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SALISBURY PLANNING & ZONING COMMISSION

SPECIAL MEETING

MARCH 22, 2021

5:30 P.M.

CHAIRMAN: Dr. Michael Klemens

MEMBERS PRESENT: Dr. Michael Klemens

Bob Riva

Cathy Shyer

Martin Whalen

Allen Cockerline

ALTERNATES PRESENT: Dr. Danella Schiffer

Deborah Allee

John Higgins

STAFF PRESENT: Abby Conroy

Chuck Andres, Esq.

1           CHAIRMAN KLEMENS: So, good evening. The  
2 public, are they all -- are they still -- Do we have a  
3 problem?

4           MS. CONROY: They're coming in. We have 35  
5 people right now. 36. They're just coming in.

6           CHAIRMAN KLEMENS: Shall I hold off maybe a  
7 minute or two?

8           MS. CONROY: Yeah. If you want.

9           MS. ALLEE: Mine said 54.

10          CHAIRMAN KLEMENS: Total. I am looking at the  
11 attendees. They are stabilized at 38. I think we're  
12 going to start, because I don't see much change in the  
13 attendees. Okay.

14          It's 5:30 p.m. This is the continuation of the  
15 hearing that we began on -- what day? March 8th.

16          MS. SHYER: 8th, I think.

17          CHAIRMAN KLEMENS: 8th. So first, we have here  
18 tonight with us, myself, the Chairman, Michael Klemens;  
19 four members Bob Riva, Daniel -- Allen Cockerline, Cathy  
20 Shyer and Marty Whalen. And alternate members -- did I  
21 mention Bob Riva?

22          MR. RIVA: You did.

23          CHAIRMAN KLEMENS: Then we have our alternates,  
24 all three of them, Jon Higgins, Debra Allee and  
25 Dr. Danella Schiffer. With us tonight is also our



1 presenters or anybody. The hearing will end at 9:30. We  
2 are and can enter the 90-day extension under the  
3 Executive Order. That means we can continue it without  
4 consent of the Applicant and I'm sure they would  
5 anyway.

6 Continuation of the hearing, we've allotted  
7 April 14th, a Wednesday, for the continuation of this  
8 public hearing at 5:30 p.m. those future activities  
9 related to this application are taking place on  
10 Wednesdays. This is because we have at least three other  
11 land use matters that are occurring on Mondays. That's  
12 our own regular meeting and to wetlands. So, everything  
13 is being moved to Wednesdays for this matter.

14 If, and I say if, we close the hearing on April  
15 14th, we will begin deliberations on April 28th. Also a  
16 Wednesday.

17 Please respect that ex parte communications  
18 with Commissioners is prohibited by law. This is a small  
19 town. We intersect with many of the participants in this  
20 matter in the course of our daily activities. Refrain  
21 from discussing this matter in in-person conversations,  
22 telephone, text and e-mail. And please do not carbon  
23 copy Commissioners on e-mails. Everything is to be  
24 routed through the Land Use office, through Abby Conroy.

25 Now, there are a couple additional things. I'm

1 now going to ask Attorney Andres to address the use of  
2 the webinar format and the Executive Order.

3 MR. ANDRES: Chuck Andres for the Commission.  
4 Thank you, Chairman Klemens. I have just been asked to  
5 address a couple questioners. A question has been raised  
6 by Attorney Casagrande about the legality of the Zoom  
7 webinar format and I did take a look at that. In my mind  
8 the issue is does this format comply with the Executive  
9 Order 7B from the Governor that suspended the regular  
10 Freedom Of Information divisions. I believe it does.  
11 The main issue there is that the public has to have the  
12 ability to view or listen to each meeting or proceeding  
13 realtime by telephone, video and other technology. And I  
14 believe this does comply with that. There's a number of  
15 other provisions as part of the Executive Order and this  
16 appears to satisfy that.

17 I did just check around as well to see if other  
18 towns or state agencies are using this as part of their  
19 Zoom meetings and the answer is yes. And I found that  
20 Ridgefield, Madison, Brooklyn, Bloomfield, Greenwich,  
21 Farmington, Groton, Old Saybrook, Norwich, Bethany,  
22 Newington, Trumbull, Hamden, Salem have all used --  
23 appear to have used, maybe I got it wrong, but the Zoom  
24 webinar format for their public meetings. I also saw  
25 some for the State of Connecticut, State of Connecticut

1 Department of Consumer Protection appeared to be using it  
2 as well.

3 So, I believe this does comply with the  
4 Governor's order.

5 CHAIRMAN KLEMENS: Thank you, Attorney Andres.

6 I'm now going to ask Land Use Administrator  
7 Conroy to read into the record the summation of all new  
8 materials, please.

9 MS. CONROY: So, there's batch No. 5 was  
10 updated to include some submissions that were received  
11 since the last meeting. We received the return receipts  
12 for notice from the Applicant. They posted additional  
13 public hearings identifying the new hearing date and the  
14 photos and documentation of that were provided; site  
15 photos and notes from the Applicant, dated 3/18/2021;  
16 revised site plan showing fire lanes, dated 3/17/2021;  
17 todesign response letter, dated 3/17/2021; a letter  
18 regarding architectural appropriateness, dated 3/17/2021;  
19 a VHB traffic demo, dated 3/18/2021; revised and  
20 additional rendition, dated 3/18/2021; statement  
21 regarding massing of Holley Place neighbors, dated  
22 3/18/2021.

23 And then we've also uploaded for the  
24 Intervenor, Cramer & Anderson, letter to PZC, dated  
25 3/8/2021; Cramer & Anderson letter to PZC, dated

1 3/9/2021; Cramer & Anderson letter to PZC, dated  
2 3/18/2001; and Intervenor statement of opposition to the  
3 application, dated 3/18/2021.

4           The following are all exhibits: Exhibit 1, the  
5 Pope report. Exhibit 2, pictures of Lakeville National  
6 Historic District. Exhibit 3 through 8, Exhibit 9  
7 Virbickas -- I hope I said that right -- fire truck  
8 turning diagrams. Tab A, National Register of Historic  
9 Places registration. Tabs B through K, which, if I  
10 remember correctly, are all newspaper articles. Tab L is  
11 2020 Salisbury annual report. Tab N is the 2009  
12 Salisbury annual report. Tab M is the Sarah Morrison  
13 letter dated 11/5/2020. Tab O, the Connecticut Housing  
14 Finance Authority project narrative. Tab P, FAHC 2018  
15 housing plan. Tab Q, Miller report, dated 3/18/2021.  
16 Tab R, Virbickas report, dated 3/16/2021. Tab S  
17 businesses using Bicentennial Park. Tab T, table showing  
18 parking deficits. Tab U, Mark Capecelatro letter, dated  
19 11/5/2020, which I believe is a duplication. I think  
20 that's also in the record, but in this case it was  
21 labelled as Tab U. And then we have Tab V through Y.

22           And then there's also submitted from the  
23 public, Attorney Grickis letter, dated 3/18/2021 as  
24 previously indicated letters batch No. 5 has been  
25 updated. We included a letter from Dr. Klemens to the

1 Applicant with [Unintelligible] for protectionary  
2 questions dated 3/12/2021 and then M. Muecke letter,  
3 dated 3/14/2021.

4 There may have been things that came in after I  
5 left the office today, but before I left, that's what I  
6 got.

7 CHAIRMAN KLEMENS: Thank you, Abby.

8 Before I turn it over to the Applicant, I am  
9 going to ask for an additional \$5,000 escrow now that we  
10 are going to have to have our attorney at all these  
11 meetings. The estimate we gave earlier is insufficient.  
12 So, we're asking -- we already have 2,500 on account. We  
13 spent some of that. They're asking to you please, at  
14 your earliest convenience, send us a check for \$5,000.

15 With that, I'll turn that over to Attorney  
16 Smith.

17 MR. SMITH: Okay.

18 Good evening Mr. Chairman, members of the  
19 Commission, Ms. Conroy and Attorney Andres. For the  
20 record, my name is Chris Smith, I'm a land use attorney  
21 with the law firm of Alter & Pearson; and as you're  
22 aware, I appear it before you this evening on behalf of  
23 the Applicant, Salisbury Housing Committee, Inc. For the  
24 record, Mr. Chairman, my client indicated the Housing  
25 Committee will indeed provide that additional monies



1 for --

2 CHAIRMAN KLEMENS: Thank you.

3 MR. SMITH: -- for your legal advice and  
4 counsel which is very good, by the way.

5 For the record, as the chair indicated, we had  
6 finished up our presentation essentially at the last --  
7 at the first night of public hearing on March 8th. The  
8 Commission did have a number of questions for us as well  
9 as we did hear comments from some of the citizens. We  
10 did provide responses and with the chair's permission  
11 what I would like to do is turn the presentation over to  
12 Jocelyn Ayer who did put together a Power Point. It's  
13 all the material that was submitted to the Commission and  
14 you have, but it's just in a Power Point format and we'll  
15 have the appropriate consultant walk you through those  
16 responses this evening. Thank you, Mr. Chairman.

17 CHAIRMAN KLEMENS: Go ahead, Jocelyn.

18 MS. AYER: Can you enable screen sharing.

19 MS. CONROY: I just did. That should work now.

20 MS. AYER: All right. Again, we want to thank  
21 the Commission for your time tonight and we did again  
22 take very careful notes of questions that came up at the  
23 last public hearing and did want to just have the  
24 opportunity to briefly summarize what we submitted on  
25 March 18th [Verbatim] to you regarding those.

1           And I guess I would just like to say, very  
2 briefly for the record, you know, we are a non-profit  
3 organization. We do want the Commission, of course, and  
4 the town to have the resources that you need to do your  
5 work on this project. So, I guess we will have to agree  
6 to the additional funding; but it is, you know, our  
7 opponents have much deeper pockets than this non-profit  
8 organization.

9           So, the first thing we wanted to just quickly  
10 submit and review with you, Jon, do you want to review  
11 the site plan?

12           MR. TUNSKY: Yes. Thank you, Jocelyn.

13           Jon Tunsky with todesign, 114 West Main Street,  
14 New Britain Connecticut 06051 and we are the landscape  
15 architect on the project.

16           So, just a few -- reviewing a few comments that  
17 came across at the last public hearing by the Commission.  
18 We added the fire lane around the building on the two  
19 sides. As requested, we added some directional arrows on  
20 the paving showing you the flow of traffic. We also  
21 added three bike racks which are under the building  
22 overhang in the striped off area there. As well as what  
23 was brought up or, not by Commission, brought up by us,  
24 we needed to assign two spots on the outdoor exterior  
25 parking for tenant parking. So, we are showing those two

1 designated spaces now.

2           Also, in response to Dr. Klemens' comments  
3 regarding -- hold on a second. Some of the questions he  
4 asked us regarding the aquifer protection area. So, just  
5 to summarize those, we are not a prohibited use and this  
6 activity will have no result in adverse impacts to the  
7 aquifer. And then also just reviewing the existing and  
8 past impervious surface which includes the building  
9 previously on site, that comes out at 12,834 square feet  
10 which is approximately 95 percent coverage. And our  
11 proposed impervious coverage is actually reduction down  
12 to 11,664 square feet or 86 percent.

13           That's all I have.

14           MS. AYER: Thanks, Jon.

15           MR. PETITTO: Thanks. We revised a couple  
16 renderings and created an additional one. Oh. Rocco  
17 Petitto, QA+M, Farmington Connecticut. I'm the project  
18 architect for Holley Place. This first rendering was  
19 pointed out in the last meeting that we weren't showing  
20 the existing telephone pole or power pole on Millerton  
21 Road. So here it is reinserted so you can see where it  
22 is in relation to the building. The power pole is on  
23 basically the northeast side of the drive that goes down  
24 between the two buildings.

25           And then next slide.

1           So, it was requested, too, that we have a  
2 rendering of view from Factory Pond so you can see where  
3 the building would sit in relation to the surroundings.

4           And then, also, we revised the rear night view  
5 to show more of a down light sconce on the building and  
6 then also indicating that we're keeping the existing  
7 guard rail in place at the wall above the Interior's  
8 building. Those are the revisions that we've made and  
9 then I will pass it on to Kent.

10           You're still muted, Kent.

11           MR. McCOY: There you go. Kent McCoy, QA+M  
12 Architecture in Farmington, Connecticut, working with  
13 Rocco. By way of introduction, I'm associate principal  
14 at the firm and with a specialty in historic restoration  
15 and the design of buildings in historic context.

16           I've had about 40 years of experience in  
17 architecture, specifically in that field of architecture  
18 and am recognized by the state preservation office as a  
19 so-called historic architect with which I'm not sure how  
20 to take that sometimes.

21           So, for 40 years I was a principal at the firm  
22 of Smith Edwards McCoy in Hartford and we did some of the  
23 most sensitive and well known restorations projects in  
24 the State, including the exterior restoration of the  
25 State Capitol Building, the Old State House in Hartford

1 and the Long Walk at Trinity College. Most recently we  
2 completed a restoration of the Wadsworth Atheneum in  
3 Hartford. And the Trinity College project and the  
4 Atheneum project, both won national design awards from  
5 the AIA for historic preservation.

6 As I said we've also done a lot of building  
7 of -- buildings in historic context and those would  
8 include, in addition to St. Anthony Hall at Trinity  
9 College, dining commons and new library at Renbrook  
10 School in West Hartford and the award-winning 9th Square  
11 project with Newman Architects in New Haven. And for our  
12 work in preservation and restoration of historic  
13 buildings, in 2009, we won the Governor's award in  
14 recognition of our work. This is only the second time  
15 it -- it was the only the second time an architectural  
16 firm ever won that award. The other time being Philip  
17 Johnson.

18 Personally, I live in the historic district in  
19 Collinsville, Connecticut, and I was on the Historic  
20 District Commission for ten years and was chairman of  
21 that commission for two years. So, I'm quite familiar  
22 with the historic district process and, of course, our  
23 mandate was, as with any historic district commission, to  
24 review proposed changes, additions and new construction  
25 in the district.

1           This project, specifically, I find that the  
2 design of the proposed multi-family housing to be built  
3 at 11 Holley Street is appropriate to it's architectural  
4 context. While it is a modern, energy-efficient building  
5 that takes advantage of the many advanced materials and  
6 methods that have come into being over the past couple of  
7 centuries, it's stylistically satisfies the donor's  
8 request that the building shall have exterior design in  
9 keeping with the federal image of our village.

10           This is accomplished by incorporating the  
11 elements massing and scale of other village buildings  
12 notably the neighboring Shannon building which sits  
13 across the street from the seat on the corner of  
14 Millerton Road and Holley Street.

15           At the same time, the building avoids being an  
16 historic recreation and is simplified in it's details  
17 while respecting the overall massing and proportions of  
18 the neighboring buildings. In this way, it satisfies the  
19 U.S. Secretary of the Interior standards for additions  
20 and new construction which recommends use thing same  
21 forms, materials and color range as the surrounding  
22 historic buildings in a manner that does not replicate  
23 the historic structures but distinguishes the new  
24 construction from the historic buildings.

25           The massing of the building is appropriate to

1 it's context. It's a two story -- two and a half story  
2 building and it is physically shorter than the  
3 neighboring Shannon building to the east and it's facade  
4 is broken up by residential scale, pedimented entrance  
5 porch and gable, gabled central bay with two flanking  
6 wings. This successfully reduces the building's  
7 elevation along Millerton Road into smaller residential  
8 scale units and reflects the typical gable and  
9 intersecting L configuration of many of the neighboring  
10 buildings.

11 As we move down Holley Street to the south side  
12 of the building, its height is less than that of the  
13 neighboring buildings at Pocketknife Square and its  
14 repetitive fenestration is reminiscent of the building as  
15 you can see in the upper right there.

16 Likewise, the materials and details of the  
17 proposed building are compatible and appropriate to their  
18 context. The fan light in the attic of the central gable  
19 refers to the fan light at the Holley-Williams House  
20 directly across the street. And again, while it  
21 references the neighborhood context, it does not directly  
22 copy it. The pilasters that flank the central gable of  
23 the building respect the proportions of the pilasters  
24 that frame the neighboring Shannon Building you can see  
25 there on the upper left.

1           But furthermore, I think it's wrong to think  
2 the historic context of Lakeville is limited to federal  
3 or colonial style single-family houses. What is clear to  
4 me architecturally and was certainly important to the  
5 village's listing on the National Register is that it is  
6 a relatively intact mill town. It retains it's historic  
7 mill buildings, workers' housing and its grand mill  
8 owners' houses and some of its commercial structures.

9           Missing is the original Holley Block building,  
10 a large mix-use building that stood on the site until it  
11 was razed in 1967. In historic photographs of the Holley  
12 Block one can sense the former vitality of Millerton Road  
13 when a series of shops and offices made up this  
14 commercial corner.

15           In my opinion, the new building proposed at 11  
16 Holley Street is correctly scaled and detailed for its  
17 location and would be an appropriate and welcome addition  
18 to the village center. It's presence would help to  
19 recreate the density and vitality that the district once  
20 enjoyed and is much more compatible with the historic  
21 streetscape than the paved parking lot currently  
22 occupying most of the site. Thank you.

23           MR. SMITH: Mr. Chairman, Chris Smith for the  
24 record. I just have a couple questions for Mr. McCoy. I  
25 will be quick.



1           CHAIRMAN KLEMENS: Sure.

2           MR. SMITH: Mr. McCoy, in your professional  
3 opinion, is the proposal, the conduct involved with the  
4 proposal reasonably likely to result in the unreasonable  
5 pollution, impairment, destruction in the air, water or  
6 other natural resource of the State of Connecticut  
7 including any historic resource?

8           MR. McCOY: No. No. I will say, though, that  
9 the resource on the site is the -- is just the stone wall  
10 and we intend to incorporate that into our building.

11          MR. SMITH: Second question, Mr. McCoy, is the  
12 proposal reasonably likely to result in the unreasonable  
13 destruction of historic structures or landmarks of the  
14 State?

15          MR. McCOY: No.

16          MR. SMITH: And in your professional opinion,  
17 is the proposal consistent with the zoning regulations of  
18 the town of Salisbury.

19          MR. McCOY: Yes, definitely.

20          MR. SMITH: Thank you very much.

21          Jocelyn, how are we with the -- I think Kent is  
22 finished.

23          MS. AYER: I probably wanted to summarize for  
24 right now.

25          MR. SMITH: Mr. Chairman -- I'm sorry. Go

1 ahead, Jocelyn.

2 MS. AYER: I just said thank you.

3 MR. SMITH: Mr. Chairman, that concludes our  
4 presentation/summary of the responses at this point in  
5 time. And once we've heard from the Intervenors and the  
6 balance of the individuals who wish to speak relative to  
7 the proposal, we'll reserve our specific responses to  
8 those comments that we may hear this evening for our  
9 rebuttal. Thank you.

10 CHAIRMAN KLEMENS: Thank you, Attorney Smith.

11 I'm going to lead with the Commission  
12 questions. My first question is, you now have  
13 illustrated two spots, we can go to that new -- that  
14 rendering of the fire lane and bike rack. If you can go  
15 back to that, please.

16 MS. AYER: I think I have to be allowed to --

17 MS. CONROY: Sorry. I thought -- sorry.

18 MS. AYER: That's okay.

19 CHAIRMAN KLEMENS: Fine. Thank you.

20 MS. AYER: This one?

21 CHAIRMAN KLEMENS: Yes.

22 Now you have tenant parking only. So, is this  
23 basically going to be -- are you stepping back your  
24 commitment to public parking here by dedicating two of  
25 these spots now for the tenants?

1           MR. SMITH: If I can answer that, Mr. Chairman,  
2 for the record, Chris Smith. Since we have 12 unit and  
3 under your regulations one parking space per dwelling is  
4 required and we do provide for ten under the building.  
5 We thought it appropriate to designate two for the other  
6 two units in the parking area, itself. And that's  
7 consequently why we've done that on this site plan.

8           CHAIRMAN KLEMENS: So, those two spaces now are  
9 for tenant parking only.

10          MR. SMITH: Correct.

11          CHAIRMAN KLEMENS: So, what is the number of  
12 parking spaces left for the public now? You have reduced  
13 them.

14          MR. SMITH: Well actually, from our original --  
15 from the Applicant's position, they will be leasing the  
16 entire property. They are entitled, by doing that, to  
17 all of the spaces on the property; but as we've indicated  
18 all along, the Housing Committee is more than willing to  
19 allow public parking on those spaces that are not being  
20 utilized for the tenant parking.

21          MS. AYER: So that the ten additional outdoor  
22 spaces would be open to the public.

23          MR. SMITH: I was trying to say there's a  
24 balance in the delta and I was going to defer to Jocelyn  
25 or Jon to give you that number.

1           CHAIRMAN KLEMENS:  So basically, unlike the --  
2  we've heard a lot about special permits with or without  
3  phantom or satellite parking, you're asking not for this  
4  is part of your parking equation, but this is going to be  
5  dedicated parking?

6           MR. SMITH:  Correct.

7           CHAIRMAN KLEMENS:  Thank you.

8           Can we go to the picture of the telephone pole,  
9  please.  Can you tell me what that white item is below  
10 the two windows?  On the side.

11          MS. AYER:  Here?

12          CHAIRMAN KLEMENS:  Yes, please.

13          MS. AYER:  I believe that's the sign for this  
14 building.

15          CHAIRMAN KLEMENS:  Oh.  Thank you.  It's not on  
16 your building.

17          MS. AYER:  No, no.

18          CHAIRMAN KLEMENS:  Thank you, Jocelyn.

19          Okay.  Can we go look at the guard rail,  
20 please.  So, I do see the downward lighting, I do see  
21 these very large, lit camérons (ph.) that have been  
22 brought up as being a problem or being an impact.  Is  
23 there any way that we could create either vegetational  
24 screening or something to sort of interrupt that light  
25 flow over the guard rail?  I don't know how much --

1           We really have to stop using the chat for  
2 anything but to be recognized. We can't have comments,  
3 etc., in the chat, please. I'm sorry.

4           What can we do to interrupt that -- those lit  
5 camérons (ph.). I know there's limited space. But is  
6 there a way to put vegetation behind the guard rail? Is  
7 there a way to put some sort of lattice screening,  
8 attractive, not stockade fence?

9           MS. AYER: Jonathan -- Jon or Rocco, is there  
10 much space there? I believe -- I mean, the guard rail is  
11 not on this property; correct? It's the neighbor's --

12           MR. TUNSKY: Correct, yes. This is Jon Tunsky.  
13 Yes, the guardrail is on the neighbor's property. It's  
14 mounted to that existing retaining wall. There is a very  
15 narrow -- it probably gets down to about a foot in some  
16 locations how this parking is carved out. So really  
17 planting any significant shrub in there is not possible.  
18 We could look at adding some shrubs in the areas where  
19 there is space, but to have a shrub row across that  
20 entire perimeter I don't think is possible. But --

21           CHAIRMAN KLEMENS: I'm looking at the -- it's  
22 sort of a strange arrangement of the lot line and the  
23 parking -- there seems to be a few spots where you  
24 possibly could put something where the -- whether where  
25 the compact cars are, there's a spot; and then there's a

1 spot at the very western end that the probably not going  
2 to help much. Anyway, could you give that a think of how  
3 to deal with that?

