got  
5           to be a way to reinstate it.

6           And I don't know how you want to word that,  
7           whether that's in here or what you have in the  
8           special exception. But again, I would like them  
9           to understand what they're up against. Again,  
10          they want to be a good neighbor and the neighbors  
11          want them to be a good neighbor. So it goes both  
12          ways. So I don't think it harms anybody. It's  
13          just making sure that it's monitored.

14          MR. MORRIS: Well, who monitors it? I'm just  
15          curious.

16          CHAIRMAN MILLS: Well, that's a whole other  
17          issue.

18          MR. STEIN: Yeah.

19          MS. GWOZDZIEWSKI: And who enforces it?

20          CHAIRMAN MILLS: Well, so then -- no, there's  
21          two different things. So when you have these  
22          kind of devices -- it's no different than a  
23          security camera.

24          MR. MORRIS: I understand that.

25          CHAIRMAN MILLS: It records the device.

1 MR. MORRIS: But somebody has got to --

2 CHAIRMAN MILLS: It's a hard drive. And what  
3 you can set up is that if it peaks over that  
4 thing, it sends the signal to somebody, go out  
5 there and check why this occurred.

6 MR. MORRIS: Okay. So who would that be? Is  
7 it going to be like a city employee? Is it going  
8 to be --

9 CHAIRMAN MILLS: I mean, the police takes  
10 care of the ordinances of noise levels. So the  
11 police, if we tell them that these are the levels  
12 that we have, and they're not meeting those  
13 levels and we have a device that shows that  
14 they're not, the police are required to make sure  
15 that the problem is taken care of. It's an  
16 ordinance matter.

17 MR. STEIN: Yeah, but can you measure for  
18 ordinance purposes, can you measure --

19 CHAIRMAN MILLS: Well, that's why --

20 MR. STEIN: -- from a private device and not  
21 the police using their own device?

22 CHAIRMAN MILLS: Yeah. If we are setting it  
23 up as an independent --

24 MR. BLESSING: I think --

25 MS. MATHUR: It would be an extra -- yeah, so

1       this would be regarded for the duration the  
2       police would possibly be recording on the  
3       property so this would essentially be a back up  
4       set of information that they have.

5           MR. BLESSING:  So I think there is two  
6       things.  So the first one, if you should  
7       prematurely end the monitoring, then you still  
8       can have the police come again.

9           MR. STEIN:  But do we want the right to ask  
10      that a device be reinstalled once we've ended the  
11      monitoring?

12          MR. BLESSING:  I think you can probably do it  
13      as part of the special exception --

14          MR. STEIN:  Why not --

15          MR. BLESSING:  -- as a condition of approval.

16          MR. STEIN:  Well, why not -- we may not even  
17      think of it.  Why not include it here?

18          MR. BLESSING:  I mean, here, it allows you to  
19      do that.

20          MR. STEIN:  No.  It allows you to do it for a  
21      period after completion.  So let's say you say,  
22      okay, the period is going to be two years after  
23      completion that we want you to have that device.  
24      Two years ends, everything is good.  Six months  
25      later, there's an issue and we want to put it

1 back in.

2 MR. BLESSING: So we can add a sentence that  
3 says --

4 CHAIRMAN MILLS: But I don't understand what  
5 we are trying to put back in. Again, we are  
6 making it more complicated than it is. A device  
7 is good for the length of the device. Until it  
8 fails. It gets calibrated. That's what you do  
9 with things. So over a period of time, there's  
10 calibrations that are required but the cost of  
11 the equipment is already spent at the beginning.  
12 You're not needing to have the epically (ph) to  
13 go out and buy another device to go ahead and  
14 prove something. It's there. You just have to  
15 require calibration.

16 MR. STEIN: When you're talking -- going back  
17 to your issue of just keeping it there  
18 permanently.

19 CHAIRMAN MILLS: Absolutely. I say just  
20 leave it there permanently. It does -- there's  
21 no harm, no foul. It's already a cost that is  
22 brought to them, is no different than a traffic  
23 light put up. It's not a quarter million dollars  
24 but the bottom line is you've got a device that's  
25 there that has x-amount of dollars and all it

1 needs is to be calibrated.

2 MR. BLESSING: And with regard to the  
3 recording, I would think that would be an  
4 independent third party --

5 CHAIRMAN MILLS: Absolutely.

6 MR. BLESSING: -- that the city would  
7 probably select and charge the applicant for and  
8 they would submit every x-time period a report  
9 that basically says, oh, between June 1st and  
10 June 30th there were no spikes beyond what is  
11 allowed. There was one spike in the first --  
12 fourth of July weekend or something like that.  
13 And the maximum noise level that was measured  
14 was, I don't know, 57 dBA or something like that.

15 So there would be a constant reporting  
16 through a third party -- independent third party  
17 to make sure that --

18 CHAIRMAN MILLS: To me, that reporting, I  
19 don't need indefinitely. To me, it's  
20 understanding what's going on just like the  
21 parking management plans. See if it works.  
22 After that, call me only when I've got a problem.  
23 I don't want to know about it and why are you  
24 going to bill me on a regular basis. Just give  
25 me what I need when I need it. That's all I

1           need.

2           MR. BLESSING: Yeah. But I think that's part  
3 of the site plan approval. I mean, this should  
4 provide the frame work. And then the details, I  
5 think that is something that can be hammered out  
6 during the site plan approval.

7           MR. STEIN: Well, are you saying that where  
8 it says, it will have to be there for a certain  
9 period or permanently after completion is  
10 determined by the Zoning Board?

11          CHAIRMAN MILLS: Again, it's on a pole. I  
12 don't see why you take a pole down and everything  
13 else. It's where it is supposed to be located.  
14 It's analyzing whatever it is, and if it's not  
15 going off, there's no big deal.

