

TOWN OF DURHAM

Planning and Zoning Commission

P.O. Box 428

Durham, Connecticut 06422-0428

MINUTES OF JULY 2, 2008, MEETING

Present

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

Alternates: Cathy Devaux, Mike Geremia

Absent

Member: Dian O'Neal

Alternate: Mark Laudano

The meeting was called to order by George Eames, Chairman, at 7:30 p.m. Cathy Devaux was seated in Dian O'Neal's place; Mike Geremia was seated in Jim Kowolenko's place (and later unseated with the seating of Jim Kowolenko).

Motion by Dave Foley, seconded by Ralph Chase, to approve the agenda of the July 2, 2008, meeting as amended to include review of Russell site plan, 757R New Haven Road. Motion carried, 8-1, with all in favor with the exception of Jim Kowolenko (in abstention).

1. Public Session

No business.

2. Zoning Enforcement Officer's Report

Geoffrey Colegrove stated that he was interested in assembling a subcommittee to deal with a 'growing issue'—stone structures. At present, only stone walls that form actual boundary lines are permitted (no one has ever interpreted that use to require a permit). He has collected some information from other towns so that uniform standards can be developed. For instance, in Fairfield County, some towns state that if the stone structure is under three feet in height, it doesn't require a permit. Others link it to lot coverage. The

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question will be to determine how far the Commission would like to go in terms of what it wishes to regulate.

3. Yvon Beaudoin Builder, Inc., Request for Release of Bonds, Elihu Drive, Skeetfield Point Road, Anderson Lane and Skeet Club Road

Attorney Kenneth Mango addressed the Commission on behalf of Yvon Beaudoin Builder, Inc. Over the years, the firm has constructed a number of homes in Durham, posting cash bonds, in the form of checks, for each of these structures, road bonds, drainage bonds, driveway bonds, etc. About six months ago, the company attempted to receive back some of the outstanding bonds. The problem being faced is that many of the bonds—as stated by the town treasurer—cannot be located. The checks were deposited in 1998, 1999, and 2000. Yvon Beaudoin Builder does not have copies of the checks; however, he has records indicating check numbers, the payee as the Town of Durham, and statements from the bank indicating that the checks were cashed. The town treasurer has stated that the handwritten records made by the administrator in the building office have been lost or destroyed; some were entered into the computer; however, some of those cannot be retrieved due to computer crashes. His presence before the Commission is in advance of a filed lawsuit to reclaim the bonds, simply to ensure that there is no reason, from the Commission's standpoint, for holding back any of the bonds.

George Eames asked if the checks could be produced by the bank; this is not possible, only the bank records can be reproduced. One bond check was provided. Attorney Mango stated that he was informed that the balance in the bond account exceeds what records can document. The one check submitted to the town treasurer has not been acted on. According to the attorney, \$20,900 is what is owed back to the developer. In one instance, one of the bonds was returned to a builder by the same name, but a different individual from the incumbent, several years ago. Documentation of this fact was provided.

Richard Eriksen stated that a financial representative of the town is responsible for resolving this matter, once all zoning requirements for a bond have been satisfied based upon the recommendation of the town engineer, town sanitarian, or town planner.

Geoffrey Colegrove stated that the only bond over which the Commission had taken action related to acceptance of Elihu Drive, pending receipt of a drainage easement from a neighbor. There were apparently two bonds against the road; one of the bonds (\$5,000) was released (Attorney Mango concurred that this was the case). The second bond has not been released primarily because there is a requirement that the bond remain in place one year after road acceptance in the event of any structural damage with the road (called a road maintenance bond). It is not eligible for release by the Commission because one year has not passed since acceptance. The balance of the bonds, ranging from about \$500 to \$1,000, are taken by the building and land use department for erosion and sedimentation control permits at the time that building permits are issued; they might also

relate to paved aprons for driveways. The Commission has no purview over those bonds; these are required by town ordinance.

Geoffrey Colegrove will provide a status that all driveway aprons are complete on the roads in question at the next meeting as well as whether or not there are any other outstanding matters.

4. Thomas Russell, Jr., Request for Site Plan Review, Interior Lot, 767R New Haven Road

Tom Russell recused himself from discussion of this agenda item.

Attorney John Corona addressed the Commission on behalf of the actual applicant, Mrs. Russell. He referenced a site plan showing the Russell property, the house of the Mogensens, and a large plot owned by the Mogensens. At the time that the Mogensen property was being developed, the lot was split without subdivision approval. The plan had always been for the Mogensen lot to be two acres in size; the application before the Commission is to formally establish this fact. This action is to create an interior lot. The lot has 25 feet of frontage.

Geoffrey Colegrove clarified that prior to this point, there were two front lots. Now a two-acre interior lot with 25-foot access strip is being created. A new parcel is not being created; the balance of the land will be reabsorbed with the property owned by Mrs. Russell.

To Dave Foley's question about the driveway grade, it is fully paved and at 13% (the regulations allow up to 15%).

Motion by Richard Eriksen, seconded by Frank DeFelice, to approve the site plan review of Mrs. Russell, 757R New Haven Road. Motion carried unanimously.

George Eames noted that Jim Kowolenko was present and seated; therefore, Mike Geremia was unseated.

Motion by Richard Eriksen, seconded by Ralph Chase, to recess the regular meeting for the public hearings. Motion carried unanimously.