4 MR. TUNSKY: We could.

5 MR. SMITH: We will look into that,  
6 Mr. Chairman, yes.

7 CHAIRMAN KLEMENS: Thank you.

8 At the last meeting you said you were going to  
9 have a meeting on site with SHPO; did that occur?

10 MS. AYER: Kent, do you want to speak to that?

11 MR. SMITH: Kent McCoy can respond to that,  
12 Mr. Chairperson.

13 MR. McCOY: Yes. It did occur. I don't know  
14 if it would qualify as a meeting so much as I was -- I  
15 met the SHPO at the site really just to show her where  
16 the stone wall was located and get her oriented. But she  
17 photographed and measured and made her own conclusions.  
18 We didn't have a meeting as such.

19 CHAIRMAN KLEMENS: When you say she made her  
20 own conclusion, did she make those conclusions known to  
21 you?

22 MR. McCOY: No, she did not. And I did  
23 actually e-mail her today to see if she had reached  
24 conclusions as yet and I hadn't gotten a call back before  
25 this meeting.

1           CHAIRMAN KLEMENS: Is -- sorry, Attorney Smith.  
2 Go ahead.

3           MR. SMITH: No. You are asking the questions.  
4 I was going to ask Mr. McCoy to possibly explain the SHPO  
5 relationship with this proposal and whether a permit is  
6 required from them at this point in time while we're --  
7 this application is pending before the Planning and  
8 Zoning Commission. I think you might have asked that the  
9 last go round, Mr. Chairman, but perhaps Mr. McCoy can  
10 explain that to the Commission and you.

11           CHAIRMAN KLEMENS: Please.

12           MR. McCOY: Sure. The SHPO would -- the SHPO  
13 would be involved in the review of the project only  
14 depending on the funding source. So, for example, if  
15 this were a privately-funded project, there would not be  
16 any SHPO review needed. But because of the wall, which  
17 is in the National Register Historic District and if the  
18 project is funded with federal or state money, then yes,  
19 a SHPO approval of changes to the wall and incorporating  
20 it to our building would be required.

21           CHAIRMAN KLEMENS: So, Mr. McCoy, are you  
22 telling me that if this was a private development, that  
23 this wall could be removed without any approvals from the  
24 agency?

25           MR. McCOY: Yes, that's right. Yeah, it's only

1 the funding sources that bring a potential SHPO review.

2 CHAIRMAN KLEMENS: But that still wouldn't  
3 necessarily matter whether or not it funded, it still --  
4 how to put this, it still may not be -- how does that  
5 inform the Intervenor's contention of reasonable  
6 likelihood of unreasonable harm? Because I'm really  
7 confused now. You are telling me the SHPO review is to  
8 do with the funding source. A private developer could go  
9 there and do whatever they wanted. Where is the nexus  
10 between unreasonable harm as alleged, you know, you've  
11 heard the Intervenor's claim; and I'm curious where that  
12 threshold would be if this was not SHPO funded -- excuse  
13 me, not state or federally funded.

14 MR. SMITH: And Mr. Chairman, for the record,  
15 that's kind of the burden of the Intervenors to establish  
16 that nexus for you. And I think Mr. McCoy's already  
17 opined for you that, in his opinion, there isn't any  
18 adverse -- reasonable likelihood or the unreasonable  
19 pollution, impairment or destruction as -- and you're  
20 familiar with 22A-19 and Intervenors are pulling in the  
21 historic under state resources; and so I would  
22 respectfully submit that that's certainly the burden of  
23 the Intervenors to establish that for the Commission and  
24 to substantiate their allegations.

25 CHAIRMAN KLEMENS: You actually gave me



1 something that I forgot to mention in my opening remarks.

2 When we begin deliberations, one of the first  
3 things we're going to deliberate on is whether the  
4 Intervenor has met the burden. That will not occur until  
5 we begin deliberations.

6 Let me get back to Mr. McCoy again. Very  
7 impressive amount of projects you've worked on. How many  
8 of these types of reviews have you done? I see you've  
9 done a lot of restoration of historical buildings. Some  
10 quite important. But how many times are you asked to  
11 opine on the contextually or appropriateness of a new  
12 building on historical resources.

13 MR. McCOY: I would say rarely. Because  
14 generally I'm making that -- I'm making -- I'm presenting  
15 that analysis for projects that I'm working on, that I  
16 have designed, sort of in the way that I am tonight. So  
17 that, yes. So, not frequently.

18 CHAIRMAN KLEMENS: Okay. Thank you, Mr. McCoy.

19 I would like to go to this submission by  
20 Jonathan Tunsky. And I thought I was quite clear what I  
21 was looking for. And your first response under No. 2  
22 doesn't really get me to understand exactly what I was  
23 looking for. I was looking for what is it now. The past  
24 is gone. It's been demolished. What is the current  
25 existing state of impervious surface. That's something I

1 would like answered. And your response didn't answer it.  
2 You gave a composite of today and yesterday. So, can you  
3 provide that next time or now?

4 MR. TUNSKY: I actually have it now.

5 CHAIRMAN KLEMENS: Please.

6 MR. TUNSKY: Just to be clear why I gave that  
7 as far as storm water management is concerned. You can  
8 look back as far as you want to determine impervious  
9 coverage. So, that is why I gave that calculation. If  
10 you were to look at the existing impervious coverage  
11 today, it is about 9,364 square feet or 68.9 percent.

12 CHAIRMAN KLEMENS: 68.9 percent. So then  
13 basically you have an increase of 18 percent or so.  
14 69 -- you have roughly about a 19 percent increase in  
15 impervious surface coverage with your new proposal. And  
16 you factored in, in your new proposal, the planting areas  
17 and all of that?

18 MR. TUNSKY: Correct.

19 CHAIRMAN KLEMENS: These are my questions. I'm  
20 now going to open it up beginning with Commissioner  
21 Riva.

22 MR. RIVA: Michael, I have nothing else.  
23 You've taken care of a lot of them as you were talking  
24 there.

25 CHAIRMAN KLEMENS: Okay, Commissioner Shyer,

1 you have to unmute.

2 MS. SHYER: Thank you. No, not at the moment.  
3 I was also interested in the outcome of the SHPO meeting  
4 in particular with the stone wall. But am I correct that  
5 you don't have any information from that discussion on  
6 site? It wasn't a meeting you said.

7 MR. McCOY: Yes, that's correct.

8 MS. SHYER: Are you expecting to get something?

9 MR. McCOY: I'm hoping to, yes. The SHPO is,  
10 you know, very understaffed and so it takes them usually  
11 a very long time to respond. But yes, I do expect to get  
12 some sort of indication at some point.

13 MS. SHYER: Thank you.

14 CHAIRMAN KLEMENS: Any additional questions  
15 Commissioner Shyer?

16 MS. SHYER: No, there was a lot of questions  
17 about engineering that came up in the report. I'm sorry,  
18 I can't remember his name right now. Will that be  
19 addressed in tonight's meeting by the Applicant?

20 MR. SMITH: No, Commissioner Shyer. We were  
21 going to be addressing that in the rebuttal since we  
22 really haven't had had the presentation from the  
23 Intervenor's engineer. That I think will be coming up  
24 next.

25 MS. SHYER: Thank you. I'll wait.

1           CHAIRMAN KLEMENS: Commissioner Cockerline?

2           MR. COCKERLINE: Just one small point. Can we  
3 have the full name of the acronym, SHPO? And the other  
4 thing I was wondering about I'm assuming the fire lane is  
5 just a painted designation. It looks like it's about  
6 four feet wide that goes around the outside of the  
7 building that prohibits or tries to prevent people from  
8 parking in those areas? It's just painted on the  
9 surface?

10          MR. TUNSKY: This is Jon Tunsky, I can answer  
11 that. So, yes, it's painted on the surface. You also  
12 paint, no parking, fire lane as well. And then we're  
13 also providing signage. I believe we've located four  
14 signs to be mounted to the building or the wall out there  
15 that say the same thing. Fire lane, no parking.

16          CHAIRMAN KLEMENS: Mr. McCoy, could you please  
17 answer Commissioner Cockerline's question as to what SHPO  
18 stands for?

19          MR. McCOY: Oh, certainly. It stands for the  
20 State Historic Preservation Office.

21          CHAIRMAN KLEMENS: Any further questions  
22 Commissioner Cockerline?

23          MR. COCKERLINE: No, thank you.

24          CHAIRMAN KLEMENS: Commissioner Whalen?

25          MR. WHALEN: I have no questions right now.

1           CHAIRMAN KLEMENS: Alternate Schiffer.

2           DR. SCHIFFER: I have one question, I would  
3 like to get some clarification on Chairman Klemens'  
4 question regarding parking. The question is will  
5 residents have designated parking spots and will there be  
6 designated parking spots reserved for the public?

7           MR. SMITH: I think the answer -- for the  
8 record, Chris Smith, Jon, feel free to step in. There  
9 will be ten spaces underneath the building for ten of the  
10 dwellings and there are two designated outside. And the  
11 rest will be available on a first-come-first-serve basis.  
12 So, whether there are guests or whether there are members  
13 of the public that want to use it for whatever reason.

14           CHAIRMAN KLEMENS: I think what Attorney  
15 Schiffer may have been asking was are those spaces going  
16 to be numbered and assigned to a unit? Is that what you  
17 were asking?

18           DR. SCHIFFER: That's exactly what I was  
19 referring to. Thank you, Michael.

20           MR. SMITH: I'll defer to Jocelyn or Jon on  
21 that. Sorry, Commissioner. I didn't realize that was  
22 the specific question.

23           MS. AYER: We can certainly do that if it  
24 seemed like it made sense.

25           DR. SCHIFFER: Well, the reason why it's often

1 done in other buildings, I see many times I want to park  
2 somewhere and it says reserved for tenants only, so  
3 obviously I can't park there. And importantly, will  
4 there be parking spots designated for anyone in the  
5 community that needs to park to access the shops or  
6 restaurants? In other words, you say there will be  
7 parking for the public, but will there be -- can there be  
8 spots that are designated for public parking so that  
9 residents are not going to be taking up that parking --  
10 unless of course it's a visitor?

11 MR. SMITH: We can -- I don't know, Jocelyn --  
12 Chris Smith for the record, Jocelyn, if you want to  
13 respond to that now or we can look into that depending on  
14 your needs and report back?

15 MS. AYER: Sure, we can look into it more. I  
16 guess our response has been that we would put up a sign  
17 that said the parking was public. Those two spots, again  
18 outside, would be reserved for tenants and the ones  
19 underneath the building would be reserved for tenants.  
20 The parking analysis has been done by the professional  
21 shows that, you know, we -- there will still be eight  
22 open spaces, even during peak times, not used by  
23 residents. So, we believe that having those open to the  
24 public will provide parking spaces for the public and  
25 anyone shopping at those shops in Lakeville. But we can

1 prepare a further response on that.

2 DR. SCHIFFER: I'm not saying, Jocelyn, that  
3 that's my view that it should be done. I'm just asking  
4 if it's feasible, if you've thought that through and is  
5 it something that would make sense? It's not my view  
6 that it should be done.

7 CHAIRMAN KLEMENS: Any other questions,  
8 Danella.

9 DR. SCHIFFER: No, that would be it.

10 CHAIRMAN KLEMENS: Thank you.

11 Ms. Allee? You have to unmute.

12 MS. ALLEE: I did unmute. I don't know whether  
13 I should ask this question now or later. I've noticed  
14 that some of the opposition letters and also at the  
15 previous meetings mentioned that those parking spaces  
16 should be reserved for your neighbors because they are as  
17 a right under the zoning only if they have the  
18 appropriate parking spaces and they have relied on the  
19 public spaces to do that for them without their providing  
20 it themselves. So, I think that's something that is just  
21 not addressed here.

22 MR. SMITH: Commissioner Allee, for the record,  
23 Chris Smith, we will be listening. That has been part of  
24 the submissions from the Intervenors and once we've heard  
25 from them and they explained their position, I think I

1 would certainly be in a better position from a legal  
2 standpoint to be able to respond to it. But I'm  
3 reluctant --

4 MS. ALLEE: We got written comments with that  
5 argument.

6 MR. SMITH: And I think the Intervenors,  
7 Commissioner, will be addressing that in their  
8 presentation. That will be forthcoming when we're  
9 done --

10 MS. ALLEE: Okay.

11 MR. SMITH: -- with this.

12 CHAIRMAN KLEMENS: Anything further?

13 MS. ALLEE: I have no other questions. Thank  
14 you.

15 CHAIRMAN KLEMENS: Mr. Higgins?

16 MR. HIGGINS: Thank you. The only question or  
17 clarification I have now, others have been answered by  
18 the previous questions, was the fire lane. And I think  
19 it's similar to Allen's comment; because the new  
20 schematic that was shown highlighted the fire lane to the  
21 west of the building. But there was a comment about how  
22 wide that was and I'm not sure that that was answered or  
23 at least it was still confusing to me what the width of  
24 that passage is or will remain once the building is  
25 constructed.



1           MR. TUNSKY: Tunsky here. I can answer that.  
2 Typically, there, we do about three feet wide for the  
3 fire lane. And we will work with the fire marshal if he  
4 wants something else.

5           MR. HIGGINS: Isn't that pathway greater than  
6 three feet?

7           MR. TUNSKY: What --

8           MR. HIGGINS: Need greater than three feet for  
9 passage.

10          MR. SMITH: I think the question is how wide is  
11 that access way on that side of the building, I think.  
12 Mr. Higgins is asking.

13          MR. HIGGINS: Correct. With the fire lane as  
14 part of it; correct?

15          MR. SMITH: Yes, sir.

16          MR. TUNSKY: So, we have a dimensional layout  
17 plan is 15.22 feet.

18          MR. HIGGINS: That includes the three feet of  
19 the fire lane, yes?

20          MR. TUNSKY: Correct.

21          MR. HIGGINS: Thank you very much. That's all  
22 I have, Mr. Chairman.

23          CHAIRMAN KLEMENS: Thank you.

24                 One follow-up question. This dedication now  
25 with two outdoor spaces, I think it was always understood

1 that some of those spaces would be taken -- would be used  
2 by tenants of your proposed building. But I now see sort  
3 of a complicated factor in that people being people, the  
4 middle of the day, people want to shop or want to do  
5 something and they now have two tenant spaces that may be  
6 vacant and they can't use. Wouldn't it make more sense  
7 just to go back to your original proposition that the  
8 ones underneath the building are going to be obviously  
9 for your tenants' use and for us to work on the  
10 assumption that anywhere from 2 to 4 of those outdoor  
11 spaces might well be occupied by, at some point, by  
12 tenants or visitors depending on the time of day. Also  
13 reflecting Commissioner Whalen's comment last time that  
14 not everyone in that apartment building is only going to  
15 have one vehicle.

16 MS. AYER: I'll just respond. That would be  
17 completely fine by me and by us to not designate those  
18 two spaces out in the lot. I think we were trying to  
19 respond to a comment from the last meeting where it  
20 sounded like maybe the Commission wanted those outdoor  
21 spaces designated. So, I certainly think, from our end,  
22 we would be comfortable with not designating which two  
23 spaces are tenant spaces.

24 MR. SMITH: And Mr. Chairman -- I'm sorry.

25 CHAIRMAN KLEMENS: I'm just thanking Jocelyn.

1 Go ahead.

2 MR. SMITH: I was going to say, for the record,  
3 Chris Smith, I'm the one to blame, Mr. Chairman for  
4 designating those two spaces. I thought that it would be  
5 a good idea to have just to demonstrate that there were  
6 12 spaces designated for the 12 dwellings. But, as  
7 Jocelyn indicated and as you know, I was not involved in  
8 the first go round and there's no problem not doing that  
9 if that the what the Commission chooses to do or have us  
10 do or my client do, so I'll take the blame for that one.

11 CHAIRMAN KLEMENS: You have broad shoulders,  
12 you can take a bit of blame.

13 Okay, I think next on the list will be.

14 MR. SMITH: Mr. Chairman. If I -- I just have  
15 two clarification questions for Mr. McCoy based on the  
16 questions that were asked of him.

17 CHAIRMAN KLEMENS: Sure.

18 MR. SMITH: And Mr. McCoy, isn't it true that  
19 an application is not required to go to SHPO? You  
20 testified that it's not required. It depends on the  
21 funding source. And isn't it true that if, indeed,  
22 there's some -- there is a review required by SHPO with  
23 the funding source, that that would happen after Planning  
24 & Zoning approvals were obtained if, indeed, they are  
25 obtained?

1 MR. McCOY: Typically, yes.

2 MR. SMITH: When you indicated that your  
3 experience in testifying, you don't typically do  
4 opposition work; is that true?

5 MR. McCOY: That is right, yes.

6 MR. SMITH: So, your response was basically  
7 that your expertise and your testimony over the years has  
8 been in support of applications because you've actually  
9 helped to draft them relative to historic preservation  
10 components; correct?

11 MR. McCOY: Yes, that's correct.

12 MR. SMITH: Okay. I just wanted to clarify  
13 that for the record going forward.

14 Thank you, Mr. Chairman. Thank you.

15 CHAIRMAN KLEMENS: That actually leads me to  
16 ask another question of Mr. McCoy. In your experience,  
17 the unusual procedure that Planning and Zoning Commission  
18 approves something and contingent upon the SHPO review or  
19 does the SHPO review come contemporaneously with the  
20 application?

21 MR. McCOY: I have seen it go both ways. I  
22 have seen Planning & Zoning approval contingent on SHPO  
23 review and approval. And then I've seen it precede the  
24 SHPO application. And then the other way around. I've  
25 seen particularly when there's an historic building on a

1 site where -- and, let's say, particularly when it's an  
2 historic district, not a National Historic District, but  
3 a local historic district, often the review will take  
4 place earlier in those cases.

5 CHAIRMAN KLEMENS: That's very helpful.

6 So, now I think if there's no further questions  
7 from Attorney Smith or anybody else, I would like to turn  
8 the floor over to Attorney Casagrande, who is going to  
9 ask questions at this point of the Applicant's  
10 presenters.

11 MR. CASAGRANDE: Thank you, Mr. Chairman. I  
12 have a couple questions for Mr. Tunsky. The chairman  
13 clarified that the impervious coverage of the proposed  
14 building will be 86 percent. He asked you, well, what is  
15 the current state of impervious coverage and I think you  
16 said 68.9 percent. Correct?

17 MR. TUNSKY: Correct.

18 MR. CASAGRANDE: My question is why wouldn't  
19 you think it important to include that comparison in your  
20 response to the chairman's question? He didn't ask you  
21 to compare the proposed coverage to the coverage in the  
22 building was destroyed in 1967. Why didn't you think  
23 that was important to include in your answer?

24 MR. TUNSKY: I didn't include it because I  
25 assumed he was referring to storm water management for

1 his question. That's all. My error.

2 MR. CASAGRANDE: I'm not sure who this is  
3 directed to, Mr. Chairman, but I just want to be clear.  
4 I think you pointed out that there are going to be 12  
5 units here and it's a fact of life in this day and age  
6 that not every tenant is going to have only one car. So,  
7 my question perhaps to Ms. Ayer is have you done any he  
8 projections to see which percentage of tenant will have  
9 more than one car?

10 MR. SMITH: If I can respond to that, Attorney  
11 Casagrande. Our parking and traffic expert, Mr. Balskus,  
12 is not here this evening. He can certainly provide his  
13 response to you. He has submitted a report already and  
14 he can provide his response to you during our rebuttal.  
15 Unfortunately, he wasn't available this evening.

16 MR. CASAGRANDE: That's fine. I understand.  
17 My question, though, I think Ms. Ayer can answer this.  
18 Have you projected how many tenants might have more than  
19 one car and if so, how many of the total spaces will be  
20 occupied by tenants in addition to the 12 that you've  
21 earmarked?

22 MR. SMITH: Again, I don't think there's been  
23 any projection that's been done. There has been a  
24 traffic and parking study performed by a traffic engineer  
25 and again, you can direct that comment he can respond to

1 that better to you -- and again, the zoning regulations  
2 require one space per dwelling. It's being complied  
3 with.

4 MR. CASAGRANDE: So, you've answered my  
5 question, that there has been no projection.

6 Question for Mr. McCoy, you said the only  
7 resource here is the stone wall; correct?

8 MR. McCOY: That's correct as defined by the  
9 National Register nomination and by SHPO; that's  
10 correct.

11 MR. CASAGRANDE: And you've read the National  
12 Register confirmation and study of this site?

13 MR. McCOY: Yes.

14 MR. CASAGRANDE: And it includes the entire  
15 site; correct.

16 MR. McCOY: I'm talking about our building  
17 site.

18 MR. CASAGRANDE: Well, your building site is  
19 going to replace Bicentennial Park; isn't that true?

20 MR. McCOY: It's located on the piece of  
21 property where a portion of it is called Bicentennial  
22 Park, yes.

23 MR. CASAGRANDE: The entire site is called  
24 Bicentennial Park, true?

25 MR. McCOY: It depends on the map you read.

1 Some yes, some no.

2 MR. CASAGRANDE: So, you believe some maps  
3 characterize it differently than other maps?

4 MR. McCOY: Yeah. I have seen some maps that  
5 show just the greensward that's toward Millerton Road  
6 from the edge of the parking lot as Bicentennial Park.  
7 And then others that show the whole property as  
8 Bicentennial Park.

9 MR. CASAGRANDE: And the others that showed the  
10 whole property, that would include the maps that are on  
11 file with the National Register; isn't that true?

12 MR. McCOY: That would include the National  
13 Register nomination, yes.

14 MR. CASAGRANDE: Thank you. So, is it your  
15 opinion that elimination of that park site is not an  
16 unreasonable impairment of a historic resource?

17 MR. McCOY: That's correct, yes.

18 MR. CASAGRANDE: I have a question for  
19 Mr. Tunsky, Mr. Chairman. Am I correct that -- in  
20 talking about the guard rail, that you said that the  
21 guard rail to the west is actually on the neighbor's  
22 property?

23 MR. TUNSKY: That is correct.

24 MR. CASAGRANDE: Do you have any -- have you  
25 submitted any proof of the easements or license



1 agreements with that neighbor that would allow you to go  
2 on to that property and put that guard rail there?

3 MR. TUNSKY: It's an existing guard rail. So,  
4 we wouldn't be touching it and it's shown in the survey.

5 MR. CASAGRANDE: I believe that's all the  
6 questions I have at this point, Mr. Chairman. Thank you.

7 CHAIRMAN KLEMENS: Thank you Attorney  
8 Casagrande.

9 We now move to the Intervenor's presentation  
10 from Attorney Casagrande and his team. I will ask that  
11 whoever is speaking, we would like to see your face.  
12 Thank you.

13 MR. CASAGRANDE: Thank you, Mr. Chairman. Let  
14 me, if I could, I just want to introduce the people that  
15 are with me tonight. I introduced earlier my associate,  
16 Chanwon Pio Yoon, is going to help me with the Power  
17 Point presentation. Also with us tonight are Mr. Miller,  
18 who I understand Mr. Chairman you know of Mr. Miller; but  
19 other commissioners may not. And he will give you his  
20 credentials. But he is basically municipal planning  
21 consultant and that has acted as a consultant to  
22 municipalities throughout Connecticut and the Northeast  
23 on complicated planning issues. Also with me tonight is  
24 Dainius Virbickas who is a licensed professional engineer  
25 with the firm of Artel Engineering and he has submitted

1 testimony and will be summarizing that testimony on his  
2 review of the site plans.