16          MR. STEIN: So why don't we just add, or  
17 permanently, and then it will be up to the Zoning  
18 Board when the time comes to --

19          CHAIRMAN MILLS: Now whereabouts is it that  
20 you want to put that?

21          MR. STEIN: For a certain period or  
22 permanently after completion.

23          MR. MORRIS: Ralph or Vineeta, the dBAs which  
24 you list here, those are based on what? Is that  
25 state regulation, that's what the city ordinance

1 is or is that more restrictive?

2 MR. BLESSING: It's state regulations. It's  
3 the city ordinance. It's also the town of  
4 Greenwich, New Canaan, and Darien. They all  
5 refer to the same standard. So the 45 dBA is the  
6 night time for residential receiver and the 55  
7 dBA is day time for a residential receiver.

8 MR. MORRIS: So it is not more restrictive.  
9 It just matches --

10 MR. BLESSING: Yes.

11 MR. MORRIS: -- state and city --

12 MR. BLESSING: Yep.

13 MR. MORRIS: Okay.

14 MR. BLESSING: Which we think is appropriate  
15 because why should your neighbor be allowed to  
16 make more noise, your residential neighbor be  
17 allowed to make more noise than any other use.  
18 Residential uses are the most restrictive and  
19 therefore, we think that's an appropriate stance.

20 MR. MORRIS: I got it.

21 MR. SILVER: I agree with Tom in that, you  
22 know, and I don't know the wording, but I think  
23 what Tom is looking for is, you know, put up the  
24 devices, listen for a few years. I'm in favor of  
25 just making them an annual report. You know,



1        what is it, June, July, August, September, you  
2        know it's four months, report whatever the  
3        average noise was for those four months and if it  
4        was over and exceeded, then they have to be  
5        mitigated before they can open up for the  
6        following year. Some sort of condition for that.  
7        I don't know if that's our purview, if we can get  
8        that, write that in, and just do it like that.  
9        Okay. And keep it ongoing.

10        MR. STEIN: We do that on parking and other  
11        things.

12        MR. SILVER: Just, that's all. Okay. And as  
13        Tom says, once the devices are there, it's not  
14        really a significant cost.

15        CHAIRMAN MILLS: And wasn't it -- and again,  
16        I know because I went there today, I could not  
17        witness what the pool was like because their  
18        usage is Memorial Day to Labor Day. So the only  
19        time we are talking about mitigating noise is in  
20        the summer months.

21        So when somebody said the other day, when are  
22        you going to take these measurements, well I'm  
23        not going to do it in December if the pool is not  
24        open. That's when we are worried about the  
25        outdoor uses. But with that being said, I want

1 to make sure that we also have another little  
2 caveat that we don't lose our site of, is that,  
3 and again, I don't know anything about their  
4 business and how they run it, but say they want  
5 to have a special event that would be beyond the  
6 parameters of Memorial Day and Labor Day, how do  
7 we address that? If those are the dates they're  
8 saying they are using outdoor uses? Do they have  
9 to come in and request something of the staff  
10 that we're having a function and it's going on in  
11 whatever?

12 MR. BLESSING: I mean, the thing is, first of  
13 all, you could prohibit outdoor functions. You  
14 could say, and I'm not sure if that's something  
15 that the operator of this facility ever  
16 considers, but you can say, there's no outdoor  
17 functions allowed. The other thing that you  
18 could do --

19 CHAIRMAN MILLS: Outdoor functions for what,  
20 the time period beyond Memorial and Labor Day?

21 MR. BLESSING: Or ever. You could say --

22 CHAIRMAN MILLS: Well, the pool is an outdoor  
23 function.

24 MR. STEIN: Now, you mean like a party or --

25 MR. BLESSING: Like a party.

1 MR. STEIN: A cocktail party.

2 MR. BLESSING: A cocktail party or like, I  
3 don't know, a fund raiser --

4 MR. STEIN: Yeah.

5 MR. BLESSING: Whatever that creates a crowd  
6 that potentially creates noise.

7 CHAIRMAN MILLS: But again, if they are  
8 living within the parameters that are set, I  
9 don't have a problem with that either. I'm just  
10 saying that if you say the guidelines are for the  
11 outdoor uses from Memorial Day to Labor Day, I  
12 don't want to then find out that we've got a use  
13 that's beyond those parameters that we haven't  
14 addressed that that goes into a condition.

15 MS. MATHUR: Right. I think the noise  
16 standards would -- could be throughout the year.  
17 I don't think we want to restrict them just to  
18 the summer months. That should cover --

19 CHAIRMAN MILLS: Correct.

20 MS. MATHUR: -- based on that. So  
21 regardless --

22 CHAIRMAN MILLS: So whatever the function is,  
23 as long as it's still not going over these  
24 guidelines -- okay.

25 MR. BLESSING: And the other thing is what

1       you could do under 5E is that outdoor uses, not  
2       only the hours of the day but they also should  
3       only be allowed between Memorial Day and Labor  
4       Day.

5               CHAIRMAN MILLS: Well, see that's what I was  
6       going to talk about. That's why I put the  
7       asterisk next to it. But do we really want to do  
8       that there because, again, if they want to use  
9       the outdoor use and they are following all the  
10      guidelines, why can't they go ahead on October  
11      and say we want an outdoor function.

12             We are not going over our criteria and if we  
13      do, you're going to shut us down because the  
14      police are going to come.

15             MR. BLESSING: That's right, too.

16             MR. STEIN: If they -- I would agree with  
17      that too.

18             CHAIRMAN MILLS: That's why I didn't know  
19      exactly how to word that in there. But I know 10  
20      to 8 is still something that I'm not comfortable  
21      with as a general term there even though you've  
22      got this -- they contradict each other. Why do  
23      you have 10 to 8 here but yet you talk about  
24      Sunday 10 to 5.

25             MR. STEIN: Well, what that means is that

1 while they could use it, let's say a pool, they  
2 could use it from 5 o'clock --

3 MR. SILVER: Noise levels are more  
4 restrictive.

5 MR. STEIN: -- to 8 o'clock on Sunday, they  
6 would have to be right at the lower noise level.

7 CHAIRMAN MILLS: So after 5, whatever it is,  
8 it has to drop down to the 45 on that day.

9 MR. BLESSING: You could have a yoga class,  
10 but you can't have a water slide open or  
11 something like that.

12 CHAIRMAN MILLS: But 55 is at all other --

13 MR. BLESSING: 45 is at all other --

14 CHAIRMAN MILLS: No, no. 45 is at all other  
15 times.

16 MR. STEIN: 55 is at the permitted times,  
17 which is 10 to 8, except on Sundays when it is 10  
18 to 5.

19 CHAIRMAN MILLS: And that is what's in our  
20 regs also, the ordinance. That's in the  
21 ordinance.

22 MR. BLESSING: That's in the ordinance.

23 MR. STEIN: Yeah, so we've got to be  
24 consistent with our ordinance.

25 CHAIRMAN MILLS: Okay.

1           MR. BLESSING: The ordinance actually says  
2 during weekdays from 8 to 8. So we are more  
3 restrictive than -- in that respect, we are more  
4 restrictive than the ordinance.

5           CHAIRMAN MILLS: So again, I don't know if  
6 this is there and we can get into this whenever  
7 it is the special exception, but I don't want to  
8 get into an argument or a disagreement similar to  
9 what Jim was bringing up the other day about what  
10 we had with Viti, as an example, where we are  
11 going back and forth, cease and desist orders,  
12 trying to stop something from happening.

13           And I'm not telling them the applicant should  
14 give up their rights because that's in essence  
15 what we finally came down to with Viti. But  
16 there should be some sort of a thing that says,  
17 no, after three times, we are going to take you  
18 to the point where we will shut it down because  
19 you're not obeying the ordinance.

20           MR. STEIN: Unfortunately, we can't do that.

21           CHAIRMAN MILLS: I know we can't shut them  
22 down. It's up to the judge. And I got that  
23 because that's what happened with the Viti.

24           MR. STEIN: Yeah.

25           MR. MORRIS: You can issue them a ticket with

1       one of the new zoning enforcement people.

2           MR. STEIN: Yeah. Right. One hundred bucks.

3           MR. MORRIS: Hundred bucks a day.

4           CHAIRMAN MILLS: But we don't have that in  
5       our ordinance to do that, correct?

6           MR. BLESSING: We do.

7           MR. STEIN: Yeah.

8           CHAIRMAN MILLS: The fining of that --

9           MR. STEIN: The city has that.

10          MR. BLESSING: There is a new ordinance that  
11       was enacted in March, I believe, that allows the  
12       city to write citations for zoning violations.  
13       And actually tonight, we have the three citation  
14       officers at the board of reps. They are getting  
15       their -- I don't know what they get, badges. The  
16       board of reps tonight appoints the zoning  
17       citation officers.

18          MR. STEIN: Those three guys.

19          MR. BLESSING: Yes. And what will also  
20       happen soon is that we have to set up the legal  
21       process if there is to be a hearings procedure  
22       and an appeals procedure that needs to be set  
23       up --

24          CHAIRMAN MILLS: But, I mean, in all honesty,  
25       and this is the same thing that we said about

1 Viti, if a hundred dollars is the fine, I'll pay  
2 the hundred dollars all day because I'm making a  
3 lot more money than that hundred dollars is going  
4 to cover. I'll constantly have a fine. That's  
5 what we have to stop from ever happening. That's  
6 all.

7 When you can make more money than what a fine  
8 is worth, you are going to disobey the law. And  
9 again, not saying that's what's going to happen  
10 with this applicant because everybody is supposed  
11 to be a good neighbor on this project. But I  
12 just want to make sure that we understand what  
13 we're in for.

14 Are we fine with C then as is? We are not  
15 going to make it more restrictive than what --

16 MR. STEIN: I have some rewrites on C,  
17 though. I don't know how you want me to handle  
18 that.

19 CHAIRMAN MILLS: Well, talk about it.

20 MR. STEIN: Okay. Ready?

21 MR. BLESSING: We are ready.

22 MR. STEIN: During the hours when outdoor  
23 use --

24 CHAIRMAN MILLS: Here, talk into the mike.

25 MR. STEIN: During the hours when outdoor



1 uses are permitted per, I know we refer to it as  
2 subsection triple B --

3 CHAIRMAN MILLS: It's not 5E?

4 MR. STEIN: -- dash and then 5E.

5 MR. BLESSING: Okay.

6 MR. STEIN: And then delete, of this section.  
7 Noise levels for outdoor recreational use at the  
8 property line -- it's not the use at the property  
9 line, it's 55 dBA --

10 MS. MATHUR: It's noise level at the property  
11 line.

12 MR. STEIN: It's dBA at the -- right. So you  
13 want to take, at the property line, and move it  
14 to right after 55 dBA. Both places where you  
15 list -- every place where you list --

16 CHAIRMAN MILLS: Well, they do it later, 55  
17 dBA at said property line, so --

18 MR. STEIN: You say it for the 45 but for the  
19 two 55s it has to be at the property line. And  
20 then delete, where such use is located, because  
21 that's -- that's not relevant. Shall not exceed  
22 55 dBA at the property line except for Sundays  
23 when noise levels shall not exceed 55 dBA at the  
24 property line between 10 and 5. Yeah. During  
25 all other times, noise levels shall not exceed 45

1 at, I guess, at the or any property line.

2 A detailed -- now this one, I just -- a  
3 detailed noise analysis shall be required prior  
4 to special exception for site plan approval  
5 application. Is that --

6 MS. MATHUR: Special exception and site plan.

7 MR. STEIN: It's prior to --

8 CHAIRMAN MILLS: And it says, may be  
9 required.

10 MR. STEIN: It says, the noise --

11 MS. MATHUR: Shall be required.

12 CHAIRMAN MILLS: Shall be required.

13 MR. BLESSING: I think this is really -- you  
14 want to be able to establish a baseline.

15 CHAIRMAN MILLS: That's why I said it to  
16 begin with, you do it prior to anything being --  
17 going on.

18 MR. STEIN: Shall be required prior to, I  
19 guess it's prior to approval, right, of special  
20 exception and site plan application?