3 Mr. Chairman, you gave us a very tight deadline  
4 last time and we did our best to comply with it and I  
5 think we made very good progress and I think we have a  
6 robust submission for you tonight. But there are two  
7 experts that are not available tonight or not available  
8 to get submissions in and that's why I'm grateful you're  
9 going to continue this to the 14th. And that is Rachel  
10 Carley, who is our architectural historian and also we  
11 have an architect work on rendition that Ms. Carley will  
12 use in her testimony. But he also was not able to get  
13 his submission in in time for the deadline. So those two  
14 experts we will be presenting at the continuation.

15 CHAIRMAN KLEMENS: Attorney Casagrande, are you  
16 going to -- I don't know we have it, I don't think we do,  
17 are you going to give us a copy of this Power Point for  
18 the record?

19 MR. CASAGRANDE: I think we submitted it,  
20 Mr. Chairman.

21 CHAIRMAN KLEMENS: Please -- do you have it  
22 Abby.

23 MS. CONROY: It came through this afternoon  
24 after I left the office.

25 CHAIRMAN KLEMENS: Okay. Thank you. Sorry

1 about that.

2 MR. CASAGRANDE: No problem, Mr. Chairman.

3 Okay, so if I can turn to page 2 of our Power  
4 Point. Basically, this is just a summary of our overall  
5 position on the application. Our first argument is that  
6 under 22a-19, the destruction of Bicentennial Park is  
7 unquestionably an unreasonable impact to the historic  
8 resources of the State. And because we have proved that,  
9 the Commission, we believe, should and must consider  
10 alternatives to the project; and we have identified two  
11 alternatives that Mr. Miller will be discussing which we  
12 believe are feasible and prudent and will accomplish the  
13 town's affordable housing goals even without this site.

14 Secondly, we argue that the application does  
15 not comply with the technical requirements of the zoning  
16 regulations in many ways. And Mr. Virbickas will address  
17 that.

18 And lastly, we argue that the application does  
19 not comply with the general standards in the special  
20 permit regulations because the location, as we will  
21 prove, is unsuitable and completely incompatible with the  
22 other uses -- surrounding neighboring uses in the  
23 district.

24 CHAIRMAN KLEMENS: I have a question I would  
25 like to ask our attorney. Are we to -- is it reasonable

1 that we should be looking at off-site alternatives yet?  
2 This discussion before that I think it was actually  
3 Dr. Schiffer who brought it up that whether we should be  
4 looking at off-site alternatives and the sense was, as  
5 planners, we're looking at this site. Can I get some  
6 clarity from counsel on this, please?

7 MR. ANDRES: This is Chuck Andres, attorney for  
8 the Commission. I'm not going to answer that right now.  
9 I would like to hear the presentation, hear his  
10 arguments, what his authority is and then I will review  
11 each point.

12 CHAIRMAN KLEMENS: Thank you. Please proceed,  
13 Attorney Casagrande.

14 MR. CASAGRANDE: Sure. My position on that  
15 just so I don't forget it. 22a-19 says if you find that  
16 the conduct is going to unreasonably impair or destroy an  
17 historic resource, then the statute says you cannot grant  
18 the application unless, considering all surrounding  
19 circumstances, you find that the proposed project is the  
20 only feasible and prudent alternative. That's a very  
21 broad standard: All surrounding circumstances.

22 And I will say that my research into the case  
23 law, it's not a robust body of law, but there are at  
24 least two cases in which the Court said that in those  
25 cases the Commission was not required to consider

1 off-site alternatives, but only because the Intervenors  
2 had not shown that the on-site proposed activity was  
3 unreasonable. So, therefore it's our position, and I  
4 believe it's well founded in the language of the statute,  
5 that when, as here, you're talking about the complete  
6 destruction of an historic resource on the site, that it  
7 is appropriate and fitting under the unique circumstances  
8 of this case, where the town is in control of all of  
9 these sites, to require the town and the committee to  
10 consider and show to you why those alternatives are not  
11 appropriate.

12 CHAIRMAN KLEMENS: Thank you.

13 MR. ANDRES: Mr. Chairman, just a question for  
14 the Intervenor.

15 Attorney Casagrande, you mentioned two cases.  
16 Have you cited them anywhere in the materials that you --

17 MR. CASAGRANDE: I have not. I have not. I  
18 can get those to you.

19 MR. ANDRES: Okay, thank you.

20 MR. CASAGRANDE: Slide 3, please.

21 What we've done in the first few slides here --  
22 and I'm not going to regurgitate everything in the  
23 slides. I just wanted to give you an overview of how  
24 this property came to be on the -- registered with the  
25 National Parks Service for listing on the National

1 Register. It was listed as of August 1st, 1996. You'll  
2 see in the map that's shown on slide 3 that it includes  
3 the entire property, not just part of it.

4 Slide 4 basically is excerpts from the National  
5 Register registration form which delineates the  
6 importance of the district to the town and to the  
7 historic character of the town.

8 Slide 5. And the registration explicitly says  
9 that the district includes or contains two parks, Furnace  
10 Park and Bicentennial Park, which was an area formerly  
11 occupied by a variety of commercial buildings, most  
12 recently the 1895 Holley Block, the most important such  
13 structure in turn-of-the-century Lakeville.

14 And in another part of the registration, it  
15 indicates that Bicentennial Park is a small rectangular  
16 park across from the Holley-Williams House and is the  
17 former site of that building. So clearly, the National  
18 Register contemplates this entire property is on the  
19 Register and is deemed to be a park.

20 Next slide.

21 The history of Bicentennial Park, as we've  
22 discovered it, starts with the 1967 gift from the  
23 anonymous donor which, as you know, one of the conditions  
24 was that the site must be cleared, graded and landscaped  
25 for a town park or an attractively landscaped parking

1 area maintained in a neat and attractive fashion.

2 Flash forward to 1976 in the Bicentennial,  
3 former first Selectman William Bartlett wrote an article  
4 in connection with the bicentennial in which he says, it  
5 was with mixed emotions that I, as First Selectman of a  
6 quarter century, supervised the demolition of Holley --  
7 the Holley Block building but was pleased to see the fine  
8 end result designed by S. Norton Miner and was gratified  
9 at the thought of how much this garden-like improvement  
10 will add to the life of the town.

11 Next slide.

12 And as we say in the position paper and set out  
13 the history in more detail in the position paper,  
14 Mr. Chairman, in 1994 the Selectman recognizing that  
15 there was a lot of parking issues in the downtown Holley  
16 Street and safety issues as a result, in 1994 the  
17 Selectman voted to add 20 parking spaces to the park.  
18 Not eliminate it, but just add them to the park. And  
19 thereafter, in the years after the parking spaces were  
20 added, we see through the annual reports of the town that  
21 the town is continuously -- continuously acknowledged  
22 that Bicentennial Park is a public park of historic  
23 significance and it's continued commitment to maintain  
24 the park. And we refer to the annual town reports of  
25 2009 to 2020, which describe the park as a small, vest

1 pocket park developed within the foundation of the old  
2 Holley Block in Lakeville. I would note that the 2009  
3 annual report actually pointed out to the stone  
4 foundation in a Bicentennial Park was repaired that year.  
5 Why do I think that's important, because it just shows  
6 the town's commitment to maintaining the park, including  
7 that historic foundation as part of the town's viewed  
8 resources.

9 Next slide.

10 The Applicant unfortunately throughout the  
11 materials in the application mischaracterizes  
12 Bicentennial Park as merely a parking lot. And it's made  
13 that same characterization in its funding applications to  
14 the State.

15 And I think the best response to that  
16 mischaracterization in a letter that Sarah Morrison  
17 wrote -- and this is part of the packet that was in the  
18 2020 application, but we have re-incorporated it here --  
19 this is what Ms. Morrison said: The Holley Block, it is  
20 not an empty space that needs to be filled with something  
21 else. It is an integral part of the Lakeville Historic  
22 District and useful and important to those who live  
23 and/or do business there, or who pass through.

24 Next slide.

25 In it's latest submission, the Applicant claims



1 that the grounds have been poorly maintained and are in a  
2 dilapidated state, the inference, as I take it, that the  
3 Applicant is saying Holley Block is not worth saving.  
4 It's not worth it. There are two responses to that.  
5 First, the Applicant's view of the current condition of  
6 the park is not relevant to the fact that Bicentennial  
7 Park is on the National Register and exists for the  
8 public trust. And under Section 22a-19, the developer  
9 doesn't get to make the unilateral determination of  
10 whether a natural resource should be destroyed because it  
11 thinks it could be in better shape. Under 22a-19 that  
12 determination is up to this Commission. You have to  
13 follow the statute, determine whether the conduct is  
14 going to impair or, in this case, destroy an historic  
15 recourse; and then go on to consider feasible and prudent  
16 alternatives.

17 So, the notion that because there may be a few  
18 benches that are in disrepair is completely irrelevant to  
19 the task that the Commission has in front of it. In our  
20 view, Mr. Chairman.

21 Next slide.

22 So, to sum up the history, Mr. Chairman, we --  
23 this history demonstrates, in our view, two things: The  
24 purpose of Bicentennial Park is one, to preserve the  
25 historic integrity and sweeping views of the district

1 through it's open area and central location. That's why  
2 the parking spaces are important to that. The parking  
3 spaces preserve the open designation and the ability to  
4 people, for example, if you are on Millerton Road looking  
5 south to see through and see across to the Grove and  
6 Furnace Park. And that's part of why this was placed on  
7 the National Register. So, it's the parking is an  
8 integral component of why this is an important district.

9           And second, the purpose of Bicentennial Park,  
10 at least since the '80s, is to provide needed parking  
11 spaces for the surrounding properties. To provide  
12 parking safely off the adjoining public roadways. So,  
13 there are two separate but complimentary public purposes  
14 which we ask the Commission to keep in mind as it  
15 considers this application.

16           Next slide.

17           So again, to summarize our arguments. Under  
18 22a-19 we've demonstrated that the activity is reasonably  
19 likely to unreasonably impair or destroy the historic  
20 resources of the State and we made at least and will  
21 make, through Mr. Miller, a prima facie showing that  
22 feasible prudent alternatives exist. And well get on to  
23 the other argument in a little bit about the failure to  
24 comply with the regulations.

25           Next slide.

1           Page 12, again I just quoted the statute again  
2   and just I wanted to reference the Commission's attention  
3   again to the United Progress case, the Stonington case  
4   which we cited in other intervention petition which makes  
5   clear that the protection of historic resources and  
6   character is within the scope of the natural resource  
7   with which 22a-19 is designed to protect from  
8   unreasonable destruction or impairment.

9           Next slide.

10           We believe that the -- as I said, the  
11   destruction -- it's hard to imagine a more classical  
12   example of impairment than destruction of a resource.  
13   And as Rachel Carley said in her initial report and in  
14   which she'll follow up at the next hearing session, the  
15   proposed apartment building is a massive three and a half  
16   story structure that is neither in keeping with, nor of a  
17   design that compliments the existing character of its  
18   neighborhood.

19           One of the arguments -- well again, on the next  
20   page, we are just reciting the standards. And I just  
21   wanted to point out that the terms, feasible and prudent,  
22   are defined by statute. Feasible basically means can you  
23   do it consistent with sound engineering practices.  
24   Prudent addresses the cost. And I think that the  
25   important excerpt from the definition of prudent is that

1 cost may be considered in deciding what is prudent and  
2 further provided that a mere showing of expense will not  
3 necessarily mean an alternative is imprudent.

4           So, with those standards in mind, Mr. Chairman,  
5 I would like to introduce Mr. Brian Miller at this point.  
6 I would first ask him if he can just summarize his  
7 credentials and he's going to take over the presentation  
8 for the next few pages.

9           MR. MILLER: Thank you, Attorney Casagrande.  
10 My name is Brian Miller and I'm an American Institute  
11 certified -- Planner certified. I've been a planner for  
12 approximately little over 40 years now. Of that I think  
13 the last 33 have been here in Connecticut. I've worked  
14 for many municipalities. So, I've been on both sides of  
15 the table, so-to-speak.

16           I was a member of the housing authority of the  
17 town of Cheshire, Connecticut. I was also part of the  
18 second Governor's Blue Ribbon Commission on affordable  
19 housing.

20           And I want to state that I am by no means an  
21 opponent of affordable housing. I have worked on  
22 affordable housing plans. I have worked with people to  
23 promote the development of affordable housing. But I  
24 think it's a question of what is the best use and the  
25 best situation and has the whole community improved.

1 That is why I'm here.

2 If we can go to the next slide, please.

3 As the Attorney Casagrande has stated, there's  
4 two separate and distinct but related parts of my  
5 analysis. And in my report I started with the impacts on  
6 Lakeville Village businesses. But, in this presentation,  
7 I'm going to start with the affordable housing.

8 I was asked to determine whether other sites  
9 that were discussed within the affordable housing plan  
10 could be more beneficial development than the subject  
11 site. And I looked at some of the alternatives of  
12 affordable housing as discussed in this affordable  
13 housing plan. I would also like to comment that this  
14 affordable housing plan was a terrific -- it was a very  
15 good way that has -- I guess, a model for municipalities  
16 to kind of take the reigns and to promote the development  
17 of affordable housing. And hear a lot of discussion of  
18 that over the recent month or two in Hartford and in  
19 other communities. And many communities have been  
20 negligent in their response. So, I certainly was very  
21 happy to see how that the Town of Salisbury has really  
22 taken an affirmative approach.

23 So, my comments are in respect to how that  
24 affordable housing plan is put together and operates.

25 Now, the Commission -- this was back in 2018,

1 so, it's a recent document. And it included 7 sites.  
2 And I think you all know that. Holley Block, the Pope  
3 property site, the East Railroad site, the Cherry Street  
4 site, Grove Street, Millerton Road and the Saram Village  
5 Road.

6 Next please.

7 All these sites have been determined to be  
8 potentially suitable for affordable housing. And that  
9 potentially suitable is important because any sort of  
10 development activity or a site analysis requires several  
11 different levels of analysis. And you certainly started  
12 with a one, whether one it was under the control of the  
13 community and secondly, you know, what were the  
14 physical -- basic physical characteristics of it.

15 And so, I went through your report and did some  
16 more minor research. I don't want to portray that it was  
17 a total -- a site analysis, a total site analysis; but I  
18 did use what you put together as well as some other  
19 available information. And we ended up discussing two  
20 sites as discussed here. One is the Pope property, which  
21 I think you are all familiar with, and the other was 414  
22 Millerton Road.

23 Next.

24 You can see how this is -- this was kind of a  
25 synopsis of those two properties. And it is in report

1 that I submitted. But we look at, again, the same things  
2 that you looked at and we certainly found that these --  
3 both these properties were potentially suitable. They  
4 probably reach different types of market segments, but  
5 they are both potentially suitable and certainly worthy  
6 of more increased scrutiny as the town moves forward on  
7 this process.

8 Next, please.

9 Pope property, as you could see here, one of  
10 the distinctive advantages of this property is it  
11 actually within walking distance of Salisbury Village.  
12 I'm going to talk about the whole walkability issue in a  
13 little while, but the Salisbury Village actually has a  
14 greater range of services that would be useful to people  
15 who are residents, including a supermarket and a  
16 pharmacy. And as well as a library and all these other  
17 community assets that really enhance the quality of life  
18 for the residents. The services available within  
19 Lakeville are more limited. So, from a perspective of  
20 where you want to establish a residential community,  
21 certainly this one has a lot of advantages.

22 The estimate is that it includes about 20 acres  
23 of developable property.

24 There's wet land, of course, and it has access  
25 to public utilities. The other thing I think about this

1 site is that it is -- it can be conducive to incremental  
2 development. The projection was that there would be many  
3 units here. But it certainly could start with eight  
4 units. And also, I would suggest that a master planning  
5 effort might be appropriate as you kind of scope out the  
6 best way that you can create a little community here.

7 Next, please.

8 Now the Millerton -- 414 Millerton Road. It's  
9 near the town boundary. It's obviously -- it on a busy  
10 street, but it certainly has good access. It's not  
11 really -- it not walkable to any community, but it does  
12 have certain facilities in place. There's a building  
13 that's already residential. There's some potential for  
14 expanding more units there. And it is on a large piece  
15 of property. It's also, when we talk about access and  
16 convenient access.

17 We also recognize that -- I think when you find  
18 a rural community such as yours, most people need some  
19 access to some vehicle because getting around without a  
20 vehicle, there's -- mass transit is non-existent. Unless  
21 you're really within walking distance, if you live on --  
22 if you have the other -- my other section in there, you  
23 could potentially live and work in Salisbury Village.  
24 This one would probably dictate to more like the younger  
25 group who would enjoy very quick access into the village



1 and to Millerton, New York.

2 So, I think what -- my purposes in doing that  
3 is to -- was to suggest certain feasible alternatives.  
4 And the next -- when I'm brought back in a few minutes, I  
5 guess I'll discuss a little bit more on the impacts on  
6 Lakeville Village. Thank you.

7 MR. CASAGRANDE: Thanks Brian. Next -- yeah.

8 Before closing on the 22A-19 issue, I just want  
9 to bring up an argument that I think the Applicant either  
10 has made or will make and that the going to be that it  
11 already has sunk \$275,000 in debt into this project on  
12 pre-development costs and it not going to be able to  
13 recoup those costs. And therefore the argument would go  
14 the subject proposal is the only feasible and prudent  
15 alternative.

16 Our response to that is pre-development cost,  
17 in and of themselves, do not render the Holley Place site  
18 the only prudent alternative. If that were the case, if  
19 that were the law that the Applicant can simply point to  
20 it pre-development costs and say I can't do anything else  
21 because I've already sunk all this money into it, then  
22 every Applicant will be able to defeat a Section 22A-19  
23 application by saying I've already incurred  
24 predevelopment cost. That would turn the purpose of the  
25 statute on its head in our view. Remember this is a

1 remedial statute which is intended to protect the  
2 critical resources of the State.

3           The Applicant respectfully knew or should have  
4 known that when it made this application for this site in  
5 the middle of an historic district, that a 22a-19  
6 application might be filed, and that the Commission would  
7 have to consider the standards under that application.  
8 So, the mere fact that they've incurred these cost we  
9 believe is irrelevant. And again, under the statute, the  
10 mere showing of an expense does not establish that an  
11 alternative is feasible or unfeasible.

12           The relevant inquiry in our view is for the  
13 Commission to compare and require the Applicants to  
14 compare the relative costs of building a similar facility  
15 on the alternate sites; and I dare say without the severe  
16 physical restraints of this site, forcing elevator,  
17 underground parking, to building a site -- a 12-unit site  
18 on these other relatively open and unencumbered sites.

19           The next slide, please.

20           Our next -- our second point is that the  
21 Applicant has failed to meet the requirements of the  
22 technical requirements of many sections of the Salisbury  
23 zoning regulations.

24           And at this point, I would like to introduce  
25 Dainius Virbickas. Mr. Virbickas is a licensed

1 Professional Engineer with Artel Engineering in  
2 Brookfield. He has been advising municipal planning  
3 commissions and private clients in land use applications  
4 for many, many years. I also would point out that he's a  
5 former member of the Bridgewater Zoning Commission and  
6 served as its chairman for three years. With that, I  
7 will turn over Mr. Virbickas.

8 MR. VIRBICKAS: Good evening. For the record,  
9 Dainius Virbickas, Professional Engineer in Brookfield,  
10 Connecticut. I've been practicing this fine art of  
11 engineering for 35 years, primarily in Connecticut but  
12 also I've worked in Maine, New York, Virginia and other  
13 locals. And I, too, as Mr. Miller had -- have worked  
14 both side of the fence, so-to-speak. We -- and our firm  
15 have been successful with many multi-family developments  
16 including affordable housing and we have also worked from  
17 the opposite side. But not so much on the opposite side.

18 But what I've been asked to do is to take a  
19 look at the drawings and plan sets submitted and  
20 primarily look at it as a review. And you know, first we  
21 looked at the regulations and noted that the property is  
22 located in the CG-20 district as well as the Pocketknife  
23 Square Overlay District. And also encumbered by the  
24 Aquifer Protection Overlay District.

25 And in our review of this application with

1 respect to the zoning regulations, we noted quite a few  
2 deficiencies in the application, things that should  
3 normally be submitted with such an application and I  
4 would like to point some of those out and then I would  
5 also -- as noted in my upcoming outline, but I would also  
6 like to jump a little bit into some other elements that  
7 did not make it into my zoning points but I think are  
8 relevant as well.

9           So next -- sorry, there it is.

10           Section 800.2 states that a special permit  
11 application shall be accompanied by a site plan where  
12 necessary to determine conformity with these regulations.  
13 And Section 800.3 states that the design layout,  
14 computations and plans showing existing and proposed  
15 drainage a patterns, construction storm drainage  
16 improvements, driveways, access ways, parking areas,  
17 loading areas and other site improvements shall be  
18 prepared by a Connecticut registered engineer. I don't  
19 know that that the necessarily the case. I did not see  
20 certifications such as that. I also didn't see any  
21 accompanying engineering reports that would come with  
22 such an application.

23           Normally, we do include information as to  
24 drainage and other utilities that are available. We  
25 oftentimes seek approval or sign off from the local sewer

1 authority to make sure there is capacity in the plant.

2 We also reach out to the water purveyors to make certain  
3 there's adequate pressure and volume of water for the  
4 proposed use, as well as for fire fighting purposes.

5 We note that this building, it's stated that it  
6 is going to be sprinklered, so it's important, again, to  
7 make sure the pressures are there and the volumes are  
8 there as to what might be expected to help protect such a  
9 building.

10 Section 801.5 states that, amongst other  
11 things, drainage impounding areas shall be utilized to  
12 infiltrate water on the site through natural percolation  
13 to a degree equivalent to that existing prior to the  
14 development. You know, it was stated two different ways  
15 and I'll bring on a third one, the first way it was noted  
16 that when the building was present, well, the coverage  
17 was 90. whatever percent. And then, as it exists with  
18 the park above and the parking area below, I think it was  
19 stated to be around 68 or 69 percent impervious. But we  
20 could also interpret that regulation to state, well,  
21 maybe existing prior to development; meaning what was  
22 it's natural state. And perhaps that's a little far  
23 reaching, but I think it should be -- storm water should  
24 be considered. And when you have an opportunity to make  
25 things better or improvements, I think it should be done

1 and I think that's the spirit of any intent of the  
2 regulation.

3 Section 601.3 states that before any special  
4 permit for excavation, filling and grading may be  
5 granted, a written application shall be submitted to the  
6 Commission by the property owner, and it goes to state  
7 further that the plans should be prepared by an engineer  
8 or a registered land surveyor licensed to practice in the  
9 State of Connecticut.

10 In this particular instance, based on the  
11 existing topographic information provided by the survey  
12 and the elevations that are proposed for the development  
13 of the property, it is pretty clear that the excavation  
14 will exceed 250 cubic yards of material from the site.  
15 And that, in and of itself, should have been part of the  
16 application, but I see no reference to it anywhere in  
17 this -- in the documents.

18 Next slide, please.

19 Section 602 states that a storm water  
20 management plan shall be required and it lists the zones,  
21 including CG-20, for any site plan where a total  
22 impervious surface on the lot is greater than 20 percent.  
23 And then further, the plan shall be designed to maintain  
24 hydrology of existing subwater sheds including wetlands  
25 and water courses. Well, there are no wetland and water

1 courses, but this site, in and of itself, is a water  
2 shed. And again, there should be certain provisions made  
3 to manage and/or facilitate the storm water runoff  
4 anticipated from the site. And perfect opportunity to  
5 clarify some of that water and help keep that pond and  
6 the lake in pristine condition.