21 MS. MATHUR: You want it as part of the  
22 application itself?

23 MR. BLESSING: As the application, yeah.

24 MR. STEIN: Okay.

25 MR. BLESSING: So you have it for, your

1 approval or disapproval, you have the information  
2 in the application.

3 MR. STEIN: So it's prior to this special  
4 exception and site plan approval application?

5 MR. BLESSING: Yeah.

6 MS. MATHUR: Submit prior to --

7 MR. STEIN: Prior to the application for --

8 MR. BLESSING: Yes.

9 MS. MATHUR: Or, shall be required as part of  
10 the special exception and site plan application.

11 MR. BLESSING: As part of --

12 MS. GWOZDZIEWSKI: As part of is better.

13 CHAIRMAN MILLS: Were you writing that in?

14 MR. STEIN: A detailed noise analysis shall  
15 be required -- and then you want to say, as part  
16 of the special exception and site plan  
17 application. And take out the word, approval.  
18 Okay. And for a certain period or permanently  
19 after completion of project to be determined by  
20 the Zoning Board. No final CO for outdoor use  
21 shall be granted until the -- I think it's Zoning  
22 Board, is satisfied with the -- instead of  
23 performance, why don't we say compliance.

24 CHAIRMAN MILLS: See, I don't know how you do  
25 that guys. That's a problem.

1 MR. SILVER: I know. It has to be --

2 CHAIRMAN MILLS: You can't go ahead and tell  
3 me you're not going to give them a CO and the  
4 whole idea is you need to have people in the pool  
5 to hear what the noise level is.

6 MR. STEIN: Yeah, are they going to be in  
7 there before the CO?

8 MR. BLESSING: They get a TCO.

9 CHAIRMAN MILLS: Okay. But that's different.  
10 You said a CO. So you're saying that you are  
11 going to give a TCO for the pool?

12 MS. MATHUR: No final CO.

13 MR. BLESSING: They would get TCOs.

14 CHAIRMAN MILLS: For the pool only?

15 MR. BLESSING: Yes.

16 CHAIRMAN MILLS: They would get one for the  
17 building?

18 MR. BLESSING: Yes.

19 CHAIRMAN MILLS: That's a complete CO.

20 MR. STEIN: A CO for the outdoor use.

21 MR. BLESSING: Yes.

22 MR. MORRIS: This noise analysis that we're  
23 requiring prior to a special exception site plan  
24 approval, what exactly is that? Are they going  
25 to anticipate the noise that the site may develop

1 or they are going to analyze what they are not?

2 MR. BLESSING: It's both. I think, I mean,  
3 the way I understood Jim Minor yesterday, is also  
4 in addition to this, in your special exception  
5 approval process you can also establish  
6 additional restrictions or conditions. But in  
7 order to do so, you need to know what has been  
8 there before. So this is to establish the  
9 baseline.

10 MR. MORRIS: So they'll establish a baseline  
11 but they also are going to be able to prepare an  
12 analysis which says that as we are building it  
13 with the pool or whatever else they are putting  
14 out there, is going to generate x-number dBA  
15 during these specific hours and this is how we  
16 are going to mitigate it.

17 MR. BLESSING: Yes.

18 MR. MORRIS: That's going to be part of the  
19 analysis?

20 MR. BLESSING: That's what the applicant  
21 prepares and I think we've got in the record --

22 MR. MORRIS: Yeah, but I don't want to get  
23 something that says -- and let me make myself  
24 clear, something that says, well, based on  
25 activities in White Plains and Utah and other

1 places, this is the analysis presented. That's  
2 not what --

3 CHAIRMAN MILLS: That's why they are paying  
4 for, an independent --

5 MR. STEIN: That's what you're going to get  
6 though because --

7 MR. MORRIS: I know that's what we are going  
8 to get --

9 MR. STEIN: -- they won't have been operating  
10 yet.

11 MR. MORRIS: It's just like a traffic study.

12 MR. STEIN: Yeah, right.

13 MR. MORRIS: But that's not what I want.

14 CHAIRMAN MILLS: No. So that way we  
15 understand, the way I understand it and how it  
16 worked and this is how they do it all the time so  
17 that when we do testing on the windows for  
18 certain things --

19 MR. MORRIS: Right.

20 CHAIRMAN MILLS: -- you're doing an analysis  
21 and that's how they can figure out what glass to  
22 put in an airport.

23 MR. MORRIS: I understand what you're saying,  
24 Tom. I just want to make sure --

25 CHAIRMAN MILLS: So what you're doing is

1       you're putting it in and they will tell you  
2       exactly how much noise the kids, people,  
3       whatever, when they congregate will generate.

4               MR. STEIN: But how are they going to know it  
5       unless they go to another facility?

6               CHAIRMAN MILLS: No, because they've done  
7       enough analyses. This stuff is documented all  
8       over. It's not a matter of just, now if an  
9       applicant wants to pick and choose what they've  
10      got at their levels -- again, didn't you tell me  
11      that California was the only one that required  
12      them to do an analysis like we're doing?

13              MS. MATHUR: I mean, that's one that I found.  
14      There could be others. But if that's --

15              CHAIRMAN MILLS: But they required this  
16      applicant to do that?

17              MS. MATHUR: If there was an environmental  
18      analysis, it included a noise analysis, so --

19              CHAIRMAN MILLS: Okay.

20              MR. BLESSING: So other states have programs  
21      that have been running environmental analyses and  
22      noise is usually one of those analyses. And  
23      since in Connecticut that doesn't exist, we sort  
24      of have to use the crutch of our zoning  
25      regulations.

1           CHAIRMAN MILLS: And believe me these labs  
2 all know because they do it on a regular basis.  
3 They know exactly all the outdoor transmission  
4 noises.

5           MR. BLESSING: And the other thing --

6           CHAIRMAN MILLS: It was no different,  
7 remember when Viti came in and they were saying  
8 what the machinery noise will be. It's because  
9 they have done the testing and understand what  
10 that noise of that machine will generate.

11          MR. STEIN: Yeah, but that's different. That  
12 specific machine, you may know what a specific  
13 machine's noise level is.

14          CHAIRMAN MILLS: Because again, your  
15 audible --

16          MR. STEIN: But that's not the same as  
17 whether you have 50 kids or 100 kids.

18          MR. MORRIS: Yeah, exactly.

19          CHAIRMAN MILLS: Because you know what the  
20 maximum allowed is in a pool and the area and  
21 everything else and what you have there, they  
22 will go ahead and give you all the numbers. And  
23 at the end of the day, they have to still be  
24 under 55 and 45. I don't care if there is a 1000  
25 kids or there is 100 kids, they can't make more



1       than 55. So it's irrelevant to me. I just need  
2       to know what that is.

3           MR. MORRIS: Yeah, but just from an analysis  
4       point of view, if I was doing an analysis, I  
5       would make sure that the number of people in the  
6       pool would not exceed the dBA and hand you a  
7       piece of paper as opposed to what it actually --

8           CHAIRMAN MILLS: You are forewarning them  
9       because again, if they go beyond that, that's  
10      where it's going to become a problem.

11          MR. BLESSING: And the other thing that's  
12      important is that you don't have to take the  
13      applicant's analysis, you can have your own  
14      analysis done.

15          CHAIRMAN MILLS: Okay.

16          MR. BLESSING: This is what the new ordinance  
17      is for.

18          CHAIRMAN MILLS: And that's what I wanted to  
19      make sure that we could do.

20          MR. BLESSING: And that's why we referenced  
21      it in the top of 7 in the findings that --

22          CHAIRMAN MILLS: One or more independent  
23      consultants --

24          MR. BLESSING: Yes. So you can -- there's  
25      different ways you can do it. You can require

1 the applicant -- you can hire a consultant to do  
2 the analysis. The applicant can hire a  
3 consultant and we can have it reviewed by a third  
4 party to make sure that it was the right  
5 methodology or that they didn't say, oh, they  
6 only assumed ten people in the pool. And we know  
7 the capacity of the pool is like 100 people. So  
8 those kinds of things.

9 CHAIRMAN MILLS: Okay. Joanne?

10 MS. GWOZDZIEWSKI: That's fine.

11 CHAIRMAN MILLS: Keith? Dave? All right.  
12 So as it stands now, we are going to work within  
13 these confines and then we'll deal with it when  
14 we have the application.

15 MR. STEIN: Do we -- yeah. Do we want to add  
16 a sentence that the applicant will report  
17 annually to the Zoning Board on --

18 CHAIRMAN MILLS: Administratively, yeah.

19 MR. BLESSING: I think that should be put in  
20 the conditions.

21 CHAIRMAN MILLS: Yeah. And it would be  
22 similar to what we do with the parking management  
23 plan, yeah, same exact thing. I don't think we  
24 need to do anything more than that.

25 MR. STEIN: So not in here?

1 CHAIRMAN MILLS: No, no. I don't think you  
2 put that in here.

3 7D is site plan design, building structures,  
4 parking areas and driveways -- oh, I'm sorry.  
5 Before I get off on that, is that one going to  
6 stay in there as well where they're referencing  
7 Darien and Greenwich?

8 MR. BLESSING: No.

9 CHAIRMAN MILLS: Okay.

10 MR. BLESSING: This is just for --

11 CHAIRMAN MILLS: I just want to make sure.  
12 Okay.

13 D - site plan design. Building structures,  
14 parking areas and driveways shall be located in  
15 such a manner as to minimize adverse impacts in  
16 any adjacent residential district -- I just  
17 wanted to stop myself there. The senior housing  
18 is considered the residential district?

19 MS. MATHUR: Yes.

20 MR. BLESSING: Yes. It's in a residential  
21 district. It's a community facility used in a  
22 residential district but we're saying residential  
23 district so whether there is more ankle (ph)  
24 passing.

25 MR. STEIN: Well, but what if there was a

1 nursing home in a neighboring -- adjacent  
2 commercial district?

3 CHAIRMAN MILLS: So this complex would allow  
4 senior housing.

5 MR. BLESSING: What we could say on any  
6 adjacent residential district or use would  
7 encompass --

8 CHAIRMAN MILLS: That was my concern. So you  
9 could put senior housing into an office park.

10 MR. BLESSING: Yes.

11 CHAIRMAN MILLS: So this would not be  
12 addressed because it's only talking about  
13 residential.

14 MR. BLESSING: But we could add --

15 CHAIRMAN MILLS: So how do you want to add  
16 that in there before I go into that?

17 MR. STEIN: Is that considered residential  
18 use, a nursing home?

19 MR. BLESSING: I don't think so.

20 CHAIRMAN MILLS: So how do you want to add  
21 that in there?

22 MR. STEIN: Any adjacent residential --

23 MR. BLESSING: On any adjacent residential  
24 district or use.

25 CHAIRMAN MILLS: Or use.

1 MR. STEIN: Or residential use.

2 CHAIRMAN MILLS: No, not residential, or use.

3 MR. STEIN: No because then it impacts on  
4 any --

5 MR. BLESSING: Or residential use.

6 MR. STEIN: You want to make it clear that  
7 it's not any use that's adjacent, it's got to be  
8 a residential use adjacent.

9 CHAIRMAN MILLS: Okay. Fair enough.

10 Then it goes onto outdoor activities may be  
11 permitted subject to the requirements of this  
12 section BBB provided that any potentially adverse  
13 effects will be -- will not be more impactful to  
14 the adjacent property than as-of-right uses. So  
15 again, that just goes along with the ordinance  
16 that we just talked about in C.

17 MS. MATHUR: Okay.

18 CHAIRMAN MILLS: Correct?

19 MR. STEIN: But it could be more restrictive  
20 than that. I mean, let's say that an office  
21 building generally generates 30 dB -- well, as of  
22 right, yeah, so the as-of-right use should be a  
23 lower level than what we've said.