7 Section 300.3. Now this is the bulk  
8 regulations. It requires a 20 foot front yard set back  
9 in the CG-20 zoning district. There are provisions for  
10 the Pocketknife Square District to have a little bit of  
11 leniency in those front yard setback requirements; and  
12 that's to -- I believe to form a building wall,  
13 so-to-speak, along the street frontage. Which I  
14 understand on Holley -- excuse me, on Millerton, Route  
15 44, that liberty was taken and the front of the building  
16 is I believe less than a foot to the front property line.

17 On the Holley Street side, though, there is no  
18 building that is really closer than 20 feet, aside from a  
19 small segment of the adjoining building. That -- again,  
20 it's closer than 20 feet and yet in this application, the  
21 building is proposed to be 9.48 feet from the front yard  
22 setback. This is not compliant with the zoning  
23 regulations and should the Applicant wish to have that  
24 front yard setback relaxed, one would have to take a trip  
25 to the Zoning Board of Appeals to request that.

1           Section 700.3 of the zoning regulation the  
2 maximum drive grade shall be 18 percent. And as  
3 proposed, along that right of way easement on the right  
4 side of the driveway there's a short segment that as  
5 shown on the plan is about 20 to 25 percent in grade.  
6 Rather abrupt. And under existing conditions that grade  
7 also exists and I guess people have been negotiating it  
8 for a while. But now we're proposing to put a structure  
9 above that I'm going to call it pinch point or steep  
10 section of the driveway. And when measuring the  
11 underside of the building as shown on the drawings in  
12 relation to the ground elevation that's proposed, there  
13 will only be about seven and a half feet of clearance  
14 between the surface of the driveway and the underside of  
15 the building at that corner.

16           It might be sufficient for many cars, but not  
17 all. And similarly, at the east end of that overhang of  
18 the building over the top of the drive, clearance is  
19 about 9 feet as proposed and again, that would be  
20 suitable for many vehicles, but not all.

21           And I note that most of your delivery trucks,  
22 UPS, Fed Ex and the like are all about 11 feet tall.  
23 Your emergency response vehicles that would be coming to  
24 the seat are all in excess of those clearances that have  
25 been provided on this plan and it makes for a dangerous



1 situation at best. Especially, for someone that's not  
2 accustomed to going to the site or good behind a wheel.

3 Section 801.10 refers to natural and historical  
4 resources. And again, the site -- it states that the  
5 site plan shall be designed to minimize any damage or  
6 destruction, locally significant natural or historical  
7 resources. And a proposed application proposes removal  
8 of an historic wall. I suspect that it was preserved as  
9 a reminder as to the significance in this municipality  
10 and the plan proposes its removal or covering of it. I'm  
11 not really sure. It doesn't really show quite clearly on  
12 the plans.

13 Next slide, please.

14 So, the next slides, what we did is we spoke  
15 with the local fire marshal just to inquire about what  
16 types of vehicles would need access to the site and how  
17 they might manage and so on. In a typical fire response  
18 or emergency response vehicles are a bit smaller than  
19 what is shown, but what we were told is that in a  
20 situation where there may be an attic fire or some need  
21 to get to the upper level of the building, the fire  
22 responders or emergency responders would bring a ladder  
23 truck to the side. Local fire response does not have a  
24 ladder truck. So, they would reach out to Sharon or to  
25 Canaan who would bring their vehicles to the site. And

1 we looked at the site from all sides on trying to enter  
2 in. This first slide shows the attempt to enter into the  
3 rear of the site coming a southbound direction down  
4 Holley Street. And you'll note on the drawing there are  
5 little red dots or little cartoon splashes. Basically  
6 that indicates where this emergency vehicle would have  
7 impact or interference with existing elements on the  
8 site. So, there would be first an impact possibly on the  
9 building corner itself, up above. Not the superstructure  
10 itself, down below, but the floor that hangs above. And  
11 then along the southern edges or excuse me the northern  
12 tips of those parking spaces, if there are vehicles  
13 there, they certainly will all get clipped by a truck  
14 trying to come down Holley Street and turn in taking a  
15 right turn into the site.

16 At the far west end of the site we have a  
17 couple more stars. And those were in an attempt to  
18 navigate this ladder struck around the site. In further  
19 speaking today with the fire marshal he had indicated  
20 that there was no need to get truck around the site, just  
21 into the site. So, those last two stars really don't  
22 mean anything. But the rest of them mean impact.

23 Next slide, please.

24 So, this slide now contemplates coming into the  
25 site in a northerly direct of Holley Street and again,

1 similar to the prior drawing shows instances where we  
2 will have challenges coming into the site from Holley  
3 Street to the rear of the lot. Again, we have impacts to  
4 the curving to vehicles and to the building corner as  
5 well.

6 Next slide.

7 This slide contemplates fire truck or ladder  
8 truck coming in a westbound direction and swinging into  
9 the site -- or attempting to swing into the site to get  
10 to that right of way drive. Which I'm not sure --  
11 because it's not specified, even on the updated drawings,  
12 which direction that drive is meant to serve. It's not  
13 wide enough for two directional travel, so we're assuming  
14 an emergency -- fire truck may likely come down that  
15 drive. And that first star or impact point you see at  
16 the edge of Millerton Road is that utility pole that was  
17 added to the architectural renderings earlier -- the  
18 existing utility pole and right smack in the way of an  
19 energy response vehicle trying to negotiate that turn in.

20 Similarly, the next star down is the bit of  
21 wall and/or walk that's proposed on that side. And then  
22 as we go further down the drive, we, in trying to swing  
23 the turn, again, we will likely not need to swing the  
24 turn as was described. But should they need, they would  
25 likely graze the adjoining building and then probably

1     come to a complete stop trying to negotiate under the  
2     overhang of the building. But if it does make it  
3     through, basically every car that would be parked in the  
4     parking lot would be impacted by this maneuver.

5             Next slide, please.

6             And, once again, we're trying to now come in an  
7     eastbound direction from Millerton Road to the site. And  
8     again, we're showing what might happen should the fire  
9     truck try to enter in on that side. And again, we're  
10    impacting the utility pole, the next -- the building next  
11    door, the retaining wall and walkway that is alongside of  
12    the building. And, once again, if the truck were to  
13    continue on to try an get out would impact every vehicle  
14    that is parked out on the site and tried to swing back  
15    out on to Holley Street to go in a northbound direction,  
16    might hit the building across the way and certainly  
17    bounce over the sidewalk of that street.

18            And we can leave that screen on just for now.

19            We did, again, speak with fire marshal today as  
20    during my usual conversation, he wasn't certain of the  
21    size or dimensions of the Sharon response vehicle which  
22    just so happens they list all their vehicles on the  
23    Sharon fire department website. So, that's where we took  
24    the template from.

25            But the fire marshal had noted today that the

1 largest vehicle is about 30 feet long. So, we took the  
2 liberty -- and I don't have slides to share but I'm  
3 certainly happy to submit them -- but also looking at  
4 what we call an SU 30, single unit 30 foot long box truck  
5 which is the UPS, Fed Ex delivery truck, emergency  
6 response, sometimes ambulances are this size. We took a  
7 peek at those turning maneuvers and similar to the fire  
8 truck, we do have points of impact or points where even  
9 delivery trucks cannot make it around the site without  
10 hitting bits of the building or bits of the cars or  
11 retaining walls or what have you depending on which  
12 direction they so choose to come into the site.

13 So, I think there needs to be little bit more  
14 design thought process in this building layout, itself.  
15 Just to get typical trucks into the site, let alone  
16 emergency response vehicles.

17 One other item that I wanted to bring in and I  
18 don't have it in my cheat sheet on the screen. Two  
19 items: Number 1, in looking at the architectural  
20 drawings, I noted that on the main level that, in  
21 addition to three residential units, there was also space  
22 contemplated for office area, lounge area, looks like  
23 there's a little kitchenette, the refrigerator, looks  
24 like burners, a dishwasher, a sink. There are also  
25 public bathrooms on that main level as well as janitorial

1 closets. So, I'm assuming that, even though these are  
2 apartments, there may be residents or certainly staff  
3 that will be present at this site or some sort of office  
4 type of things happening in the conference room or a  
5 lounge area. I just was wondering if we might be able to  
6 get some clarification on that. What the intent is. How  
7 many employees might be occupying the building at any  
8 given time or how many parking spaces might be utilized.

9           And one other thing that I wanted to note was  
10 that we looked at the density that is proposed and the  
11 Pocketknife Square District is pretty lenient, it seems,  
12 with respect to parking. It allows up to 16 units be  
13 contemplated per acre of land available and we have 3/10s  
14 of an acre. So, it's a bit more densely developed  
15 proposed development than that. And the regulation does  
16 allow for consideration of additional density should  
17 these unit all be -- you know, should more than the 50  
18 percentile of units be affordable. In this instance, I  
19 guess all units are proposed to be affordable. But if we  
20 contemplate that density and convert it to what the  
21 density is proposed versus what the regulation, I think,  
22 originally contemplated, the Applicant is looking to put  
23 a density of over 38 units per acre or the equivalent of  
24 38 units per acre which, I think -- I'm not sure if  
25 that's what the -- was the desired intent of the zoning

1 regulations, but just the same, that is what the  
2 resultant concentration would be. And the regulations  
3 ask that you consider concentration of population as part  
4 of the special permit considerations.

5 I did submit a rather lengthy letter for the  
6 record so the Applicant can review and respond to  
7 whatever degree desired. I'm here happy to answer any  
8 questions that anyone might have.

9 And I'll, at this point, turn back over to  
10 Attorney Casagrande.

11 MR. CASAGRANDE: Thank you, Mr. Virbickas. I  
12 just one point before we move on from this, members of  
13 the Commission, is, in this case, it's stated in our  
14 position statement. It's the MacKenzie case by the  
15 appellate Court back in 2013. What MacKenzie says is  
16 that a Commission is powerless to grant a special permit  
17 application when the application does not meet all  
18 pertinent technical requirements for a site plan  
19 approval. So, if you go through Mr. Virbickas's  
20 testimony, if even you disagree with him on every one of  
21 them except one, the Commission under MacKenzie has no  
22 power to grant the special permit. And that's why, as  
23 Mr. Virbickas said, to the extent that the Applicant  
24 wants to bury more and more of those technical  
25 requirements, the appropriate avenue would be to go to

1 the ZBA.

2           So, moving on to our last point. As we say in  
3 the position statement, the project does not comply with  
4 the general standards for review of special permit. The  
5 suitability, compatibility, property value standards.  
6 And there is a case and there's probably no two lawyers  
7 in the State of Connecticut that are more familiar with  
8 this case than Chuck Andres and I, because we're  
9 litigating it's affect in the Supreme Court now, but it's  
10 the St. Joseph's High School case from 2017. And what  
11 that case says is that a Zoning Commission made deny  
12 special permit application for failure to comply with the  
13 general public health safety and welfare standards in the  
14 regulations even when the application meets all the  
15 technical requirements. So, even if Mr. Virbickas's  
16 report is totally wrong and it meets all the technical  
17 requirements, which we believe he's proved to you that  
18 they do not, you still have the power and the authority  
19 to deny the application because of failure to comply with  
20 the general special permit standards.

21           And lastly, I didn't put this in the Power  
22 Point, but I think it's important to remember. On page  
23 10 of the position statement there's a case that's by one  
24 of the state's most respected land use judges, Judge  
25 Marshall Berger, and he has said in several cases that



1 what the Commission has to keep in mind, especially in  
2 controversial cases like this, is that zoning is not to  
3 be based on a plebiscite of the neighbors. In other  
4 words, the issue is not how many people vocally speak out  
5 in favor of it, how many petition are signed opposed to  
6 it, in favor of it. The mandate -- the perceived mandate  
7 or will of the community is not the issue before the  
8 Commission. The issue before the Commission is to look  
9 at the application and after calm and deliberate  
10 consideration determine whether it complies with the  
11 general standards and what is in the best interest of the  
12 community. Not the asserted will of people who may be  
13 vocally for or against it.

14 So, next slide, please.

15 What I did here is -- and I'm not going to  
16 belabor this, just cite section 802.1 of the regulations  
17 which requires the Commission to assess, among other  
18 things, the structures, buildings and the impact of the  
19 uses upon the environment, health, safety, welfare and  
20 convenience of the members of the community. And  
21 Commission also must ensure that the design and layout of  
22 the project will be -- will constitute suitable and  
23 appropriate development in character with the  
24 neighborhood. In character with the neighborhood. And  
25 will not result in unreasonable decrease in property

1 values or a detriment to the present and potential use of  
2 the area in which it is to be located. We think those  
3 standards are directly on point here.

4 The other thing I'll point out is it's not the  
5 Intervenor's burden to show that the application does not  
6 comply. It's the Applicant's burden to show that its  
7 application complies with all applicable requirements  
8 including the general standards.

9 Next slide.

10 It's our position, and again, I won't belabor  
11 the position statement that the Applicant fails to meet  
12 these general statements for several reasons. One, the  
13 Carley report and again, she'll be with us next time.  
14 The proposed mass of scale of the building that is  
15 neither in keeping with or of a design that complements  
16 the existing character of the neighborhood.

17 Second, and this is where I want to turn it  
18 over again to Mr. Miller, part 2 of his report discusses  
19 the effect of converting Bicentennial Park to a proposed  
20 apartment building on the surrounding businesses. The  
21 immediately surrounding properties. With that, I'll turn  
22 it over to Mr. Miller one more time.

23 MR. MILLER: Thank you, again, Mr. Casagrande.  
24 This was the -- actually, the report that I was  
25 originally asked to assess upon and when I was asked by

1 Mr. Casagrande to work with him, I was asking what the  
2 specific reasons were for opposition to this affordable  
3 housing development. I don't -- I think many affordable  
4 housing developments are just opposed because, well, it's  
5 too big or we don't -- you know, too much kids in the  
6 school or some reason that I don't consider defensible.

7 But when we talk -- when he explained to me and  
8 I had an opportunity to look at this, I have to say a  
9 rather unique parking situation here, I came to  
10 understand what the possible full impact might be of this  
11 proposed development.

12 Can you hit the next slide. Thanks.

13 First of all, the -- your plan of conservation  
14 development does recognize the importance of Lakeville  
15 Village along with the other village areas of the  
16 community and when you're talking about a village, that  
17 basically goes back well into 19th century, perhaps the  
18 18th Century. I'm not the historian here. But it's the  
19 ecology, the context of the uses there are very important  
20 to maintain and enhance its suitability, its  
21 sustainability, its role in the community. So, you're  
22 not -- the choice of the context, the planning for the  
23 context for the use of the site becomes much more  
24 important than if you're talking about just a  
25 conventional residential development or industrial park.

1 And it's based on that assumption that I wanted to look  
2 at this.

3           Particularly mixed use centers where you can't  
4 just determine suitability based on whether one use is  
5 like another one. The other interesting thing about this  
6 is that most of the time when I'm asked to comment upon  
7 the suitability of a new use, it's a use that basically  
8 either it was just natural site or it was -- basically,  
9 it was unused or it was of he its use was decrepit or no  
10 longer viable. In this case, there was a weighting of  
11 the uses. It's not unused. It a place for parking and  
12 other similar uses. It actually has become very  
13 important to other uses in the area. I'll get to that in  
14 a second.

15           Next, please.

16           Before I get -- go exactly into that, this  
17 whole issue of walkability I find very interesting. It  
18 was never -- if you go with back 10 or 15 year before,  
19 most people don't really talk about it very much. You  
20 know, why do I care if it's walkable. I have a couple  
21 cars. I think we've all -- in the planning profession in  
22 particular, it has all become more cognizant of the  
23 importance of the proximity to other uses in community  
24 planning. Particularly a vibrant, historic, interesting  
25 mixed use area like Lakeville Village.

1           Walkability is -- it's even made its way into  
2 the commercial sector when you're looking at house  
3 listings on some of the services like, I believe  
4 Realtor.Com and Zillow and those type of places, they  
5 often inject a walkability score. And actually there's a  
6 website that I credit in my report, Walkscore.Com, and  
7 I'm not saying it's invincible, but it does give you a  
8 little bit of idea based upon the proximity, the services  
9 that are within that proximity, the walking facilities  
10 such as sidewalks, so you don't have to walk along a road  
11 with too much traffic. And so, just because it's near  
12 something doesn't mean there's a walk -- high walkability  
13 index.

14           Interestingly enough, its based on one to 100.  
15 100 living right in Manhattan, you walk out and within  
16 two blocks of your -- there's all the things could you  
17 possibly want. Zero is you're living out where you have  
18 to get -- use an automobile for every trip.

19           I went to the site and I pushed in this 11  
20 Holley Street and I actually came up with a 32, which  
21 actually means it's car dependent. I actually thought it  
22 might higher than that. So, the walkability, I think  
23 what the take away on this thing is that the site,  
24 itself, still requires automobile ownership by the  
25 residents there.

1           Now, the other thing about the proximity of  
2 uses and walkability, the other concept of it, is the  
3 need for parking and sites that are walkable to a main  
4 use of a site. So, you know, typically, when we have  
5 parking lots, they are right -- we do in suburban or  
6 rural context, they are right there. So, there's plenty  
7 of places for the employees to park, there's plenty of  
8 place for the patrons to park, there's plenty of room for  
9 deliveries and all sorts of the accessory-type activities  
10 associated with this business. And you don't -- can't  
11 get too far away. You can't have a loading area that's  
12 500 feet away. And you can't even have parking for users  
13 in most situations that's more than maybe 2 or 300 feet  
14 away. And that becomes important. And it is an issue  
15 now in this -- on this piece of property.

16           Next, please. As it turns out that there are  
17 several neighboring commercial business and residential  
18 properties adjacent to this site are dependent on this  
19 site for using it for a number of reasons including  
20 parking, loading, parking for the patrons. There's  
21 tenants there. Residential tenants that have  
22 historically parked there. Now, the legality of their  
23 use is not -- I'm not an attorney and I think you  
24 probably heard some testimony on that. One of the uses,  
25 actually, was the legality of its use was enshrined

1 actually by this Commission when it was used to satisfy  
2 the parking requirements for a special permit  
3 application.

4 Now, what happens to that special permit  
5 application? Does it become non-conforming? There's  
6 been other cases where zoning permits have been issued  
7 over the years again based upon that this parking was  
8 used as an accessory -- necessary accessory use to meet  
9 the parking requirements of these other uses. So, that's  
10 a legal issue.

11 Now, next, please.

12 So, the need for proximity of parking area  
13 serving businesses is incredibly important. Areas for  
14 loading, as I just suggested, residential tenants; and at  
15 this site, happens to be used by at least four  
16 business -- four commercial sites for one reason or  
17 another.

18 Now, what we -- and I -- what we did here is we  
19 took -- we spoke to the owner, the relevant owners there,  
20 but we also kind of did a little exercise. If parking  
21 requirements were needed for the uses within these  
22 properties, neighbors properties along Millerton Road as  
23 well as the property to the south on Holley Street, the  
24 furniture store, then you could see that there would be a  
25 requirement for 86 spots. Now obviously, there's not --

1 there's 20 spaces there now. But even that the, quote,  
2 rights of the property over some sort of satellite  
3 property -- parking, not necessarily on this site, as you  
4 can see by the next column which goes up to the Holley  
5 Street property requires a lot of parking due to its size  
6 and the nature of its uses, but there's a total of 25  
7 owners that are counting on the use of this property --  
8 25 spaces of the use of this property. And then you have  
9 the deficit for the local businesses. You know, simple  
10 subtraction 86 minus 25, there's a deficit of 61 parking  
11 spaces now in that area.

12 Now, you know, it could be argued that that  
13 doesn't account for different periods of uses. And I  
14 agree with that. I understand that. And I don't know  
15 what the exact use deficit would be. But it certainly is  
16 a deficit. And it certainly exhibits that the current  
17 businesses and residential uses, which I suspect are very  
18 affordable units, even though they're not officially  
19 designated as such, are relying on the parking for this.

20 So, okay, what happens if they lose this  
21 parking? What you've done is you've basically diminished  
22 the business viability, the viability of continuance of  
23 business of these particular commercial operations. You  
24 made it certainly more difficult for them to operate.  
25 The degree of difficulty I'm not able to discuss, but



1 there is an increased difficulty from the operation of  
2 these uses.

3 So, potentially, once you increase the  
4 difficulty, difficulty equates cost of operation or  
5 diminishing on where patrons could park. That site  
6 becomes less of a viable site. So, you do have the  
7 potential loss of certain businesses in Lakeville Village  
8 because of elimination of this parking area.

9 Now, when we talk about the whole viability of  
10 a very special area like your village center here, and  
11 other similar rural village centers, as I said, I use the  
12 word ecology. There's an interrelationship of how the  
13 different uses relate to each other. And how one use  
14 could have some unanticipated perhaps impacts upon the  
15 whole sustainability of the village. I suggest that this  
16 is one of those situations right now.

17 Any time you -- one of the sites, the ways to  
18 encourage a complete continued viability or increase the  
19 viability of these village areas is pay attention to the  
20 business component of it. That's what this -- this is  
21 a -- this village center has continuously had a very  
22 noticeable business component. And kind of -- if there's  
23 a reduction in that business viability, you're going to  
24 have less people working there, maybe less people going  
25 to the coffee shops there; and it could be something that

1 you end up with less than you started with.

2 One of the important -- as a planner, before I  
3 learned how to read site plans, I learned that, you know,  
4 that the context of these uses is important. And what  
5 you do not want to do is that you replace a use that  
6 actually has a benefit to the community with another use  
7 that detracts that benefit and you are likely to end up  
8 with a net negative on that. Again, I can't say that,  
9 you know, run the numbers on this. But there is a very,  
10 very significant chance that this will -- in fact, we  
11 know it going to hurt the business operations. And I  
12 think that, in itself, is a negative factor that would  
13 promote actually the consideration of other uses as this  
14 use is probably not all that beneficial to the community.

15 So, next.

16 I think I'm done here. Yes. That's it. Thank  
17 you. I believe Mr. Casagrande has more to say.

18 MR. CASAGRANDE: Thank you, Mr. Miller. Next  
19 slide, please.

20 I don't want to spend too much time on these  
21 following slides because I think Brian has covered a lot  
22 of it. But what we did is we focused in on the four  
23 businesses that are shown on this page: 20 Millerton,  
24 which is the RJS Holdings; 12 Millerton, which is Celeste  
25 Shannon; 22 Millerton, which is Judith Singelis; and 7

1 Holley Street which is the Lakeville Interiors.

2 Next slide.

3 What we did and again, just for the record, how  
4 did we compile this information? We talked to the four  
5 owners. They've all submitted affidavits -- actually,  
6 three of them, I should say, have submitted affidavits  
7 regarding what their current needs are, how often do they  
8 use Bicentennial Park. We checked them against the  
9 requirements of the regs and we also tried to check to  
10 see whether there was any deeded rights of any of these  
11 properties to other off-site parking so that that could  
12 be applied to meet their needs. And what this shows,  
13 again, Mr. Miller's slide already gets into this, but it  
14 could go to No. 3. The average number of spaces at  
15 Bicentennial Park regularly used by these businesses and  
16 there's actually a typo. Number C, 22 Millerton uses one  
17 to 3 spaces, not 3 spaces. 1 to 3 spaces.