24 CHAIRMAN MILLS: I don't think that matters  
25 right this second.

1 MR. STEIN: I'm not sure it does either. I'm  
2 just --

3 MS. MATHUR: It's really -- it relates to the  
4 design.

5 CHAIRMAN MILLS: Okay. In determining  
6 whether these requirements have been met, the  
7 Zoning Board shall take into consideration site  
8 specific characteristics including proximally to  
9 adjacent residential uses and their location and  
10 design in the proposed outdoor activity as well  
11 as mitigating factors such as sound attenuation  
12 measures.

13 MR. STEIN: Do we --

14 CHAIRMAN MILLS: Shall take into  
15 consideration. Yeah, shall take into -- this is  
16 just a buffer. What's the purpose of this?

17 MR. BLESSING: Yeah, I think we can actually  
18 take it out.

19 CHAIRMAN MILLS: Yeah, I don't know that that  
20 does anything. It's with the buffer and  
21 everything else.

22 MR. STEIN: Yeah, it's been there from the  
23 beginning.

24 MS. MATHUR: Yes.

25 CHAIRMAN MILLS: And last, number 8, is

1 within any CD design district application is  
2 requesting approval of any permitted or special  
3 exception uses or approval of site and  
4 architectural plans shall include all of the  
5 plans and information as specified by section  
6 7.2C of these regulations.

7 Such application shall be submitted to and be  
8 subject to the approval of the Zoning Board in  
9 accordance with the specific standards and  
10 objectives of the district. The procedures and  
11 the review standards of section 7.2 site plan  
12 review and the general purposes and other  
13 applicable standards of these regulations we  
14 shall not approve same until after a public  
15 hearing.

16 MR. STEIN: Who's that?

17 CHAIRMAN MILLS: Yeah, who is who?

18 MS. MATHUR: The Zoning Board.

19 CHAIRMAN MILLS: Okay. So that goes in --

20 MR. STEIN: Oh, okay. There is a reference,  
21 shall not be approved.

22 CHAIRMAN MILLS: Where?

23 MR. STEIN: Up -- farther up right at the  
24 beginning, it does say subject to approval of the  
25 Zoning Board. So yeah, the who is -- okay.

1           CHAIRMAN MILLS: All right. So we've dealt  
2 with the notes that I have here. Noise is being  
3 one of them. Lighting being another one to the  
4 extent we don't have an application before us  
5 that we can actually see how we would mitigate  
6 that.

7           And I don't know how we would mitigate  
8 traffic without seeing everything else. We could  
9 talk about the traffic but I don't know what  
10 that's going to do to us in a text change because  
11 it doesn't have any impact on a text change other  
12 than that -- I've drove that area many times.  
13 And this is just from my own experience, not  
14 anything else, the worst time of the day is  
15 probably about 8:10 to 8:20 in the morning,  
16 everybody getting out of the two schools and  
17 coming down the hill getting onto Merritt Parkway  
18 or going north --

19           MR. STEIN: And it stays bad for --

20           CHAIRMAN MILLS: It goes all the way up the  
21 hill. I'm talking about turning two corners.

22           MR. STEIN: Yeah, but also it continues, you  
23 know, until 9:00 because you've got all those  
24 people going into High Ridge Park and --

25           CHAIRMAN MILLS: No, by 8:30, it's gone.



1 It's amazing. Boom and gone. But it's there.  
2 There is a traffic issue.

3 MR. STEIN: Yeah, definitely.

4 CHAIRMAN MILLS: But again, it's not because  
5 of the application that's causing the traffic  
6 issue. It's what is already inherent in the  
7 neighborhood. Meaning that the school is located  
8 in an area that the only way you get out of that  
9 neighborhood is going down that road.

10 MR. STEIN: Down into --

11 CHAIRMAN MILLS: Whatever the mitigations are  
12 to the traffic area, I know I've mentioned to Jim  
13 Travers that time about the people who are  
14 parking at the office area there on the right  
15 hand side, maybe there's a certain hour that that  
16 doesn't happen, so that way you don't have that  
17 kind of an impact that people can get on the  
18 Merritt Parkway without being backed up.

19 I think he mentioned something about the  
20 effect that where you come out of the bank area  
21 for Wells Fargo, that that would be redone to  
22 allow more left-hand turn traffic because that  
23 gets cued up in there as well because it's just a  
24 single lane. And it's kind of awkward there. I  
25 just don't know how all that is done with the

1 applicant. And again, I can't do that in a text  
2 change to begin with.

3 MR. STEIN: Unless the only thing I can think  
4 of is to require that the applicant to --

5 MR. BLESSING: I mean, a traffic study is  
6 already part of 19.3.

7 MR. STEIN: Yeah.

8 MR. BLESSING: So --

9 MS. MATHUR: And a parking needs assessment  
10 is also part of --

11 MR. STEIN: And the traffic department  
12 already asks the applicant to --

13 MR. BLESSING: Yes.

14 MR. STEIN: -- contribute to traffic  
15 mitigating measures or improvement --

16 MR. BLESSING: There have been --

17 MR. STEIN: I don't know that we need to say  
18 that or not.

19 MR. BLESSING: I mean, I think the traffic  
20 bureau has been very clear in projects that they  
21 support and that they don't support.

22 CHAIRMAN MILLS: Oh yeah, they have.

23 MR. BLESSING: So I think that they will make  
24 sure that appropriate mitigation measures are  
25 taken in. And plus, also what we said while

1 noise and all the other expert reports, the board  
2 can also hire a third party consultant to review  
3 the traffic study if they have doubts that there  
4 is a problem with that.

5 CHAIRMAN MILLS: Well, depending on the  
6 amount of sign ups that they have in this  
7 particular location, it's hard to know what that  
8 ultimate -- I mean, when they tell us that their  
9 membership is going to be X and not Z, how else  
10 do you compare it until they go ahead and our  
11 membership maxes (sic) out at this level.