18 But if you add up those spaces that these  
19 owners testify in their affidavits they regularly use on  
20 a daily basis, at least they're pre-COVID or non-COVID  
21 environment, the total number of those spaces is 12 to 16  
22 spaces on Bicentennial Park that these owners regularly  
23 use. You've heard the Applicant tonight say that they  
24 may decide that they're going to designate ten spaces.  
25 You heard Mr. Miller's point questioning -- or

1 Mr. Virbickas's point questioning whether there's going  
2 to be another space that's going to be needed by an  
3 employee. So, if you take the 12 space -- and forget  
4 about the fact that there's been no projections about  
5 tenants having more than one car, which I think is just  
6 common sense in this day and age. What this shows, and  
7 these affidavits show, is that 13 to 16 spaces are what  
8 is regularly used. What the Applicant is proposing falls  
9 far short of compensating or ameliorating the affects on  
10 these businesses.

11 Next slide.

12 Again, this is a re-do of Mr. Miller's slide so  
13 I won't belabor it.

14 Next slide.

15 And as Mr. Miller said and as we point out in  
16 the position paper, if you reduce or -- destroy or  
17 substantially reduce the number of spaces, it's our  
18 position, as a legal matter, that it's going to render  
19 those four properties more non-conforming and the --

20 There's one additional property that I haven't  
21 discussed yet and that's the Deano's Pizza property, at  
22 24 Millerton. That -- if you grant the special permit  
23 approval, that is going to render Deano's in violation of  
24 it's special permit approval it got back in 2006. And I  
25 would refer you to Attorney Capecelatro's letter, which

1 is Tab U to our portion statement. And what he does in  
2 that letter as to 24 Millerton, he goes through and he  
3 points out that the property got a special permit  
4 approved in 2006. The site plan which is attached to his  
5 letter that was approved by the Commission shows four  
6 on-site spaces and it shows satellite parking on Holley  
7 Block. It actually showed it shaded.

8 The special permit conditions says all parking  
9 by employees -- and I'm sorry, that's another typo. It's  
10 all parking by employees shall use satellite parking  
11 facilities. Clearly referring to the site plan that  
12 accompanied the special permit application.

13 Deano's Pizza business has three employees. If  
14 the satellite parking spaces are removed or no longer  
15 dedicated to those employees as a special permit  
16 condition requires, it's going to put him in violation of  
17 his special permit condition. As Attorney Capecelatro  
18 points out.

19 Next slide.

20 And again, it our position that the Commission  
21 has no authority to approve a special permit that would  
22 render the abutting properties non-conforming or in  
23 violation of it's zoning approval. I cite for that a  
24 case decided in 2014 by Judge Ozalis of the Superior  
25 Court, which I actually litigated. And, in that case,

1 the Applicant came in and wanted to put a transfer  
2 station on its property. And the site plan showed that  
3 in order to do that it would have to -- it would result  
4 in modifications to the approved site plan for an  
5 adjacent property and make that adjacent property,  
6 without those modifications, non-conforming. And the  
7 Court said that was a valid basis for denial of the  
8 application. You cannot approve a special permit that  
9 depends, for its validity, on rendering other properties,  
10 adjacent properties non-conforming. So, we believe  
11 that's a critical issue that, in itself, requires denial.

12 The last point I want to make, Mr. Chairman, is  
13 at the March 8th, 2021 hearing, the Applicant's traffic  
14 engineer, Mr. Balskus, said based on snapshots of  
15 Bicentennial Park that he took or had taken over a few  
16 days in October 2020, again, during the middle of the  
17 COVID lock down. He said he was, quote, confident that  
18 the parking needs of nearby businesses could be, quote,  
19 accommodated. I'm not aware that those are engineering  
20 terms. Confident is --

21 Let me just say this: I am not in any way  
22 attacking Mr. Balskus's integrity or his good faith.  
23 He's trying to do as good a job he can for his client.  
24 This is not intended as a slight to him. The but the  
25 facts are, there's no evidence that he contacted any of

1 these owners. Just picked up the phone and said, hey,  
2 how often do you use these spaces. No such evidence to  
3 that.

4 And let's contrast his assumption, his  
5 confidence that they could be accommodated, let's  
6 contrast that with the affidavits that we've submitted  
7 with the position statement, Tabs V, W and X. And I  
8 don't want to take up too much more of the Commission's  
9 time, but I do think it's important that salient  
10 provisions of these affidavits be read into the record.

11 Mr. Schaefer's affidavit, page 41: I've been  
12 the owner of 20 Millerton since 2019. I purchased the  
13 property because of the nearby parking spaces of  
14 Bicentennial Park provided a safe parking option for my  
15 commercial and residential tenants. My property has two,  
16 1-bedroom apartments and three commercial offices.  
17 Currently all four residential tenants and five employees  
18 of the three commercial tenants require parking, a total  
19 of nine vehicles. On average, there are about six  
20 vehicles of my residential and commercial tenants that  
21 are parked at Bicentennial Park. Six.

22 Two of my commercial tenants also have clients  
23 and guests that regularly come by the office and use the  
24 parking spaces at Bicentennial Park.

25 Next slide.

1           I spoke with two of my tenants, one residential  
2     tenant and one commercial tenant, and they both expressed  
3     that they would likely have to leave my property if they  
4     lose the parking spaces at Bicentennial Park. That's not  
5     conjecture, that's a fact.

6           There are no alternative parking options  
7     available around my building that can be conveniently  
8     utilized by my tenant in the event they lose the parking  
9     spaces at Bicentennial Park. My business is going to be  
10    adversely affected by, among other things, losing the  
11    parking spaces at Bicentennial Park as I cannot afford my  
12    mortgage without my tenants.

13           Next slide.

14           Compare the traffic engineer's assumption to  
15    the testimony of Ms. Shannon: I've been the owner of 12  
16    Millerton Road for not less than 4 years and prior to  
17    that, her deceased husband was the owner of 12 Millerton  
18    Road since 1977. My husband and I relied on the parking  
19    spaces available in Bicentennial Park when we purchased  
20    this property. The parking spaces at Bicentennial Park  
21    was one of the main considerations for the purchase. My  
22    property has four, 1-bedroom apartments and two  
23    commercial offices. At one point, I had several tenants  
24    in the apartment unit but currently, there's one tenant  
25    utilizes some parts of the apartment as her office. She



1 often had visitors come to her office before the COVID-19  
2 pandemic. Both my apartment tenant and her visitors  
3 utilize the parking spaces at Bicentennial Park.

4 One of my commercial tenants is Assured  
5 Partners. Assured Partners has been a tenant at 12  
6 Millerton Road for more than 30 years. It currently has  
7 six employees and they all use the parking spaces at  
8 Bicentennial Park.

9 Dennis Dressel, the agency president of Assured  
10 Partners previously wrote a letter to the Planning and  
11 Zoning Commission on October 6th, 2020, describing his  
12 concerns regarding the possibility of losing the parking  
13 spaces at Bicentennial Park.

14 My other commercial tenant is Aperture that has  
15 about one employee that currently parks at the parking  
16 spaces at Bicentennial Park.

17 On average, there are five to seven vehicles of  
18 my residential and commercial tenants that are parked on  
19 the parking spaces at Bicentennial Park.

20 There are no alternative parking options  
21 available around my building that can be conveniently  
22 utilized by my tenants in the event they lose the parking  
23 spaces at Bicentennial Park. In late 2017 or early 2018,  
24 I had a conversation with first Selectman Curtis Rand  
25 during the time the Town of Salisbury was in the process

1 of completing the crosswalk signaling and highway bump  
2 out on Route 44. When I expressed concern that the bump  
3 out would cost my business two on-site parking spaces,  
4 Mr. Rand countered by explaining to me that additional  
5 parking was available at Bicentennial Park.

6 I rely on rental income from this property to  
7 adequately maintain the building. This rental income  
8 will be compromised if my tenants are adversely affected  
9 by the loss of the parking spaces at Bicentennial Park.  
10 My business is going to be adversely affected by, among  
11 other things, losing the parking spaces at Bicentennial  
12 Park.

13 Lastly, compare the testimony of Judith  
14 Singelis: I've been the owner of 22 Millerton Road for  
15 not less than 18 years prior to the date of this  
16 affidavit. I've been operating my art gallery, Argazzi  
17 Art, from this property since 2003. Argazzi Art  
18 showcases, among other things, arts created by both  
19 emerging and established artists nationally and  
20 internationally recognized. I purchased this property  
21 because the nearby parking spaces at Bicentennial Park  
22 provided a safe parking option for my clients and guests.  
23 Parking for my business was a major consideration and I  
24 would not have purchased the building 18 years ago if  
25 there were no parking spaces available at Bicentennial

1 Park. My business uses the available parking spaces at  
2 Bicentennial Park on a daily basis. My business uses  
3 about one to three spaces at Bicentennial Park on average  
4 for my vehicle and vehicles that make delivery to my  
5 business.

6 I organize 3 to 4 receptions at my gallery, 6  
7 to 8 reception in some years. Each year hosting about 50  
8 people. At these receptions, I spend a lot of time and  
9 money putting together advertisements and sending out  
10 invitations for the receptions. I am not going to be  
11 able to host these receptions in the event that the  
12 Planning and Zoning Commission grants the application for  
13 a special permit because I will no longer be able to  
14 utilize the parking spaces at Bicentennial Park for my  
15 guests. There are already insufficient parking options  
16 in the area and the elimination of the parking spaces at  
17 Bicentennial Park is going to make it impossible to  
18 accommodate 50 guests at my receptions. This will have a  
19 real and devastating impact on my business.

20 Next slide. And lastly, I just refer you to  
21 the letter that Mr. Dressel submitted on March 15th.  
22 Again, he's the president of Assured Partners. As he  
23 said: We've recently been notified of a proposal to  
24 construct an affordable housing building using the  
25 current park and parking lot spaces which are correctly

1 across Holley Street from our office. This is already a  
2 congested area and we would lose parking spaces for our 6  
3 employees at that office when the parking lot is no  
4 longer available. I cannot think of another option for  
5 our employee parking.

6 So, in the final analysis, members of the  
7 Commission, whose testimony should be credited here? The  
8 confident opinion of the Applicant's traffic engineer who  
9 never spoke to any of these people and presumably has no  
10 knowledge of the history of parking at Bicentennial Park?  
11 Or sworn statements of nearby owners and tenants based on  
12 their firsthand knowledge, who depend on the continued  
13 availability of these spaces for their livelihoods.

14 Who are you going to credit? Intervenor's  
15 respectfully submit, members of the Commission, that the  
16 answer is clear.

17 Next slide.

18 For the foregoing reasons, Mr. Chairman,  
19 members of the Commission, I thank you for your time and  
20 your patience in this presentation. And we respectfully  
21 request the Commission to deny this special permit  
22 application. Thank you very much.

23 CHAIRMAN KLEMENS: Thank you, Mr. Casagrande.

24 We are now going to take a very brief five  
25 minute recess; and we will re-start this at 8:05. Give

1 everybody a chance to stretch their legs and whatever  
2 else. See you in five minutes.

3 (Whereby, a recess was taken.)

4 CHAIRMAN KLEMENS: Okay. I'm going to deviate  
5 a bit from the order and I'm going to let the Commission  
6 precede the Applicant in asking questions. Unless  
7 Attorney Smith objects?

8 MR. SMITH: No, sir. Actually, I thought you  
9 went first, which makes sense.

10 CHAIRMAN KLEMENS: No, actually, I go first,  
11 but I think there's a lot and some of the stuff I think  
12 they may ask may help you in your asking.

13 MR. SMITH: I agree.

14 CHAIRMAN KLEMENS: So, I'm going to start again  
15 with my first question: You referred several times to  
16 the Carley report. Is this the Carley report that  
17 preceded the previous -- that was associated with the  
18 previous building or is this a new report reflecting the  
19 architecture of the current building?

20 MR. CASAGRANDE: It's a -- Mr. Chairman, Dan  
21 Casagrande. Is my understanding it's a new report  
22 reflect her understanding of the current application.  
23 But it doesn't -- at the last hearing, there was a  
24 rendering of the new building and that is what she has  
25 not yet had a chance to address. So, that's why we need

1 to have her come back to address the new rendering that  
2 was presented on March 8th.

3 CHAIRMAN KLEMENS: Then basically, if she's not  
4 seen the rendering, the statements that were attributed  
5 to her this evening may not be the same after she looks  
6 at the rendering?

7 MR. CASAGRANDE: I would have to defer to her  
8 on that, Mr. Chairman. Although her statements regarding  
9 the -- well, no. I would to have defer to her on that.

10 CHAIRMAN KLEMENS: Thank you.

11 414 Millerton Road is one of the alternatives.  
12 Do you know where the metes and bounds of that lot are?  
13 You showed us an aerial but where is this four acres?

14 MR. MILLER: Mr. Chairman, I didn't put the  
15 metes and bounds on it, but we do have -- we can  
16 certainly make available an outline of the lot.

17 CHAIRMAN KLEMENS: Are you aware that the  
18 transfer station had to be moved to it's current location  
19 because there's the 300 foot restricted area around that  
20 wetland.

21 MR. MILLER: Yes.

22 CHAIRMAN KLEMENS: You're aware of that. Okay.

23 MR. MILLER: Yeah, yeah. And one of the --  
24 again, I didn't mean to, you know, say that we're  
25 prepared to do a site plan on that. But we're aware that

1 the wetland is there and that the existing building does  
2 have some possibility for additional tanks and there  
3 seems to be other room on that property that can support  
4 some level of development.

5 CHAIRMAN KLEMENS: Just to set the record  
6 straight about the Pope property. You're aware we no  
7 longer have a pharmacy in Salisbury any more.

8 MR. MILLER: Yeah, I actually had put that down  
9 originally and I doublechecked it when I was there a week  
10 or so ago; and I apologize for my --

11 CHAIRMAN KLEMENS: It's okay. Just trying to  
12 get things --

13 MR. MILLER: I agree. And I think it also  
14 points out the difficulty of maintaining a business base  
15 in these small village centers.

16 CHAIRMAN KLEMENS: Yes, I agree. So, we have  
17 not heard yet, and that's going to be a question that I  
18 hope the Applicant will answer, whether or not they are  
19 expecting to remove more than 250 cubic yards from the  
20 site, does that trigger the natural resource removal  
21 permit. But so far I have not seen anything that  
22 contemplates that much removal. But I think we need to  
23 have that addressed.

24 Next question: Is there any piece of land that  
25 is not within a watershed?

1           MR. MILLER: I have not fully investigated  
2 whether there was a watershed. I think if it isn't a  
3 watershed, then obviously there are certain ways it needs  
4 to be protected. And my analysis didn't really dig that  
5 deep into the overall storm drainage affects. Because  
6 when are talking about a fairly small piece of property  
7 that -- and particularly, when we're dealing with the  
8 Pope site, there's plenty of land available to mitigate  
9 whatever storm water impacts might be.

10           CHAIRMAN KLEMENS: This is to the engineer. I  
11 won't even attempt to pronounce your name. Are you aware  
12 that 300.3 is relaxed as part -- we have the authority in  
13 the PSKQ -- whatever it is, the authority to completely  
14 void setbacks that would not require, I believe, going to  
15 the ZBA?

16           MR. VIRBICKAS: It's my understanding the  
17 regulation allows one to set your building at the same  
18 distance as an adjoining building or buildings on  
19 adjoining properties. It doesn't necessarily allow for  
20 placement at whatever distance one sees fit on a  
21 particular property.

22           CHAIRMAN KLEMENS: I would ask you --

23           MR. VIRBICKAS: There's a little bit of leeway  
24 permitted in the Pocket District zone.

25           CHAIRMAN KLEMENS: I would say quite -- in all



1 due respect, I believe quite a bit of leeway as far as  
2 setbacks and parking.

3 Getting back to the St. Joseph's case, that is  
4 not settled law yet; is it, Attorney Casagrande?

5 MR. CASAGRANDE: That's a good question,  
6 Mr. Chairman. The -- and I'll be interested in Attorney  
7 Andres' response to that, but the rule that's articulated  
8 in St. Joseph's I think is pretty clear because it  
9 synthesizes a line of cases in Connecticut; and it says  
10 that there's no question but that a Commission may deny  
11 an application, special permit application for failure to  
12 comply with general public health and welfare standards  
13 even when all technical requirements of the regulations  
14 are met. The case that Chuck and I are litigating  
15 against each other focuses, not so much on the general  
16 rule, but on how it applies to the site-specific inquiry  
17 that the Commission is required to make on each special  
18 permit application. So, I think the general answer is  
19 St. Joseph's is settled law for the proposition. But  
20 I'll defer to your counsel.

21 CHAIRMAN KLEMENS: I think we can take that up  
22 later.

23 So, under the concept of general public health,  
24 safety and welfare, is this why you introduced a lengthy  
25 discourse on the inability of fire trucks to get in and

1 out? Is that one of the thrusts of that particular  
2 statement?

3 MR. CASAGRANDE: Well, it goes to both  
4 incompatibility and failure to comply with the technical  
5 requirements.

6 CHAIRMAN KLEMENS: Thank you. And I understand  
7 you intervened on issues of historical, but you have gone  
8 much further which I kind of expected you would. And  
9 whether or not you give that as an Intervenor afterward  
10 is a general public comment. It's good to get it out  
11 now.

12 Now, we're talking a lot about viability of  
13 businesses. And I believe -- did you hear Mr. Baroody  
14 last time, his statements of what Lakeville once was?

15 MR. CASAGRANDE: Is that directed to me,  
16 Mr. Chairman?

17 CHAIRMAN KLEMENS: Well, I'm directed I guess  
18 to you or any member of your team. I mean, we have a  
19 concept of what's called, in my field, shifting base  
20 lines. We see the Lakeville that is there now. But  
21 there was a Lakeville that Mr. Baroody spoke to that was  
22 quite different. And my question is you have a lot about  
23 how people, residents, are going to detract from the  
24 viability. But how do residents or more people living in  
25 Lakeville contribute to the vitality of businesses?

1     Contribute to people going to Deano's to get a pizza?  
2     Isn't there some sort of symbiosis of having a critical  
3     mass of residents in a community and having the kind of  
4     things that were once in Lakeville? I believe there were  
5     two or three grocery stores at one time in Lakeville. I  
6     mean, I'm interested in that dynamic.

7                 MR. MILLER: If I may. I'll take a shot at  
8     that one.

9                 Certainly, having a population base is  
10    important to the vitality and sustainability of small  
11    village centers such as Lakeville. But I think it comes  
12    down to, you know, it's not that this use is a bad use.  
13    It's that one of the net effects of replacing the  
14    existing use with this use. This use certainly has the  
15    positive aspects that it will, you know, add to the  
16    population by 12 or 15 people or whatever it is. And  
17    presumably, they'll want a pizza and they'll go to the  
18    coffee shop and that type of thing. But you also to have  
19    weigh that against the existing use of what the impact  
20    would be. So, if this was on another site that was  
21    available in Lakeville, I think it -- I'm not sure I  
22    would be here or it would be a very different equation  
23    that the Commission would have to grapple with.

24                 CHAIRMAN KLEMENS: Thank you.

25                 You and your illustrated [Verbatim] that No.

1 7 Holley Street, which is Lakeville Interiors, have two  
2 deeded spaces. It's my understanding that they own a  
3 third of that unpaved parking lot just to the west of  
4 Deano's; are you aware of that? In your calculations?

5 MR. MILLER: Yeah, I believe we were aware --  
6 there was some question on that, if I recall, Dan?

7 Dan, you muted. Dan, you're muted. Unmute.

8 MR. CASAGRANDE: Sorry.

9 We did say in our chart slide 39 as we point  
10 out that they do have 20 off-site deeded spaces. So, I  
11 think the answer to that is yes, Mr. Chairman.

12 CHAIRMAN KLEMENS: Thank you.

13 Now the last thing, Mr. (Audio broke up) bring  
14 up, I think it needs to be brought up in the context, are  
15 various uses that -- have you looked into whether or not  
16 many of these apartments, commercial offices and such are  
17 actually have zoning permits? Are they legally there?  
18 Because it's my understanding that quite a few of them,  
19 these apartments, and commercial spaces are subdivided  
20 are actually not legal. And so, I'm a bit troubled that  
21 we are holding a standard up of parking to uses that, in  
22 fact, may not even be permitted. I think several  
23 apartments do not have permits. Several commercial  
24 spaces don't. So, in a way, I think that needs to be  
25 sorted out if we're going to use the parking needs of

1 those activities, shouldn't we understand whether or not  
2 those activities are, in fact, operating legally?

3 MR. CASAGRANDE: Yeah, I agree, Mr. Chairman.  
4 And perhaps I don't know who's on the call here, but I  
5 think Mr. Schaefer, Ms. Singelis and Ms. Shannon might be  
6 able to answer those questions. My understanding is the  
7 Schaefer building is non-conforming in its entirety. My  
8 understanding, up until you asked this question was, I  
9 thought that the other uses in those building were legal,  
10 non-conforming uses. I can certainly follow up on that.

11 CHAIRMAN KLEMENS: I would follow up with our  
12 Land Use Administrator to find out who actually has  
13 zoning permits. Because it's my sense that many of these  
14 multiple uses in these buildings are existing absent  
15 zoning permit, site plan, accessory apartment plan,  
16 special permit. So, I think it's kind of like we're  
17 holding up these uses needing parking when, in fact, I  
18 think some of them, not all, may have slipped under the  
19 radar and never gone through a review process for  
20 established legality of their presence.

21 MR. CASAGRANDE: The only thing I would point  
22 out, Mr. Chairman, as you can see from Attorney  
23 Capecelatro's letter, the Deano's Pizza building, that is  
24 especially permitted.

25 CHAIRMAN KLEMENS: I deliberately did not

1 mention Deano's. That is the one that we do have  
2 paperwork on. But some of the other ones, particularly,  
3 we have got multiple commercial spaces, multiple  
4 apartments, I think there's some issue of whether we've  
5 stumbled on to a whole nest of illegal activities,  
6 so-to-speak, that do not have zoning permits, special  
7 permits, site plans or special permits. Thank you.

8 That really is just my cautions on this. Just  
9 from your comments and cautions, I think you raise a lot  
10 of interesting points.

11 My final question is: If they came in with an  
12 8-30g, how much of this would be relevant, in your  
13 opinion, Attorney Casagrande?

14 MR. CASAGRANDE: Well, I don't want to  
15 speculate on that, Mr. Chairman. Obviously, an 8-30g  
16 application it has different standards than a special  
17 permit application. But this is not an 8-30g  
18 application. And, in my understanding --

19 CHAIRMAN KLEMENS: I understand that. I'm just  
20 asking you from a theoretical perspective.

21 MR. CASAGRANDE: Let me say this: To the  
22 extent that Mr. Miller's testimony focuses on the loss of  
23 economic viability to these businesses, if we were here  
24 in 8-30g I would be arguing that that is a substantial  
25 public health and safety interest which clearly outweighs

1 the need for affordable housing, No. 1. Number 2, as the  
2 Stonington case, the United Progress case makes clear,  
3 8-30g does not trump 22A-19. So, 22A-19 is a separate  
4 statute that must be considered even in the context of an  
5 8-30g.

6 CHAIRMAN KLEMENS: I'm well aware of that.

7 MR. CASAGRANDE: Okay.

8 MR. SMITH: I made part of my career on that.

9 MR. CASAGRANDE: That's my two cents for  
10 tonight, Mr. Chairman.

11 CHAIRMAN KLEMENS: Thank you very much,  
12 Attorney Casagrande. I'm now going to move to the rest  
13 of the Commission asking questions from Commissioner  
14 Riva?

15 MR. RIVA: Michael, thank you.

16 This -- the first question I have is for  
17 Mr. Virbickas. You quoted a grade degree of 18 percent.  
18 Is that a mandatory state requirement? And you're saying  
19 2020, we are in -- the spot you're talking about is 20 or  
20 25 percent. Where is this located? Define that a little  
21 better for me.

22 CHAIRMAN KLEMENS: Can you get that up on the  
23 screen so they can see that, please.

24 MR. VIRBICKAS: Yes, --

25 CHAIRMAN KLEMENS: Can one of the attorneys --

1 MR. CASAGRANDE: Can you put that on the  
2 screen, Pio, Dainius's fire lane sketches.

3 CHAIRMAN KLEMENS: Thank you.

4 MR. VIRBICKAS: So, the 18 percent is the  
5 limitation based on zoning regulations, the maximum grade  
6 permitted for a driveway. If you look at the rear left  
7 corner, which would be the southwest corner of the  
8 proposed building, there are two dark lines that are  
9 indicated --

10 CHAIRMAN KLEMENS: Could someone put cursor on  
11 that. I think the gentleman who's running the screen --

12 MR. VIRBICKAS: Yep. Right there.

13 MR. RIVA: I thought that's what it was. I  
14 wanted it clarified by you. That's something that is in  
15 our town regulations for driveway?

16 MR. VIRBICKAS: Well, town regulations state  
17 that you can go to a maximum of 18 percent.

18 MR. RIVA: Okay. And.

19 CHAIRMAN KLEMENS: What is the --

20 MR. VIRBICKAS: That exceeds it for sure.

21 And --

22 CHAIRMAN KLEMENS: Sorry, go ahead.

23 MR. RIVA: That's okay. Michael. One of the  
24 things, Michael, and can I ask the Applicant, are they  
25 going to touch these grades any? Is that going to change



1 in the parking lot in that corner or in that area?

2 CHAIRMAN KLEMENS: Yeah, through the chair,  
3 could you, the Applicant, answer that question?

4 MR. SMITH: Chris Smith for the record. John?

5 CHAIRMAN KLEMENS: Yes, please answer the  
6 question.

7 MR. SMITH: I lost access for about the past 15  
8 minutes, Mr. Chairman. I'm sorry. I'm back on.

9 CHAIRMAN KLEMENS: Oh.

10 MR. SMITH: I literally just got back on.

11 CHAIRMAN KLEMENS: Bob, repeat your question  
12 again.

13 MR. SMITH: That, I did hear. Go ahead. I'm  
14 sorry, Commissioner Riva. Sorry about that.

15 MR. RIVA: That's quite all right. What I was  
16 asking, I wanted Mr. Virbickas to clarify where this  
17 grade issue was that he was talking about. I thought it  
18 was in that corner and he clarified that it was. Are you  
19 guys going to change the grade in that area any? I mean,  
20 I know we're keeping everything basically pretty level in  
21 that driveway area that you were talking, but I think --  
22 have they planned on changing that grade coming up to  
23 that little section there? Is anything going to be  
24 touched?

25 MR. SMITH: Commissioner Riva, if Jon -- Jon,

1 are you there?

2 MR. TUNSKY: I can answer that, Chris, if you  
3 are okay.

4 CHAIRMAN KLEMENS: Yes, please do,  
5 Mr. Tunskey.

6 MR. TUNSKY: Very good.

7 So, yes, that grade is -- it is an existing  
8 condition and I have looked at that based on the comments  
9 and we can adjust that so it is less than 18 percent  
10 condition.

11 CHAIRMAN KLEMENS: Thank you.

12 Bob, do you have any additional questions?

13 MR. RIVA: I do. I want to have more  
14 clarification, Michael. We got a letter from the fire  
15 marshal and he was pretty well content with everything.  
16 He had concerns on that west part of the building. And  
17 again, Mr. Virbickas, where you showed us those red dots,  
18 are those areas that are State-required that we have  
19 access points there? Or is it just that it's a concern  
20 that if they tried to get a ladder truck in there, which  
21 I, honestly, I've been driving equipment all my life, I  
22 don't think they would ever be able to try or even try.  
23 These drivers know what they're doing. I don't think  
24 they would try to get a ladder truck in there. They  
25 would probably do something from the Holley Street and

1 main front road.

2 MR. VIRBICKAS: Right, I --

3 MR. RIVA: Is this a requirement just in case  
4 that they need -- is that what you're showing us there?

5 MR. VIRBICKAS: Again, in speaking with the  
6 fire marshal, he indicated to me that may at one point if  
7 they need to fight something up high on the building,  
8 they would attempt to commit a ladder truck to that back  
9 parking area. My red dots indicate areas where these  
10 vehicles would have impact with the building. Again, and  
11 it's not just the fire truck. We looked at it and, you  
12 know, UPS truck, any of these vehicles that have a height  
13 that's greater than -- in that west corner that we were  
14 talking about, anything that's taller than seven and a  
15 half feet is going to impact, hit that underside of the  
16 building.

17 CHAIRMAN KLEMENS: You're talking about the --  
18 Virbickas, that corner.

19 (People spoke at the same time.)

20 CHAIRMAN KLEMENS: Can you put the cursor on  
21 that, please.

22 MR. VIRBICKAS: I don't have control of the  
23 screen.

24 CHAIRMAN KLEMENS: That's it. Right there.  
25 That's the corner?

1           MR. VIRBICKAS: Well, that's one instance where  
2 the underside of the building will be about nine feet  
3 elevated above the grade. Where again your UPS trucks,  
4 FedEx trucks are about eleven feet tall. If they're not  
5 careful, they will hit the building.

6           And in speaking with the fire marshal, he,  
7 looking at the plans, it's kind of challenging to see on  
8 a screen and he was not aware that a portion of the  
9 building was overhanging the driveway. The main access  
10 drive into the site. So, anybody making a delivery  
11 coming into that site off of Holley Street is going to  
12 have to go into the opposing lane of traffic flow to make  
13 it into the site.

14           CHAIRMAN KLEMENS: What is above that overhang?  
15 Is it building or is it --

16           MR. VIRBICKAS: Yeah, yeah. It's building.

17           CHAIRMAN KLEMENS: It's actually apartments  
18 there?

19           MR. VIRBICKAS: Yeah, it's the underside of the  
20 apartments on the main level.

21           CHAIRMAN KLEMENS: Now, on the other side --  
22 I'm sorry, Bob.

23           MR. RIVA: That's okay.

24           CHAIRMAN KLEMENS: That's one way; right? No  
25 one's going to be coming in from that road there; are

1 they?

2 MR. VIRBICKAS: I don't know. It's not shown.

3 CHAIRMAN KLEMENS: Okay. Go ahead, Bob. I'm  
4 sorry I interrupted you.

5 MR. RIVA: That's okay. It quite all right.

6 Again, Mr. Virbickas, one thing you can clarify  
7 for me. You stated one of the deficiencies in the  
8 drawings or in this application was there was not a  
9 detail for sprinkler pressure. I'm not sure if maybe the  
10 Applicant didn't just cover that just assuming that was a  
11 regulation? Is that something that you have --

12 MR. VIRBICKAS: Well, it's --

13 MR. RIVA: Chris?

14 MR. VIRBICKAS: It's not a regulation, per se.  
15 But a good design would contemplate the availability of,  
16 you know, water and pressure for a sprinkler system.

17 MR. RIVA: I agree --

18 MR. VIRBICKAS: Granted, it may not be a lot.  
19 Sprinkler systems tend to use a lot less water than one  
20 would have with fighting a fire with hoses. But just the  
21 same, it's something that should be contemplated and  
22 acknowledged or verified prior to, you know, starting  
23 construction.

24 MR. RIVA: I'm wondering, Applicants Attorney  
25 Chris, is that something you guys have that maybe you

1 just haven't shared with us yet?

2 MR. SMITH: Commissioner Riva, I'll have to  
3 follow up with my client on that. All I know is that I  
4 did ask my clients and, through Ms. Conroy, to ensure  
5 that the fire marshal did review the plans. And as  
6 you're well aware and noted already by letter of March  
7 5th, he indicated, quote, Per your request, I reviewed  
8 the Holley Place plan forwarded to me. I do not find any  
9 problem with the plans provided the building will have  
10 the automatic detection system and automatic sprinkler  
11 system throughout. And this would include the garage  
12 area beneath. There's nothing that I'm aware of  
13 requiring a ladder truck to gain access to this.

14 And I'm sure -- I was going to ask  
15 Mr. Virbickas his background and basis for even saying  
16 that. Especially relative to this building being located  
17 on an intersection with two roads and ladders being able  
18 to reach the upper floors I'm sure. But again, that  
19 would --

20 CHAIRMAN KLEMENS: Would the chair please  
21 answer that. Would the --

22 MR. VIRBICKAS: Sure, the reason I contemplated  
23 that was because the fire marshal, himself, told me that  
24 they would bring a piece of equipment to fight something  
25 in the upper levels. And if that were not the case, they

1 would bring a smaller piece of equipment, something  
2 similar to a delivery vehicle to the site. And although  
3 I don't have these truck turnings available on this  
4 presentation, because I was only afforded that  
5 information today from the fire marshal about the smaller  
6 vehicles, I did not -- I was not able to present it. But  
7 I can certainly show that as well. And again, the only  
8 reason we're contemplating any emergency vehicle access  
9 is because the fire marshal said that they would have a  
10 need for access.

11 CHAIRMAN KLEMENS: Okay.

12 MS. CONROY: Mr. Chairman, may I also add?

13 CHAIRMAN KLEMENS: Go ahead.

14 MS. CONROY: As Attorney Smith indicated, I did  
15 have a discussion with the fire marshal on this. His  
16 review is much akin to that of what the Health District  
17 does when they look at a subdivision. So, this is a  
18 general review that when it gets to construction  
19 permitting phase many of the details get worked out. So,  
20 it's kind of -- you know, he was a little bit, like, I  
21 haven't had to answer a question like this before, but it  
22 was a preliminary review based on the plans that are  
23 here, understanding that at a future date he's going to  
24 have to look at it even closer based on construction  
25 plans.

1           CHAIRMAN KLEMENS: Could you show him, Abby,  
2 tomorrow, this diagram? Because the water pressure on  
3 the sprinkler's one thing, but these two corners of the  
4 building I think I would like him to opine on that  
5 specifically.

6           MS. CONROY: Okay, yes, I can definitely talk  
7 to him about that.

8           CHAIRMAN KLEMENS: Thank you.

9           MR. WHALEN: Michael, Marty here.  
10           Last summer they spent all summer putting a  
11 brand new water line up Millerton Road, an eight inch  
12 water line. So, I think the volume of water, it's not  
13 even questionable. There's plenty there in that line.

14           CHAIRMAN KLEMENS: Thank you, Marty.

15           MR. RIVA: I agree, Marty. I got an eight inch  
16 coming right through the middle of our yard in the store  
17 there and we've got two big huge buildings with  
18 sprinklers. I don't think it is. What I'm worried about  
19 is is there a the calculation that can be done I'm sure  
20 somewhere along they've either done it or they can do it  
21 very quickly.

22           MR. WHALEN: Also, when you have a building  
23 like this and you have a fire in one of those apartments.  
24 It's not a surround and drown. It an interior attack.  
25 You have to get in there. So, let's talk about ladder



1 pieces and things like that, and that's the third --  
2 that's the fourth thing you go to.

3 CHAIRMAN KLEMENS: Thank you, Marty. Bob?

4 MR. RIVA: Michael, I'm all set. Thank you.

5 CHAIRMAN KLEMENS: Then I move to Commissioner  
6 Shyer?

7 MS. SHYER: Thank you, chairman.

8 Just a couple questions of Mr. Miller, please.  
9 Your car dependency slide, I couldn't read some of the  
10 small writing. Could we just put that up. I had a  
11 question about that, please.

12 MR. MILLER: Which slide?

13 CHAIRMAN KLEMENS: The car dependency. The one  
14 of Lakeville.

15 MR. MILLER: That wasn't it.

16 CHAIRMAN KLEMENS: I think it was the other way  
17 around. There.

18 MS. SHYER: That was. Thank you.

19 CHAIRMAN KLEMENS: That one. Walkability.

20 MS. SHYER: Could you just walk me through what  
21 it says on the top here. A location in Salisbury,  
22 commute to downtown Torrington. What else does it say  
23 there?

24 MR. MILLER: Please give me a minute here to  
25 get --

1           CHAIRMAN KLEMENS: I can't read that either.

2           MR. MILLER: It's a small print.

3           MS. SHYER: Thank you. That helps.

4           MR. MILLER: Oh, okay.

5           MS. SHYER: Explain to me how this is being  
6           calculated. I understand the outcome is telling us that  
7           most errands require a car. But I don't understand what  
8           your method has been here and what Torrington's got to do  
9           with it.

10          MR. MILLER: That is taken off the site,  
11          itself. The -- I'm not sure exactly why they do that  
12          except that that's probably the nearest urban area that  
13          might be a job destination. It is -- I don't want to  
14          over emphasize this because there's a lot of subtleties  
15          in it. That certainly though, anybody living at this  
16          site or almost anybody -- there's not a great deal of  
17          employment in the village there. So, they're going to  
18          have to drive for employment. It's different for -- I  
19          was working on another situation in Farmington where  
20          there's plenty of employment there, but it was too far to  
21          walk. There's no employment, really -- very little  
22          employment so brings the score down. I can't give you  
23          the whole algorithm. I just wanted to point out that  
24          this is kind of a broad base measure. And to call this  
25          site a walkable site I don't believe is accurate for

1 reasons I said -- if it was in Salisbury center, I know  
2 they can't walk to a pharmacy any more, but they can walk  
3 to a grocery store, which is a very necessary part of our  
4 everyday lives. There's no equivalent to that here.

5 So, they look at distances, they supposedly  
6 take over, you know, analysis of whether there are  
7 sidewalks. What I did do, though, in my report I did put  
8 the site reference on it. So, I would suggest -- and if  
9 it's -- legally I could print off much of the material  
10 from that site and make it available to you. But --

11 CHAIRMAN KLEMENS: Can I interrupt for a  
12 second. I will repeat again, do not use the chat  
13 function to communicate to the panelists. There's no  
14 record of it. We don't -- can't to address those  
15 questions. Please reserve that for public comment. Do  
16 not use the chat function.

17 I'm sorry, Mr. Miller. Go ahead.

18 MR. MILLER: It's not an exact thing. But I  
19 just brought it in as kind of an indication of the degree  
20 of walkability. Certainly you can argue with the  
21 specific characteristics of the algorithm. I don't know  
22 exactly what they are. I don't know if they let  
23 everybody know it yet. But it is an indication that's  
24 more widely used. And I think if you know if it's 32,  
25 it's probably pretty automobile dependent. And if it was

1 at 94, you know, the opposite. And I think that would  
2 become obvious to people if you look at different sites  
3 with different levels of dependency.

4 MS. SHYER: Who's "they"? You are referring to  
5 they.

6 MR. MILLER: The site, the Walkscore.Com  
7 entity.

8 MS. SHYER: I have one other question regarding  
9 your parking analysis where you referred to four  
10 businesses. 22, 20 and 12 Martin Millerton Road and 7  
11 Holley Street.

12 MR. MILLER: Yes.

13 MS. SHYER: Did you talk to the owners and  
14 operators in the business of the Lakeville firehouse?

15 MR. MILLER: No.

16 MS. SHYER: Why is that? Because that you also  
17 talked about using and needing satellite parking and they  
18 communicated to us through their attorney.

19 MR. MILLER: I wasn't aware of that.

20 MS. SHYER: Okay. Thank you.

21 CHAIRMAN KLEMENS: Are you set, Cathy?

22 MS. SHYER: Yes, for the moment, thank you.

23 CHAIRMAN KLEMENS: Allen Cockerline, please.

24 MR. COCKERLINE: Yes, for Mr. Virbickas.

25 Again, you cited, Michael, 300-3 is superceded by the

1   PKSQ overlay district. One of the things I wanted to  
2   know on the -- on that site plan that you showed with the  
3   strike points, what is the distance between the building  
4   and the strike points on the automobiles?

5           CHAIRMAN KLEMENS: Can you put that back up,  
6   please. Put the screen back up. Thank you.

7           MR. VIRBICKAS: So, first and foremost, with  
8   the Pocketknife Square parking and front yard setback, it  
9   says: Front yard setback shall conform to the underlying  
10   zoning district or shall match the existing front yard  
11   setback of one or more buildings on abutting properties  
12   to maintain the existing street wall.

13          MR. COCKERLINE: Which means we have a lot of  
14   leeway there.

15          MR. VIRBICKAS: No, it means you can match the  
16   adjunct building which the adjunct building is set back  
17   30 feet or so from the road.

18           With respect to the strike points --

19          MR. COCKERLINE: I don't believe so.

20          CHAIRMAN KLEMENS: I don't agree with that  
21   either, Mr. Virbickas. I think we have more flexibility.

22          MR. CASAGRANDE: Should I fill in,  
23   Mr. Chairman?

24          MR. COCKERLINE: Wait a minute. Let me have my  
25   question answered on the strike points.

1           CHAIRMAN KLEMENS:  Sorry, sorry.

2           MR. VIRBICKAS:  So, with respect to the parking  
3 spaces, most vehicles will be able to back underneath the  
4 building?

5           MR. COCKERLINE:  But I'm asking you  
6 specifically, what's the distance from the back of those  
7 cars on that -- I can't -- I can't use the scale.  It  
8 won't work for me here.  Sorry.

9           MR. VIRBICKAS:  It doesn't work well on the  
10 screen.  It about 18 feet from the back of the compact  
11 space to the face of the overhang.  And so the overhang  
12 is about -- it's about six feet over the driveway.

13          MR. COCKERLINE:  So, if you were doing this  
14 building, you would probably also recommend some bollards  
15 at those corner points, too?

16          MR. VIRBICKAS:  No, I would recommend you hike  
17 up the building so that there's no chance of impact.  But  
18 bollards, themselves, would obstruct the driveway.  The  
19 driveway needs to be 24 feet wide --

20          MR. COCKERLINE:  That would save the  
21 building.

22          MR. VIRBICKAS:  -- the bollards in there, then  
23 the driveway would be only 18 feet wide.

24          MR. COCKERLINE:  It would save the building,  
25 though.  A bollard is cheaper than a building.  Okay,

1 that's the only question I have for you.

2 And the only other issue that I have, and this  
3 is purely anecdotal, I've made a point, I go through  
4 there Holley Street generally twice a week and I always  
5 count the cars since September. And the numbers I've  
6 counted are from 3 to 8.

7 MR. WHALEN: Right.

8 MR. COCKERLINE: I'm not prepared to sign an  
9 affidavit to that, but this is anecdotal evidence from a  
10 Commission member who drives by there twice a week.

11 CHAIRMAN KLEMENS: Thank you, Allen. Is there  
12 anything else? I want to see if Commissioner Cockerline  
13 -- is that it?

14 MR. COCKERLINE: I'm done, thank you.

15 CHAIRMAN KLEMENS: Attorney Casagrande.

16 MR. CASAGRANDE: Through the chair,  
17 Mr. Cockerline, before COVID what did you observe about  
18 the parking lot? Or did you make any observations before  
19 then?

20 MR. COCKERLINE: I didn't start until probably  
21 September when this application first came forward,  
22 when -- I mean, I really wasn't focused on parking there.  
23 So, it wasn't part of it. As far as COVID goes, what's  
24 happened with COVID in this town is our population has  
25 increased by 20 percent. There are more people here in

1 weekend homes than there have ever been. Our  
2 population -- and our use at the transfer station has  
3 gone up because of it. So, there are other ways of  
4 document this.

5 So, I don't know the COVID thing, yes, it  
6 affects restaurants, yes, I understand that. But there's  
7 more people here.

8 MR. CASAGRANDE: I understand. I just -- I  
9 mean, you would agree with me, though, that people maybe  
10 moving to residences more, but offices, a lot of offices  
11 shut down.

12 CHAIRMAN KLEMENS: This is all speculation.

13 MR. COCKERLINE: Yes, I don't know if you would  
14 agree with you, but --

15 CHAIRMAN KLEMENS: I think we are going to end  
16 that line of questioning. Is there anything else, Allen?

17 MR. COCKERLINE: I think I'm good.

18 CHAIRMAN KLEMENS: Thank you, Allen.

19 MR. CASAGRANDE: Mr. Chairman, can I just  
20 follow up with Mr. Virbickas on one point?

21 CHAIRMAN KLEMENS: Yeah. Okay, quickly because  
22 we have a lot to get through.

23 MR. CASAGRANDE: Yes. Thank you.

24 Mr. Virbickas, do you view Holley Street as a front yard  
25 for this building.



1 MR. VIRBICKAS: Absolutely, it is.

2 MR. CASAGRANDE: Why?

3 MR. VIRBICKAS: A corner lot has two front  
4 yards, two side yards.

5 MR. CASAGRANDE: Are there any buildings on  
6 Holley Street that are as close to the --

7 CHAIRMAN KLEMENS: Attorney Casagrande, this is  
8 not your time to make an additional presentation. Let me  
9 get through my Commission members.

10 MR. CASAGRANDE: Okay. Thank you.

11 CHAIRMAN KLEMENS: Thank you.

12 CHAIRMAN KLEMENS: Mr. Whalen.

13 MR. WHALEN: I have nothing right now.

14 CHAIRMAN KLEMENS: Okay. Dr. Schiffer? You  
15 have to unmute.

16 DR. SCHIFFER: Unmute. As a Commission member,  
17 an important challenge for me is going to be separate  
18 evidence-based information from conjecture. So, with  
19 that in mind, I would like to bring up the discussion  
20 again of the safety for fire trucks.

21 So, I guess the question would be to  
22 Mr. Virbickas. Did fire professionals actually assess  
23 the clearance for trucks and was it the fire  
24 professionals that determined that these trucks would  
25 make undesirable contact with parked cars? Or was -- in

1 other words, was this evidence-based information that was  
2 provided by the fire professionals?

3 MR. VIRBICKAS: This is our -- this is our best  
4 attempt at depicting how this emergency vehicle, this  
5 nearly 50-foot long emergency vehicle would try and enter  
6 on the site based on information provided by the fire  
7 marshal.

8 DR. SCHIFFER: Okay, so they didn't study --

9 MR. VIRBICKAS: After further conversation with  
10 the fire marshal today, he had indicated to me that their  
11 largest truck in town is 30 feet long. And what we did  
12 is we incorporated truck turning movement that would be  
13 utilized by a 30-foot long delivery vehicle, turning  
14 movements would be likely similar, though maybe not  
15 identical. But the challenge here with these emergency  
16 vehicles, fire trucks, is that they are all tall. They  
17 are all greater than ten feet in height. Some even more  
18 than 11 feet in height. And that underside of the  
19 building as proposed is only nine feet in height. So,  
20 there's two feet of somebody's going to give. It's  
21 either the building or the truck. And at the west end,  
22 there is even less distance. We've got -- if we try to  
23 put an 11-foot tall delivery truck under a 7-foot or  
24 7-and-a-half foot tall overhang, something is going to be  
25 damaged.