12 MR. STEIN: And you also don't know how many  
13 of those members will use it in a time.

14 CHAIRMAN MILLS: So I posed the question in  
15 Harrison today, I said, what's the maximum that  
16 you could put in here? We could put up to 10,000  
17 people in this complex. But, again, the size of  
18 that complex is no where close to what we're  
19 doing either.

20 So I mean it's all relative until I know what  
21 the membership and whether or not we put that  
22 constraint that if the traffic study is done off  
23 of a certain analysis of membership, then we say  
24 then your membership is maxed (sic) out at this  
25 point and you shouldn't have additional

1 membership.

2 And again, I don't even know about those --  
3 right now we have to find out if we have a  
4 traffic issue when they pass that plateau based  
5 on whatever their analysis is.

6 MR. BLESSING: Usually the traffic analysis  
7 is done by use and by square footage. And I mean  
8 there is like guidelines for that that are  
9 national standards. And the other thing is that  
10 the capacity of the building is limited. The  
11 fire marshal says, you can't have more than X  
12 people in this building otherwise it's not safe  
13 anymore.

14 CHAIRMAN MILLS: Do we know what that number  
15 would be for this?

16 MR. BLESSING: The fire marshal would have to  
17 review the plan.

18 CHAIRMAN MILLS: So we'll make sure that when  
19 we get to that point, that you guys let us  
20 know -- I mean, I would say that it had to be  
21 easily there when I was there, 500 to 750 people  
22 in that complex at that point in time, and that  
23 was lunch hour.

24 MR. BLESSING: But I think --

25 CHAIRMAN MILLS: But they're constantly going

1 in and out. The parking lot is slammed. I mean  
2 there wasn't another spot that you could have.  
3 And that's the only thing that's in that complex.  
4 So there was all of that there as far as the  
5 amount of people there. Again, whether or not  
6 that's happening at the same time as all the  
7 other traffic problems we have, that's a whole  
8 separate issue and conversation.

9 MR. STEIN: One theory is after the parking  
10 lot is full and you have people showing up to use  
11 the facility and they can't park, then they're  
12 just not going to go.

13 CHAIRMAN MILLS: No because they are going to  
14 use the office space. There is plenty of other  
15 spots there. If you are an exerciser, you're  
16 going to walk whatever that distance is. You're  
17 going to park. That park, building, everything  
18 is going to be full if that's what it is. And I  
19 guess on a weekend, it is what it is.

20 MR. STEIN: Yeah.

21 CHAIRMAN MILLS: That's a whole other thing,  
22 Ralph. I don't know why we keep going onto these  
23 things because we keep thinking of all the other  
24 criteria. If you've got something where you are  
25 on a weekend and you're saying shared parking is

1        what's understood, so there's X number of spaces  
2        for here, if we set up the criteria for --

3            MR. BLESSING: It still doesn't change the  
4        fact that the pool has a maximum --

5            CHAIRMAN MILLS: I'm not referring --

6            MR. BLESSING: -- capacity and the building  
7        has a maximum capacity.

8            CHAIRMAN MILLS: That's not what I'm  
9        referring to.

10          MR. STEIN: What is your point?

11          CHAIRMAN MILLS: If people are congregating  
12        in a parking lot other than the area where this  
13        is at on the premises because the facility itself  
14        can handle all that parking on the weekend  
15        because there is nobody in the office, anything  
16        can happen away from the site of the structure.  
17        That's not the --

18          MR. BLESSING: But still, they wouldn't be  
19        allowed to get into the building because of fire  
20        regulations.

21          CHAIRMAN MILLS: Yes, I think of everything.  
22        Thank you. I'm sorry?

23          MR. STEIN: But you're saying it's not an in  
24        the building issue, it's a noise issue --

25          CHAIRMAN MILLS: It's an outdoor issue.

1 MR. STEIN: -- when they are outside.

2 CHAIRMAN MILLS: Exactly. Where there would  
3 be no monitoring whatsoever.

4 MR. STEIN: Yeah.

5 CHAIRMAN MILLS: Because we are not going to  
6 set it up in those areas. Just a thought, that's  
7 all.

8 MR. STEIN: I don't know that there is much  
9 we can do about that.

10 CHAIRMAN MILLS: Other than that --

11 MR. STEIN: Did we come back -- just trying  
12 to remember now, on that one you wanted, the  
13 hours you wanted to come back to, did we ever --

14 CHAIRMAN MILLS: Yeah, I don't think  
15 that's -- yeah, I don't think that's a problem --

16 MR. STEIN: Okay.

17 CHAIRMAN MILLS: -- because it's going to  
18 those guidelines.

19 MR. STEIN: With the noise?

20 CHAIRMAN MILLS: Yeah. I don't think we need  
21 to go back to that, 6. Is it 6?

22 MR. STEIN: Something E?

23 MS. MATHUR: 5E.

24 MR. MORRIS: 5E.

25 CHAIRMAN MILLS: Yeah, it's 5E. I mean

1 unless somebody else wants to go ahead and speak  
2 on that. I don't have an issue with that any  
3 longer.

4 MS. MATHUR: No.

5 MR. MORRIS: Refresh my memory a little bit.  
6 We didn't put any restrictions as far as dates  
7 for outdoor activities, correct? It's just  
8 whatever it is, it is.

9 MR. STEIN: As long as they --

10 MR. MORRIS: It's not Labor Day through  
11 Memorial Day -- excuse me, Memorial Day through  
12 Labor Day, nothing like that?

13 MR. STEIN: As long as they comply with the  
14 noise standards.

15 MR. SILVER: The noise standards.

16 MR. MORRIS: Well, make sure that's what we  
17 decide.

18 MR. STEIN: Yeah. I mean, the bottom line is  
19 we still come down to how do you enforce the  
20 noise and you hope that the city can do that.

21 CHAIRMAN MILLS: And, again, if we look at  
22 that when we get to the special exception, we'll  
23 talk to Jim Minor further at that point --

24 MR. STEIN: Yeah.

25 CHAIRMAN MILLS: -- to understand what can



1 and can't be written.

2 MR. BLESSING: And the other thing that you  
3 can consider during the special exception permit  
4 is you can look at the applicant and what track  
5 record they have. And I mean --

6 MS. MATHUR: One of the sites --

7 MR. BLESSING: What's happening at other  
8 sites, do they have a ton of noise complaints,  
9 then you might want to be --

10 CHAIRMAN MILLS: Where they are located,  
11 there's nothing around them. It's not relative.

12 MR. BLESSING: I mean, they have a lot of  
13 sites.

14 CHAIRMAN MILLS: By the time this is done --  
15 I mean I understand that they are also doing one  
16 in Chappaqua, so --

17 MR. BLESSING: I mean, they have facilities  
18 in New Jersey. They have facilities in dozens of  
19 states, potentially.

20 CHAIRMAN MILLS: But not maybe in a  
21 residential neighborhood. That's the key.

22 MR. BLESSING: But probably if there was a  
23 certain number of sites that they have, there  
24 might be one that is comparable. And the other  
25 thing, what Vineeta mentioned, in other states

1       they have requirements with regard to  
2       environmental review where there's records  
3       produced as part of the process.

4               So I think you can get an idea of the track  
5       record of the specific operator that I think  
6       should definitely go into the conservation for a  
7       special project.

8               MR. SILVER:   And even if it's not a noise  
9       situation, if there are other violations, it just  
10      goes to the character and the process of the  
11      entity.

12              MR. STEIN:   Is there alcohol served at these  
13      places?

14              CHAIRMAN MILLS:   The one that I was at, it  
15      did but it was in the area of where the tennis  
16      club was and I don't believe this has it.

17              MR. STEIN:   Okay.

18              CHAIRMAN MILLS:   It was just the bar area for  
19      the tennis club.   I don't think they have that in  
20      the cafe area.   But the way they made it  
21      understood, they had one section that was just to  
22      where all the tennis courts were and they had a  
23      dining area for that.

24              And again, without the application and  
25      everything in front of us, there's no way for us

1 to get into those parameters right now. That's  
2 when we look at the overall if they bring the  
3 application.

4 Is there anything else that you feel has not  
5 been addressed, Joanna?

6 MS. GWOZDZIEWSKI: No. I mean, my main  
7 concern was noise.

8 CHAIRMAN MILLS: Do you feel that this has  
9 gone in the right direction of taking care of  
10 that?

11 MS. GWOZDZIEWSKI: I think it's definitely  
12 made a lot of progress, yes.

13 CHAIRMAN MILLS: Okay. Anything else that  
14 you would want to weigh in on or are you  
15 comfortable with what we've done today?

16 MS. GWOZDZIEWSKI: I'm comfortable with what  
17 we've done.

18 CHAIRMAN MILLS: Bill?

19 MR. MORRIS: I'm good.

20 CHAIRMAN MILLS: David?

21 MR. STEIN: Good.

22 CHAIRMAN MILLS: Keith?

23 MR. SILVER: Good.

24 CHAIRMAN MILLS: Okay.

25 MR. STEIN: My only issue is traffic and I

1 don't know --

2 CHAIRMAN MILLS: Which we can't do in text.

3 MR. STEIN: Yeah.

4 CHAIRMAN MILLS: You can't do it in a text.  
5 We will deal with it in the application. But I  
6 think we've dealt with it as best we can with all  
7 the other parameters we have.

8 MR. STEIN: Yeah.

9 CHAIRMAN MILLS: With that there, would  
10 somebody like to make a motion on this  
11 application? I think we discussed it enough.

12 MR. SILVER: What application?

13 MS. MATHUR: 217-01.

14 MR. SILVER: I will move that we adopt the --  
15 what are we adopting?

16 MS. MATHUR: The proposed text amendment.

17 MR. SILVER: That we adopt the text amendment  
18 changes as modified this evening on 217 --

19 MS. MATHUR: 01.

20 MR. SILVER: -- 01.

21 CHAIRMAN MILLS: Someone to second that?

22 MS. GWOZDZIEWSKI: I'll second.

23 CHAIRMAN MILLS: All in favor?

24 (All members of the board agreed.)

25 CHAIRMAN MILLS: That's a 5 - 0 vote.

1           So that way -- I want everybody to  
2 understand, I believe that this applicant is  
3 trying to find a way to become a good neighbor  
4 and vice versa. Everybody else should do the  
5 same to the applicant.

6           Let them go ahead and do what they need to do  
7 and if it becomes an adverse situation, they will  
8 be back here before us and we will handle it  
9 accordingly. And you just have to trust the  
10 system to work. But I think we've done  
11 everything we possibly could to mitigate it  
12 properly.

13           MR. STEIN: Let me add to that, that when the  
14 applicant comes back with their application, the  
15 public will still have an opportunity to weigh in  
16 on it and ask for changes in the requirement. So  
17 it's not -- this is not the only opportunity to  
18 put limitations on the project.

19           CHAIRMAN MILLS: Because we don't know what  
20 this application looks like as it currently  
21 stands. The only thing that we know is that they  
22 want to change the district and this allows them  
23 to change it with these confines. Now it's up to  
24 them to go ahead and figure out how they could  
25 situate it on the property and everything else to

1       make it work. And that's what the next step is  
2       and everybody is welcome to come back.

3             All right. Thank you very much and have a  
4       good evening.

5             (Whereupon, the special meeting on  
6       application 217-01 was adjourned.)

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CERTIFICATE

I, Susan Wandzilak, hereby certify that I'm a Registered Professional Reporter and Notary Public in and for the state of Connecticut, commissioned and qualified to administer oaths.

I further certify that the proceedings in the foregoing transcript was reduced to typewriting under my direction, and the foregoing pages are a true and accurate copy of the original transcript of the testimony.

I further certify that I'm neither of counsel nor attorney to either of the parties to said suit, nor am I an employee of either party to said suit, nor of either counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public  
this 16th day of June, 2018.



SUSAN WANDZILAK