1           And the suggestion that we place bollards in  
2     the center of a driveway to protect the building that's  
3     not there and the driver requirements in the town are 24  
4     feet wide and suggesting that 18 feet be utilized is --  
5     it's -- it makes no sense.

6           CHAIRMAN KLEMENS: Thank you.

7           Dr. Schiffer, do you have any other  
8     questions.

9           DR. SCHIFFER: So I just want to -- based on  
10    what you I just heard you say, it was your conclusion of  
11    what would happen. So, I think you've answered my  
12    question. Thank you.

13          MR. VIRBICKAS: Thank you for asking.

14          CHAIRMAN KLEMENS: Do you have any further  
15    questions, Danella?

16          DR. SCHIFFER: No, not at this time,  
17    Mr. Chairman.

18          CHAIRMAN KLEMENS: Ms. Allee?

19          MS. ALLEE: I don't have any questions.

20          CHAIRMAN KLEMENS: Mr. Higgins.

21          MR. HIGGINS: Thank you.

22                 On slide 5, I think it was, you quoted the  
23    former first Selectman for the town of Salisbury, I think  
24    it was meant to be. Just an observation that we never  
25    had a Selectman named Bartlett. It was Bill Barnett.

1 So, just -- only because I know -- but that's not my  
2 question.

3 For the park issue, all the comments you made  
4 about the neighboring businesses, you've implied that the  
5 parking in this application would not be available and  
6 yet they've repeatedly said there would be parking spaces  
7 that these businesses could use. But I think the point  
8 that is worth making is that your table deficits just  
9 sort of highlights the issue that we've been dealing with  
10 for years for businesses and parking; and I think there's  
11 a lot of double counting, quite honestly, because if all  
12 those businesses use all of the spaces that they declare  
13 they are using on a daily basis, there aren't the spaces  
14 there. But that only includes the businesses that you  
15 named. It doesn't include On the Run or Mease's (ph.) or  
16 the restaurant or the fitness center. I mean, that  
17 parking we all recognize is an issue there. When we talk  
18 about utilizing satellite spaces, it's a fact we consider  
19 each time you have an application. And I just repeat  
20 that I don't think we've ever considered it specific and  
21 exclusive to that business. There's a lot of double  
22 counting by the same token from the Commission standpoint  
23 recognizing that there's multiple uses that can be made  
24 with the same parking area.

25 So I just want to make sure that when you're

1 talking about the spaces being unavailable for the local  
2 businesses, you implied anyway that there was zero, when,  
3 in fact, they have said that that's not the case.

4 CHAIRMAN KLEMENS: Okay. Jon, do you have  
5 anything further or -- do you have that's a statement  
6 rather than a question.

7 MR. HIGGINS: I guess it's a question whether  
8 they've considered those ten spaces when they are  
9 considering the impact on the businesses or whether they  
10 are considering the implication was zero.

11 CHAIRMAN KLEMENS: I guess that's a question  
12 for Mr. Miller.

13 You have to unmute, Mr. Miller.

14 MR. MILLER: I'm sorry. It's getting late.  
15 The calculation you said about -- you know, the different  
16 times is certainly true. I didn't mean to suggest that  
17 there's a constant deficit of 60 vehicles. We were  
18 weighing everything against the current situation. Since  
19 it's not been approved, you know, our input obviously  
20 would -- we would hope would influence what the ultimate  
21 parking situation is. From -- and I think also, from  
22 what I understand, again, in my conversations with people  
23 who do know better, I'm not going to pretend to be an  
24 expert on your community with just by spending parts of  
25 two weeks learning about it, that there's some fairly

1 large events that involve, you know, rather excessive  
2 parking situation. And periodically, they don't occur  
3 daily, I don't know if they occur once or twice or three  
4 times a year, but they do occur and that's all part of  
5 the equation as well. There was testimony about from the  
6 art dealer that they have events that draw quite a number  
7 of people from time to time. So I -- you know, obviously  
8 I wasn't able to experience or calculate one of those  
9 events other than if they say they get 60 people, that's  
10 a lot of people and a couple of parking spaces put on the  
11 site are obviously not going to address it.

12 I also think that -- I mean, people park where  
13 they don't -- where they shouldn't park. I mean, how  
14 many times have you seen somebody pull into a handicap  
15 space and trot away. So, I guess that, kind of, if you  
16 are going to -- if there is going to be spaces secured, I  
17 think it has to be rather clear or else you're probably  
18 going to invite some problems. Also, I don't know if  
19 talking parking days, like on a Saturday, when many of  
20 the residents may be home and many of the businesses may  
21 be more active, you know, that's when the issues will  
22 sort of compound themselves.

23 MR. HIGGINS: Thank you.

24 CHAIRMAN KLEMENS: Again, I would ask that the  
25 members of the public wait to ask their questions, not

1 keep doing it in chat. There's some rather inappropriate  
2 stuff going on in chat. I would like to stop. Think we  
3 should disable the chat if people can't control  
4 themselves.

5 For example, we have one from Emma, unknown, I  
6 am appalled at the questions that P&Z is asking  
7 Intervenors. Shouldn't you be asking questions of the  
8 Applicant. You are displaying just clear bias in favor  
9 of the Applicant. This is my first time watching a P&Z  
10 hearing in Salisbury and I'm appalled at what I'm  
11 witnessing. It seems to me you've already decided that  
12 you want to approve Holley Block despite fact so many  
13 important issues have been raised. It seems that you  
14 consider yourself operating outside the rules of the  
15 regulations of the law.

16 Don't know who this person is. Doesn't  
17 identify themselves. But there's a lot of stuff going on  
18 in chat and I think we're going to have to find a way to  
19 disable chat if people are going to be abusing it this  
20 way. Public can certainly express those sentiments in  
21 the public portion.

22 Attorney Smith.

23 MR. SMITH: Yes, sir.

24 CHAIRMAN KLEMENS: Your turn to cross-examine  
25 the panel.

1 MR. SMITH: Well, I have some questions,  
2 Mr. Chairman, thank you. Mr. Virbickas, first.

3 How are you, it's been a while. A couple  
4 questions. Mr. Virbickas, did you, referring to Section  
5 300.3, did you perform an analysis as to whether the  
6 proposed building will be in line with any of the  
7 buildings located on Millerton Road? As far as the  
8 setback from the road?

9 MR. VIRBICKAS: I did not do analysis. I  
10 relied solely on the application that was submitted in  
11 the little asterisk that was provided in the site plan,  
12 itself, assuming that the Applicant did that bit of work  
13 for all.

14 MR. SMITH: Okay. That's all. I just was  
15 wondering if you're familiar with the regulation in  
16 405.6 a2 where, with the front yard setback shall conform  
17 to the underlay district or shall match the existing  
18 front yard setback of one or more buildings on abutting  
19 properties to maintain the existing street wall; correct?

20 MR. VIRBICKAS: Yeah, Yeah. Exactly. So  
21 Millerton is Millerton and Holley Street is Holley  
22 Street. Holley Street is two fronts.

23 MR. SMITH: I'm just asked if you took a look  
24 at that and did you run your own analysis. I think you  
25 indicated you are not a fire safety expert?



1 MR. VIRBICKAS: Not at all, no.

2 MR. SMITH: You really can't testify as to the  
3 attack mode if there was a fire in this building if,  
4 indeed, someone would either put a ladder up against the  
5 building to get to the third floor or wait for hook and  
6 ladder truck to come to the site from one of the other  
7 towns that you mentioned?

8 MR. VIRBICKAS: No, I just went on what the  
9 fire marshal explained to me would be their tacts.

10 MR. SMITH: So you're not sure if the tact  
11 would be to put it -- when you have a burning building to  
12 put a fire truck immediately adjacent to it? You don't  
13 know that, you don't know fire code; correct?

14 MR. VIRBICKAS: I think that a different fire  
15 requires a different response. So, to that end, there's  
16 no correct answer to what vehicle would go where and  
17 when. It's all based on the specific event that requires  
18 immediate attention.

19 MR. SMITH: That's pretty much governed by  
20 code, right? Fire codes?

21 MR. VIRBICKAS: Fire guidelines, yeah. The  
22 codes aren't really --

23 MR. SMITH: You are not familiar with them  
24 because you are not a fire safety expert; correct?

25 MR. VIRBICKAS: No, I'm not an expert, no.

1 MR. SMITH: Thank you.

2 MR. VIRBICKAS: Sure.

3 MR. SMITH: I do have questions for Mr. Miller.

4 Good evening.

5 MR. MILLER: Good evening, Mr. Smith.

6 MR. SMITH: How are you, sir?

7 MR. MILLER: I'm well, thank you.

8 MR. SMITH: For the record, Brian and I have  
9 worked on a number of different matters over the years in  
10 different forums and venues.

11 Mr. Miller, you indicated that you are --  
12 you're not a traffic expert; correct?

13 MR. MILLER: Correct.

14 MR. SMITH: And however, you are AICP certified  
15 as a planner; correct.

16 MR. MILLER: Yes.

17 MR. SMITH: And just bear with me for one  
18 moment. How many -- you made reference I think to  
19 something about two weeks of analysis and relying on  
20 different people for -- How many times have you visited  
21 the property and when were you retained?

22 MR. MILLER: I was retained -- I don't have the  
23 exact date, but it was within two weeks -- past two  
24 weeks.

25 MR. SMITH: And there was a slide that I

1 believe Commissioner Higgins asked you about, slide No.  
2 39, where your analysis came up with per the zoning  
3 regulations, there's a deficiency of 61 parking spaces in  
4 the immediate vicinity of the subject property.

5 MR. MILLER: Yes.

6 MR. SMITH: And you indicated, I believe in  
7 response to Commissioner Higgins, that you were relying  
8 on a lot of anecdotal comments from different people as  
9 far as what the actual use is.

10 MR. MILLER: I was also relying on other  
11 members of the team who had conducted those interviews.  
12 But I didn't have the opportunity to do any sort of  
13 analysis of each of those uses.

14 MR. SMITH: But it was -- it's based in part on  
15 this slide, this testimony, this analysis, where I think  
16 concluded that this proposal, in eliminating 12 parking  
17 spaces on the subject property, is going to be  
18 detrimental to the business viability of the village  
19 center; is that correct?

20 MR. MILLER: Yes. But that slide isn't a stand  
21 alone. It's based on other information. Some of it is  
22 within my report and some of it is presented elsewhere.

23 MR. SMITH: We'll get to your report. You  
24 also, I think, testified that this would adversely affect  
25 the sustainability -- "adversely affect" might be my

1 verbiage, Mr. Miller, the sustainability of the entire  
2 village is what I wrote down.

3 MR. MILLER: I don't think I ever used the word  
4 entire. I think I said the overall sustainability.  
5 Whenever a certain number of businesses potentially leave  
6 an area, it has a significant impact. And I stand by the  
7 fact that it could have a significant impact if it has an  
8 impact on these particular uses that makes their  
9 operations so difficult that they would consider or  
10 actually move away from the village. There are  
11 alternative locations.

12 MR. SMITH: So, it could have an impact if,  
13 indeed, it -- if it affects these businesses; correct?  
14 That's what you said?

15 MR. MILLER: Yes.

16 MR. SMITH: A lot of ifs in there.

17 Have you reviewed the Planning Conversation and  
18 Development for the Town of Salisbury, dated 2012?

19 MR. MILLER: Yes.

20 MR. SMITH: Are you familiar of the stated  
21 goals, one of the main stated goals for the village  
22 center, the three village centers in the town?

23 MR. MILLER: I believe so, yes.

24 MR. SMITH: And what does that goal talk about  
25 varied housing in the centers.

1           MR. MILLER: That the plan considers housing as  
2 an asset and that there should be more of it in the  
3 centers.

4           MR. SMITH: In fact, I'm referring to page 26  
5 and also page 53, where one of the stated goals for our  
6 village centers includes, quote, Incorporated more varied  
7 housing in the village centers, end of quote; correct?

8           MR. MILLER: That's correct.

9           MR. SMITH: Sound familiar? And I'm just  
10 quoting from it, just to see if you recall maybe reading  
11 this, quote, If land parcel suitable for development for  
12 some of these housing options were within walking  
13 distance of the village centers -- talking about  
14 walkability -- both merchants and seniors would benefit.  
15 End of quote. Seniors being designated as people in need  
16 of this type of housing.

17           MR. MILLER: That's correct. Yes. That's -- I  
18 would also add that the plan of conservation and  
19 development -- and I've -- as you know, Mr. Smith, I've  
20 worked on many of them, they contain general statements  
21 that may not be applicable in every specific situation.  
22 And I also indicated that I certainly had -- would not  
23 argue against the concept of 12 affordable units being in  
24 this location. My -- the issue that I was raising was  
25 that it was detracting from another use. And that the

1 Commission that -- you know, needs to weigh the benefits  
2 of whether the use of that might be impacted. Whether  
3 that would outweigh the desirability or the need to put  
4 those 12 units at that particular site.

5 MR. SMITH: Understood.

6 Have you viewed -- have you seen any  
7 photographs of this parking lot being filled where --  
8 being utilized by those 61 deficient parking spaces for  
9 the businesses in the area.

10 MR. MILLER: No, of course not.

11 MR. CASAGRANDE: Objection. That  
12 mischaracterizes the testimony, Mr. Chairman.

13 CHAIRMAN KLEMENS: Sorry --

14 MR. SMITH: I asked the question and it  
15 deserves an answer.

16 CHAIRMAN KLEMENS: Let's not turn this into a  
17 court of law.

18 MR. SMITH: No, no need to. Thank you  
19 Mr. Miller.

20 From a planning concept, having residents in  
21 village centers or urban centers is a planning goal,  
22 generally?

23 MR. MILLER: Yes, but generally doesn't count.  
24 I mean --

25 MR. SMITH: Well, that's okay. I'm able to ask

1 the right questions, but that's what's provided in the --

2 MR. CASAGRANDE: Can he finish his answer,  
3 Mr. Chairman? Can he finish the answer?

4 MR. SMITH: I need a yes or no answer, thank  
5 you.

6 MR. CASAGRANDE: He couldn't answer yes or no.

7 MR. SMITH: He can answer it later then, if you  
8 would like.

9 Going to -- you were making reference,  
10 Mr. Miller, to the plan of conservation and development  
11 and goals for the village centers; and you also spent  
12 some time in your analysis, I think it's slide 15, I  
13 don't know if that's something we can pull up?

14 MR. MILLER: I can't pull it up.

15 CHAIRMAN KLEMENS: Your -- the other attorney  
16 can. Thank you.

17 MR. SMITH: Thank you, sir. 15.

18 CHAIRMAN KLEMENS: There it is right there.

19 MR. SMITH: Super, thank you -- no.

20 CHAIRMAN KLEMENS: You had it there. Right  
21 there. Off-site alternatives.

22 MR. MILLER: Okay.

23 MR. SMITH: Okay. I'm looking -- can you move  
24 that cursor, sir. I'm sorry. Oh, there's an arrow --  
25 no, okay, there we go.

1           So, you made -- Mr. Miller, you made reference  
2 to alternative sites being better than the proposed site  
3 for the affordable housing; correct?

4           MR. MILLER: Based on -- yes, based on the  
5 problem that I discussed on this site.

6           MR. SMITH: And I believe one of them was  
7 Millerton -- not Millerton -- excuse me, bear with me for  
8 a minute.

9           MR. MILLER: 414 Millerton.

10          MR. SMITH: Correct. That's, I think -- and  
11 Mr, chairman I apologize -- it was right about when you  
12 were asking these questions that I lost the internet  
13 here. But I think there was testimony that that's  
14 located near the town transfer station? Maybe adjacent  
15 to it?

16          CHAIRMAN KLEMENS: There wasn't testimony, but  
17 that's, in fact, where it is.

18          MR. SMITH: I just needed to confirm that for  
19 the record. Thank you. Thank you, Mr. Chairman.

20          And the Pope site, how many units are proposed  
21 or recommended for that? I think it was on that slide  
22 15, maybe.

23          MR. MILLER: From the -- this information was  
24 from the town's affordable housing report. And they  
25 estimated that there was, I forget the number, but it was



1 like multiples of what's being proposed on the subject  
2 site.

3 CHAIRMAN KLEMENS: Salmon Kill Road is the Pope  
4 property.

5 MR. SMITH: Thank you. Mr. Chairman.

6 Your testimony is that an alternative would at  
7 any time 12 units proposed to this site and add it to the  
8 Pope proposal which, according to the plan or to the Pope  
9 site according to the plan, is slotted for 33 to 64  
10 units. So, you would want to put these 12 units that are  
11 already designated in the plans, 12 to 18, right above  
12 it, you would to designate that to Pope?

13 MR. MILLER: That's not what I said. I'm  
14 saying it can be accommodated there. That plan has to  
15 be -- it was a great starting point, but as I think we  
16 all know who have been involved in the development  
17 process, that sometimes the more you know, a site that  
18 was somewhat attractive becomes less attractive; and then  
19 you need to make compensations and plan ahead.

20 This was a site that they planned for. I'm not  
21 saying that it should be more than -- add 12 units. I'm  
22 saying those 12 units can be accommodated there.

23 MR. SMITH: I think you said it's potentially  
24 suitable but there's a walkability issue?

25 MR. MILLER: No. Not there. It pretty close

1 to the Salisbury center.

2 MR. SMITH: Just as this is located close to  
3 the Lakeville center; correct?

4 MR. MILLER: The difference is the Salisbury  
5 center also has a supermarket, a library, and other  
6 facilities that aren't available in Lakeville.

7 MR. SMITH: But, as indicated in POCD of -- if  
8 resident are in the Lakeville Village District, the  
9 center, excuse me, then they are more likely to patronize  
10 businesses and that would benefit merchants in the  
11 village center; correct?

12 MR. MILLER: That's what it says.

13 MR. SMITH: Is that your opinion? Generally,  
14 is that how it works?

15 MR. MILLER: It can work. It depends on the  
16 mix of businesses. I'm not sure that the furniture  
17 store's business is going to be increased by those 12  
18 units.

19 MR. SMITH: And then the Millerton Road --

20 MR. MILLER: The pizza parlor will probably get  
21 more, but it depends on the specific business.

22 MR. SMITH: 414, you said, is located on a busy  
23 street and not really walkable.

24 MR. MILLER: That's right. I didn't say it's  
25 walkable at all.

1           MR. SMITH: But those are two of your  
2 alternatives you are suggesting to the Commission,  
3 assuming --

4           MR. MILLER: I'm suggesting, if I may, in my  
5 own words. I'm suggesting that those are the two sites  
6 that may be attractive alternatives. And I'm not  
7 suggesting that they are of equal value or better or  
8 worse. But they might be good alternatives if that's  
9 what the Commission is looking for in their  
10 deliberations. As I think you know, we normally, when  
11 we're evaluating the use of a site, we don't say, well,  
12 it can go someplace else. It's usually, what are the  
13 issues on that site? My position here was to present  
14 this as an issue for consideration by the Commission. I  
15 don't presume to tell the Commission what to do. I  
16 provide information to this -- for my client and to the  
17 Commission as I have provided information to numerous  
18 Commissions throughout my career. They may have -- they  
19 may look at things differently. They may have other  
20 considerations that they feel are -- outweigh the ones  
21 that either I say are positive or negative. That's up to  
22 them.

23           My point here is that these are situations --  
24 these are considerations that I would highly recommend  
25 the Commission take into their decision making.

1 MR. SMITH: And going to your report,  
2 Mr. Miller, I just -- just cognizant of the time and I'm  
3 just trying make sure I get everything in before 9:30 if  
4 we can.

5 CHAIRMAN KLEMENS: Well, I really think we're  
6 going to have to let -- we may to have extend this a tiny  
7 bit because the public is waiting to speak. So, Attorney  
8 Smith, can you wrap this up and --

9 MR. SMITH: I will. I do have one topic, one  
10 area, Mr. Chairman and I'll focus on that for now with --

11 CHAIRMAN KLEMENS: Thank you, sir.

12 MR. SMITH: Mr. Miller, in your report, you  
13 make reference to a letter from Attorney Mark  
14 Capecelatro. It's dated November 5th, 2020.

15 MR. MILLER: Where in my report does it say  
16 that?

17 MR. SMITH: I thought it did. I apologize.

18 MR. MILLER: I think Attorney Casagrande was  
19 making that reference. I don't believe it was --

20 MR. SMITH: Well, then Mr. Miller, I would  
21 stand corrected.

22 CHAIRMAN KLEMENS: Capecelatro's letter is one  
23 of the attachments that is in the submission of the  
24 Intervenor. I think it may be U.

25 MR. SMITH: I know what I'm referring to.

1           Mr. Miller, in your report, I think it's pages  
2 2 through 5, am I looking at your report correctly? You  
3 reference some properties or is that a separate  
4 attachment?

5           MR. MILLER: No, that table showing the  
6 property that was put on the slide.

7           MR. SMITH: But Brian, just to make sure I'm  
8 looking at the right thing here. This says five business  
9 using Bicentennial Park affected by loss. Is that in  
10 your report?

11           MR. MILLER: It says table showing parking  
12 deficits for local owners and businesses in the Holley  
13 Block area. That's the title of the report.

14           MR. SMITH: So --

15           MR. MILLER: At page 3.

16           MR. SMITH: Brian? Mr. Miller?

17           MR. MILLER: Yeah. I'm here.

18           MR. SMITH: Is that in your report?

19           MR. MILLER: Yeah, I just said that that  
20 table -- no, that piece -- that reference is not in my  
21 report.

22           MR. SMITH: It's not in your report. Okay.  
23 I apologize, I thought that's where that came  
24 from.

25           If I could ask you some questions with the --

1 you're familiar -- you talked about the satellite  
2 parking?

3 MR. MILLER: Yes.

4 MR. SMITH: And did you review the  
5 correspondence from -- I think you might have made  
6 reference to it in your verbal from Attorney Capecelatro  
7 relative to permits for some of the properties there?

8 MR. MILLER: I -- I didn't make -- I didn't  
9 make reference to it. Again, Attorney Casagrande made  
10 reference to it.

11 MR. SMITH: Okay.

12 I don't have any further questions for  
13 Mr. Miller. Thank you, Brian. Sorry about that with the  
14 references there?

15 MR. MILLER: No problem, Chris. Thank you.

16 CHAIRMAN KLEMENS: Does that conclude your  
17 questioning, Mr. Smith?

18 MR. SMITH: Bear with me for one second,  
19 Mr. Chairman.

20 CHAIRMAN KLEMENS: You have 64, 66 attendees of  
21 the public I would like to get some of them a chance to  
22 speak.

23 MR. SMITH: Okay.

24 CHAIRMAN KLEMENS: I'm actually willing to  
25 go -- let me ask. Is the Commission willing to go to at

1 least 9:45 or so to let some of the public speak.

2 Thank you.

3 MS. SHYER: Yes.

4 MR. SMITH: I'm all set, Mr. Chairman. Thank  
5 you.

6 CHAIRMAN KLEMENS: Thank you, Attorney Smith.

7 Okay, Abby, are you here? We have to start  
8 recognizing -- let me see --

9 MS. CONROY: Yes, I'm here.

10 CHAIRMAN KLEMENS: We have two hands up on the  
11 screen.

12 MS. CONROY: Let's start at the top here. I'm  
13 going to go with Nancy. Go ahead, Nancy, you're muted  
14 still.

15 CHAIRMAN KLEMENS: Nancy Van Deusen, you need  
16 to unmute yourself. Hey, Nancy.

17 MR. VAN DEUSEN: Well, it's her husband, Hobey,  
18 speaking. It's Hobey and Nancy Van Deusen. There's one  
19 parking issue that I hadn't really heard in the four  
20 hours of listening and that is there currently is a  
21 handicap space in Holley Block and what has happened --  
22 what will happen to that? Could we have an answer to  
23 that? It's assigned. It has a sign up and it's marked  
24 handicap parking. And it doesn't seem that the plans by  
25 the proponents have taken that into consideration. And

1 are there any state or local rules about handicap  
2 parking? And the size of it? Most ones I've seen are  
3 suitable also for vans, so, that means there are cross  
4 lines to the side of where a van would park. And that  
5 means it really would take up two spaces.

6 So, what is the answer to that question,  
7 please?

8 CHAIRMAN KLEMENS: Will the Applicant take that  
9 under advisement and come back with an answer?

10 MR. SMITH: Yes, sir. Will do.

11 CHAIRMAN KLEMENS: Because he's not talking  
12 about under the building. He's talking about the public  
13 portion of.

14 MR. VAN DEUSEN: The spaces, yes.

15 CHAIRMAN KLEMENS: Thank you.

16 MR. SMITH: Will do. Thank you.

17 CHAIRMAN KLEMENS: Next person, please.

18 MS. CONROY: Okay. The next person I have is  
19 M. Stucke.

20 MR. STUCKE: Yes. Thank you so much. Well,  
21 first of all, thank you, Patrick, for submitting the  
22 photograph from the perspective of [Unintelligible].  
23 That was very helpful.

24 One thing I haven't real heard mentioned here  
25 in this hearing and I still would like to get an answer



1 about that is that it's uncontested that the proposed  
2 site is in a designated Aquifer Protection Overlay  
3 District and that it's my understanding that with this  
4 proposed building that 86 percent of the lot or greater  
5 will be nonporous. And the laws here are quite clear  
6 that there are requirements including a storm water  
7 management plan and it doesn't appear that the Applicant  
8 has submitted one by a Connecticut registered engineer.  
9 In fact, when I looked at the record, the only thing I  
10 actually saw that was submitted by a registered engineer  
11 was by the Artel Engineering Group that's working for the  
12 Applicants.

13           And I was wondering is this just, like,  
14 paperwork for the sake of paper work, but it really isn't  
15 because in looking at the 2009 report the Salisbury  
16 Natural Resource Inventory, they talk about how  
17 vulnerable these aquifer district are and can be  
18 susceptible to extreme impact from surface events. So,  
19 if you just look at the Salisbury Natural Resource  
20 Inventory at page 14, they talk about multiple dangers  
21 including runoff. And one of the activities that the  
22 town identified in it's 2009 report was how development  
23 of residential and commercial buildings too close to  
24 wetlands can put an enormous stress on aquifers and  
25 wetlands. Well, you can say it's not close to a wetland

1 here, but poor runoff controls from commercial sites.

2 And as well, they talk about how to regulate  
3 more stringently the size and height of houses built  
4 close to water to minimize visual and chemical pollution  
5 to adhere to proper erosion and sedimentation controls  
6 and to require ground water recharge of storm water run  
7 off where feasible. And I thought this was particularly  
8 telling, to require that any new development yield a zero  
9 increase in storm water peak run off.

10 So, I'm just -- you know, the Applicants were  
11 on notice about this issue with the prior development.  
12 And given I'm just counting how many people here that  
13 have been hired by the Applicants and the Intervenors,  
14 but particularly by the Applicants that, you know, surely  
15 when you thought about that you were going to create a  
16 multi-unit housing place that's going to be in the  
17 aquifer protection area so close to Factory Pond, why  
18 wasn't there an engineering report done? And it would  
19 seem that under Attorney Casagrande's position, that that  
20 deficiency alone is grounds for rejecting the  
21 application. So, my question is: Will there be actually  
22 such a report and what sort of assurance can you provide  
23 that the building structure and use will provide for the  
24 maintenance of air, surface water and ground water  
25 quality and will not be detrimental to existing sources

1 of potable water or other natural historic resources  
2 which is it required under the law. Thank you.

3 CHAIRMAN KLEMENS: Thank you. So, I would like  
4 to ask the Applicant to very specifically address that  
5 also. Because there has been some discussion about the  
6 aquifer protection. I asked some questions, but I think  
7 we do need a fuller understanding of that.

8 Next, please.

9 MS. CONROY: Okay. Next Attorney Grickis.

10 MR. GRICKIS: Can you hear me?

11 CHAIRMAN KLEMENS: I didn't know you were here.

12 MR. GRICKIS: Surprise.

13 CHAIRMAN KLEMENS: Because you were on the list  
14 of the next attorney to speak. I'm sorry.

15 MR. GRICKIS: I will try not to wear you out  
16 with my comments.

17 And certainly I would say that the Applicant,  
18 as a non-profit organization, deserves some stock when it  
19 comes to technical requirements of applications. And I  
20 think the Commission's been very indulgent in overseeing  
21 those omissions. For example, the one I mentioned about  
22 notifying the Department of Public Health on a form  
23 required by the department when the Applicant submitted a  
24 letter advising the department what it was doing. So  
25 those are technical requirements. I certainly wouldn't

1 fall on that as a sword.

2 More important issues to me and that have been  
3 raised by the fire lanes, which has been subject of a  
4 great deal of conversation tonight, and I would suggest  
5 to the Commission that it isn't simply the fire marshal  
6 who determines what is safe for a building. But it also  
7 falls to the chief of the fire department who will  
8 determine what equipment will access a fire or the  
9 emergency if something develops. His or her views need  
10 to be considered. Not simply the fire marshal. And just  
11 given that location, the fact that it's a 15 foot wide  
12 easement, the fire lanes that are now superimposed on  
13 property rights that people had before these fire lanes  
14 were ever superimposed whether that's lawful or not. I  
15 don't know.

16 But also the one subject that's been omitted  
17 from the discussion tonight which continues to trouble me  
18 is that of public safety. It increases volume, if the  
19 application is successful, would generate traffic on  
20 Route 44. It's dangerous to pedestrians that we talked  
21 long and hard about. That's an aspect of the last two  
22 meetings that it was a very important topic of  
23 conversation on the first go round in 2020. So I would  
24 certainly hope that as the application goes through the  
25 deliberation process with the Commission, that the

1 Commission not overlook the issue of public safety and  
2 the importance of the dangers on Route 44, of the  
3 increasing volumes of traffic, which I personally  
4 observed.

5         And lastly, I would say since Attorney Andres, my  
6 colleague is on the line, I cannot imagine how any  
7 attorney representing the town can say with a straight  
8 face that Commissioner Cockerline should be seated in  
9 this discussion. He's a director of the Falls Village  
10 Affordable Housing Committee. A corresponding  
11 organization to the Salisbury committee. And his views  
12 could very easily affect the views of other  
13 Commissioners. As I said in my letter to the Commission  
14 which states for itself, perception is everything. I  
15 don't see how it's fair to ask a Commissioner to opine  
16 and give weight his true dealings of belief in affordable  
17 housing for a project in a different town to step aside  
18 and say that he can be impartial on adjudicating an  
19 application for a similar project to which he's always  
20 committed.

21                 With that, you guys have been very patient and  
22 I thank you for your attention. And I say good evening.

23                 CHAIRMAN KLEMENS: Thank you, Attorney Grickis.

24                 Next who do we have? Brigitte Ruthman.

25                 MS. RUTHMAN: Yes. That's me. Good evening.

1                   CHAIRMAN KLEMENS: Good evening.

2                   MS. RUTHMAN: Thank you and thank you for all  
3 your hard work. Absent the other arguments, I would  
4 speak as a member of the Lakeville Fire Department,  
5 Lakeville Hose Company No. 1 very proudly. I'm not an  
6 officer and I don't speak for the department. But I  
7 would humbly ask Mr. Virbickas where he went to fire  
8 school because he didn't go to the fire school I went to.  
9 We tend to not want to park fire trucks next to burning  
10 buildings. We have very long hoses and we have things  
11 called SOPs that are safety sizeup. We don't -- we can  
12 close a road. We don't clip cars. We don't go through  
13 parking lots. We know what we're doing with regard to  
14 fire fighting. So, you can set that whole argument  
15 aside. We are pretty good at what we do.

16                   But on that topic, we have a lot of volunteers  
17 who are at risk of losing Salisbury as their residency.  
18 We have -- I can think of two or three we've already  
19 lost. We have had to amend our by-laws over the years to  
20 allow membership to live out of town. That would include  
21 me. I live in Sandisfield, Massachusetts. I'm still a  
22 member of the fire department. I am still a fire fighter  
23 interior -- I'm an EMT in both states. But that is going  
24 to end for the fire department to have its core  
25 membership in a town that can't they can't afford to live

1 in. We need drivers to get to trucks. We need members  
2 to get to fires. And these are not 60 or 70 year old  
3 people who are fighting fires. They are young people.  
4 We need them in town.

5 When you mention other sites, I am at a  
6 complete loss to understand how you think that after all  
7 of this you won't have similar arguments arising in those  
8 other places. Isn't this right back to "Not in my back  
9 yard."

10 This seems a perfect location. Yes, there are  
11 hurdles. But the old fire department, and I was there,  
12 has water resources that are very adequate for that  
13 location. I think that some of the issues have raised  
14 are surmountable and I think this is a very necessary  
15 step for the town. And once do you this, let's go and do  
16 some of those or sites, too. Bring back some of the  
17 people that the town has not been able to accommodate.

18 You've had studies done by the northwest  
19 planning groups that show that this town is going to be  
20 aging. You don't have young people any more. And you're  
21 going to need help for those older people with ambulances  
22 and issues with regard to public safety that we don't  
23 have an answer to if you don't have places for them to  
24 live. Thank you very much.

25 CHAIRMAN KLEMENS: Thank you for your

1 testimony.

2 MS. CONROY: Bob LaBonne.

3 CHAIRMAN KLEMENS: Bob LaBonne.

4 MS. CONROY: Okay.

5 MR. LaBONNE: Hello everyone. Thank you for  
6 taking your time tonight. I'll be brief.

7 This discussion has been going on for -- we  
8 have been in town now for 30 years. We're still the new  
9 kids on the block, but my store, because of COVID and the  
10 amount of people that moved up to the northwest corner,  
11 had a 50 percent increase in sales last year. Well, I  
12 can't staff that store with people driving 45 minutes and  
13 an hour away. And I've been looking in the last year for  
14 a place to buy my own, quote, affordable housing and just  
15 help subsidize the people that can work in my store.  
16 Everyone wants to be served by nice friendly people, but  
17 if I can't get people that live in town because they  
18 can't afford it and they are spending money on gas and  
19 cars, it's doing to be a problem.

20 And the other thing is, I do feel for the  
21 businesses that, you know, where the parking may be  
22 affected. As we couldn't survive without the church  
23 parking lot that we rent. I think the town really needs  
24 to bite the bullet, I hate to say the word "tax," but  
25 invest in creating more parking. You can't go to the



1 town if you can't go the businesses if the businesses  
2 don't have the parking. You should start buying up the  
3 China Inn and whatever places you can to create more  
4 downtown parking to create a density where people will  
5 have a place to go and -- it's a great town to walk in,  
6 but there's no place to park, you kill the business which  
7 it affects with is the future growth of the town. So, we  
8 are looking to expand as well and we're trying to figure  
9 out how the heck we can do that in our small space.

10 So, this is desperately needed wherever it is.  
11 But it can't go 20 more years. I can't wait that long.  
12 There's too much growth in this town. We need to seize  
13 it now, not after we're gone. So, I appreciate all  
14 you're doing; but at somewhere we have to find the middle  
15 and not just kick this can down the road for another 20  
16 years. Thank you.

17 CHAIRMAN KLEMENS: Next, Abby?

18 MS. CONROY: Steve?

19 MR. ALQUESTA: Hi, my name is Steve Alquesta.  
20 I live on Echo Street in Salisbury. I just want to say  
21 first that, you know, everybody opponent I heard of  
22 affordable housing always starts by saying they're not an  
23 opponent of affordable housing, we are just an opponent  
24 of this particular development. I think to echo what  
25 Brigitte said, no development is perfect. We will

1 continue to see these kind of -- this kind of opposition  
2 regardless of where the development is planned, so I  
3 would encourage the Commission to live with the totality  
4 of the circumstances and very -- you know and approve  
5 this project.

6 I'm somewhat younger. I'm 35. I graduated  
7 from Housatonic in 2004. At that time, the  
8 [Unintelligible] was 500. I saw in the Lakeville Journal  
9 it's down do 320 now. It's hard for people my age to  
10 move to this area. Especially if you are looking to find  
11 a rental, looking to get started. The housing costs are  
12 a big part of that. And then I think some of that is  
13 rooted in our town policies. Whether it's intentional or  
14 unintentional, it's built in to the way we run things.  
15 And this is an opportunity for the Commission to push  
16 back against that a little bit and make it easier for  
17 people like me who are looking to start families, who are  
18 service workers, our volunteer fire and ambulance folks,  
19 to make the town a more vibrant place.

20 From listening to the opposition presentation,  
21 like, we -- you know, historic character is important,  
22 but, like, let's be honest, it's a parking lot with a  
23 stone wall and a bench. We're going to put that above,  
24 you know, the younger people who could be living in the  
25 town. That doesn't seem to make sense to me.

1           And then, finally, you know, even through the  
2 legal arguments it seems like there's a lot of leeway for  
3 the board, that statute that was quoted, 22A-19 said  
4 you're required to consider other locations. I would ask  
5 you to consider those other locations and decide to build  
6 on all of them. You know, the housing plan published in  
7 2018 looks for 75 units of affordable housing and you  
8 haven't built any. So, none of those properties alone  
9 that were shown in the slide would get us to that 75  
10 goal.

11           We can't allow a vocal minority to dictate how  
12 the town runs and we can't let a perfect solution that  
13 doesn't exist be the enemy of the good solution that we  
14 have in front of us right now. So I would ask that, you  
15 know, the board to consider all those benefits.

16           And also, Chair, I apologize. I think I was  
17 the first person to post something in the chat about the  
18 walkability. I wasn't aware that wasn't authorized. So,  
19 my bad on that one. But thank you. That's all I have  
20 and I appreciate everyone's hard work. I have been  
21 following the project and I'm very excited about it.

22           CHAIRMAN KLEMENS: Well, thank you.

23           Do you have any more people -- any more members  
24 of the public wishing to speak? They have a hand up?  
25 Abby?

1 MS. CONROY: Artemis Growth Partners.

2 CHAIRMAN KLEMENS: Okay. Yes?

3 ARTEMIS GROWTH PARTNERS: Hi, Mr. Chairman,  
4 thank you all very much. And again, this is all very  
5 good work. I don't think this is an argument when I come  
6 and look at the project. I'm still perplexed how we got  
7 to such a size. When I've done the numbers and I  
8 published this and sent it also to the Commission, I  
9 don't see how over 1,000 square feet of non-urban  
10 producing square footage, an elevator and underground  
11 parking lot, all non-revenue producing and just adding  
12 cost is part of what is essential for this building. The  
13 Applicant has said that the building has proposed is the  
14 minimum seize to be feasible. Yet, again, in my  
15 submission I've shown that the fact of the project is  
16 it's likely not feasible, financially. So, my question  
17 is how is the Applicant defining feasibility and why is  
18 there no alternative. For example, smaller, mixed use  
19 where you still get eight -- six or eight affordable  
20 housing units in a much smaller size that is more  
21 appropriate for the space. Why is that not feasible?  
22 Thank you.

23 CHAIRMAN KLEMENS: Thank you.

24 We have two more hands up. Abby? Eileen Fox.  
25 Eileen, can you unmute yourself, please.

1 MS. FOX: So, I've been listening for -- since  
2 5:30 and I said I hope it counts when I go to purgatory  
3 that I've spent this much time listening; because it's so  
4 important.

5 And I have lived up here for over 35 years.  
6 I'm a kid from the City. I lived across public housing  
7 on the west side over in the [Unintelligible] area. I  
8 saw the gentrification which I benefited from. It is not  
9 about parking. It's, like, please, let us help people  
10 come into our communities and let us please welcome them.  
11 They support us in so many ways. It's really so  
12 distressing that -- and I will tell you, I have been past  
13 that parking lot many times. I even tripped once on  
14 that -- the lighting pole and reported it to the town and  
15 they fixed it. But it's not about parking. Please.  
16 Local businesses support it. And if you don't support  
17 it, I will stop going there. So that is my comment.  
18 Thank you.

19 CHAIRMAN KLEMENS: Thank you, Eileen.  
20 Is there anybody else who wishes to speak?  
21 Okay. We have another hand up, Abby. David Rich.

22 MR. RICH: Yeah, hi. Thanks, Michael, for  
23 letting me speak. I wasn't -- because I don't think it's  
24 really under the purview of the finances of this project,  
25 that doesn't come under Planning & Zoning. But enough

1 people have brought this up that is an issue. And again,  
2 this is another just I think red herring that people are  
3 just trying to throw things at the wall and see what  
4 sticks here.

5 I have been involved with affordable housing in  
6 Connecticut for the last 20 years. These things are  
7 underwritten far more concretely, far more specifically  
8 than anything you find in the commercial side. When  
9 people say this is viable, I humbly say they don't know  
10 what they're talking about. This isn't a normal  
11 commercial property. This is state resources, federal  
12 resources that are brought into this with very little or  
13 no debt on these properties.

14 That the public trust is here, the underwriting  
15 that the state requires here is far more than you are  
16 going to find from any bank or any other equity or debt  
17 that's put into any project. These things are vetted and  
18 vetted and vetted. We don't have all the finances ready  
19 for this yet because this is going to go through another  
20 six months process with the State before they ever sign  
21 any dollars over to us. So please, people, you might  
22 have other disagreements, but don't look at it on the  
23 financial side. I don't know of an affordable housing  
24 development in the last 20 years that has folded or gone  
25 under here in Connecticut.

1           CHAIRMAN KLEMENS: Thank you, David.

2           Another hand up? Hand down? Any more hands?

3           CHAIRMAN KLEMENS: Okay, it's 9:44. I would  
4 like to have a motion to continue --

5           MR. SMITH: If I -- Chris Smith, if I may. I  
6 just would like to -- I did what I was trying to ask  
7 Mr. Miller about, I just would like to confirm whether  
8 he's going to be here at the continued meeting because  
9 that is his appendix that I was referring to, at least  
10 what was sent to me, concerning five different  
11 properties. I did some follow-up questions. But  
12 certainly not tonight they can wait. I was just checking  
13 to see if Mr. Miller will be available to respond to  
14 that?

15           CHAIRMAN KLEMENS: Mr. Miller, are you going to  
16 be at the continuation of the hearing?

17           MR. MILLER: What is the date of that again?

18           CHAIRMAN KLEMENS: I'll give it to you. It's  
19 Wednesday, April 14th.

20           MS. SHYER: What time?

21           CHAIRMAN KLEMENS: 5:30.

22           MS. SHYER: Thank you.

23           MR. MILLER: Yeah, I can be here.

24           MR. SMITH: Thank you, Mr. Miller.

25           CHAIRMAN KLEMENS: He will be here.

1 MR. MILLER: My pleasure.

2 CHAIRMAN KLEMENS: Thank everyone for their  
3 patience and hard work.

4 I would like to have a motion to continue this  
5 hearing to 5:30 p.m. via zoom on April 14th on Wednesday.

6 MR. COCKERLINE: So moved.

7 CHAIRMAN KLEMENS: A second?

8 MR. RIVA: Second, Michael, Bob Riva.

9 CHAIRMAN KLEMENS: All those in favor signify  
10 by saying aye?

11 ALL: Aye.

12 CHAIRMAN KLEMENS: Let's be very clear.  
13 Deadline for technical submissions, looking at my notes  
14 here. Abby what is the deadline for technical  
15 submissions?

16 MS. CONROY: We didn't talk about, this but --

17 CHAIRMAN KLEMENS: Nobody talked about --  
18 okay.

19 MS. CONROY: Yes. Noon on Thursday, April 8th.

20 CHAIRMAN KLEMENS: Noon on Thursday, April 8th  
21 for technical submissions. That means items that have  
22 been submitted by the Intervenor and the Applicant.  
23 Public is able to submit comments as long as the hearing  
24 is open. Until we close it.

25 MR. ANDRES: Mr. Chairman, is Chuck Andres,



1 attorney for the Commission. Just a couple questions  
2 earlier on there was a question of the 22A-19, the second  
3 component of the feasible component alternative and the  
4 question you raised earlier. I would ask the attorneys  
5 both for the Applicant and the Intervenor to address  
6 whether it's appropriate to look at offsite elements,  
7 locations as -- whether that comes within the feasible  
8 improvement alternative element; and if they can address  
9 that in writing, that would be great so we can have that.

10 And also, one other question. The Intervenor  
11 is under 22A-19. There's a separate statute 22A-19a  
12 which talks specifically about historic, and the question  
13 is that -- did the Intervenor intend to include that.  
14 So, if --

15 CHAIRMAN KLEMENS: The Intervenor spoke about  
16 that last time. Correct? That was judicial as opposed  
17 to an administrative? Is that --

18 MR. CASAGRANDE: Yes. That's right. 22A-19 is  
19 a court -- it contemplates a court proceeding. 22A-19a,  
20 I'm sorry. But to the extent that we can incorporate it  
21 by reference, yes. We will incorporate it by reference.  
22 I just don't think it's applicable. 22A-19 covers it in  
23 an administrative proceeding, in my opinion.

24 MR. ANDRES: Okay.

25 CHAIRMAN KLEMENS: My question, maybe you can

1 ask everyone if the attorneys are here, is the feasible  
2 and prudent alternative test only come into play if the  
3 Commission determines that the Applicant -- excuse me,  
4 the Intervenor has met their burden? That's my question  
5 for feasible and prudent alternatives. So, if I can get  
6 that information, that would help me with this morass.

7 MR. CASAGRANDE: I think that's in our position  
8 statement, Mr. Chairman. The answer in think is yes.  
9 You only get to feasible and prudent alternatives if you  
10 determine that the project likely will have an  
11 unreasonable impact. I think that's clearly the law.

12 CHAIRMAN KLEMENS: Well, as long as other  
13 counsel agree with that, that's fine. If not, I will  
14 hear from them.

15 MR. CASAGRANDE: I can't imagine they wouldn't  
16 agree with that, Mr. Chairman.

17 CHAIRMAN KLEMENS: They love to write. Ask a  
18 simple question, you get a three-page memorandum.

19 MR. CASAGRANDE: Right.

20 CHAIRMAN KLEMENS: It's always interesting  
21 reading.

22 Okay. We had the motion to continue. We don't  
23 have to do anything else. Motion to adjourn this night,  
24 this meeting tonight?

25 MR. WHALEN: So move.



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C E R T I F I C A T I O N

I hereby certify that the above and foregoing is a true and correct transcript of the audio recording provided, limited only by the technology of the recording.

Dated this 15th day of July, 2021.

*Victoria Stockmal*

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VIKTORIA V. STOCKMAL, CRR, RMR

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