PUBLIC HEARING

1. Applicant: Planning & Zoning Commission
Proposed Amendments for the Comprehensive Revisions to Section 12.06. "Special Flood Haard Area Regulations" in accordance with the State of Connecticut Department of Environmental Protection and the Federal Emergency Management Agency

Present

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen, Dave Foley, Jim Kowolenko, Gene Riotte, Tom Russell

Alternates: Cathy Devaux, Mike Geremia

George Eames, Chairman, opened the public hearing and read the legal notice. Cathy Devaux was seated on the Commission in Dian O'Neal's place. Mike Geremia was present, but not seated.

Geoffrey Colegrove stated that Middlesex County was one of the first counties in the state that has had major revisions to the flood hazard mapping. This commenced several years ago when FEMA and the DEP hired a consultant to update the information with more current topographic and hydrologic data. Other counties will be following suit. The purpose is to maintain eligibility of member municipalities to be able to apply for flood hazard insurance. The regulations must become effective by the end of August to reflect current mapping and adjustments to text.

Geoffrey Colegrove stated that the changes were not extensive; rather, they are primarily definitional changes. Midstate Regional Planning Agency reviewed these changes and recommended them for approval. He stated that there were few changes to the upland area; most changes are in the area of the Connecticut River and the estuaries related to the river. There are some elevation changes as high as three and four feet. But upland areas (Middlefield, Haddam, Durham) had relatively minor changes. If there is any removal of material/storage capacity in a floodplain area, the same amount must be created for additional storage elsewhere. In terms of determining market value, Geoffrey Colegrove recommended a current market assessment be conducted (this was a recommendation from the DEP and Geoffrey Colegrove concurred).

Frank DeFelice expressed extreme concern with the proposal. He stated that he had done extensive research as well as talked with FEMA representatives. The language being considered was provided partially by FEMA and partially crafted by Midstate Regional Planning Agency. He stated that the proposed language would significantly limit people's ability to do things with their own property. He stated his opinion that it shouldn't just be passed through; it will have a long-reaching effect on people in the community.

Geoffrey Colegrove stated that the flood hazard regulations would need to be met, but that building could still occur. Structures have to be flood-proofed. He then described the process by which the regulations proposed were developed; shoreline towns have far more restrictive language than does Durham and other inland areas. The restrictions are minimal in order to meet FEMA requirements; little was added or subtracted.

Frank DeFelice stated that there would be a significant impact on people utilizing their

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property. He suggested a subcommittee be formulated to evaluate the language. Geoffrey Colegrove disagreed. Richard Eriksen noted that there have been abuses of the floodplain in town.

There was no public comment.

Motion by Richard Eriksen, seconded by Ralph Chase, to close the public hearing on the proposed amendments for the comprehensive revisions to Section 12.06. "Special Flood Hazard Area Regulations" in accordance with the State of Connecticut Department of Environmental Protection and the Federal Emergency Management Agency. Motion carried, 8-1, with all in favor with the exception of Frank DeFelice (in opposition).

PUBLIC HEARING

2. Applicant: CSK Realty, LLC, Request for a Proposed Zoning Text Amendment to Section 07.01.03. (23) of the Zoning Regulations to Allow Large Animal Crematories by Special Permit in the Heavy Industrial Zone
3. Applicant: Connecticut Horse Cremation, Request for a Special Permit for a Large Animal Crematory
Location: 41A Commerce Circle

Present

Members: Ralph Chase, Frank DeFelice, George Eames, Richard Eriksen, Dave Foley, Jim Kowolenko, Gene Riotte, Tom Russell

Alternates: Cathy Devaux, Mike Geremia

George Eames, Chairman, opened the public hearing and read the legal notices. Cathy Devaux was seated on the Commission in Dian O'Neal's place. Mike Geremia was present, but not seated.

Attorney John Corona addressed the Commission on behalf of the applicants, Jeff Blashke and Dominic Gambardella. He provided copies of the minutes of the April 16, 2008, Planning and Zoning Commission meeting, the rationale for which was the point that the Commission generally appeared to approve of the proposed use, but felt it was better suited to the industrial zone (than the Design Development District). The applicants have secured a possible site at 41 Commerce Circle in the heart of the Commerce Circle industrial park in the heavy industrial zone.

Attorney Corona asked that a memo from the town sanitarian be read into the record. Geoffrey Colegrove read the memo from Bill Milardo, town sanitarian, which stated that

additional information was provided for review. The Connecticut Department of Environment Protection was contacted for standards regarding stack emissions. A daily air quality index is published by the DEP. The applicants are encouraged to use this number in their “decision to limit the operations of the crematorium” on days when the air is considered unhealthy or very unhealthy.

Attorney Corona stated that at the previous hearing, interest was expressed in having available the full PowerPoint presentation that had originally been made. The activities of this evening’s hearing are, in essence, a continuation of what was presented for the Ozick Drive application. A depiction of the Commerce Circle area was provided showing the location for the proposed building. A one-thousand foot radius was drawn around the proposed location. This radius contains two homes off Elihu Drive, none of the homes on Skeet Club Road, and primarily includes the industrial area. The distance to the closest home is approximately 1,000 feet.

Jeff Blashke delivered the PowerPoint presentation, pointing out that there are significant differences between human and animal crematories. Animal crematories do not have to address such things as implants, fillings, prosthetics, etc. These items create toxins in the atmosphere; horses do not produce this. This will be a discreet operation with no signage on the building or trucks. Horses will be transported in an unmarked trailer that will be brought fully into the enclosed building for emptying. Taxable property will be approximately \$300,000 to \$500,000 of investment in equipment.

Jeff Blashke then described the operations of the business from the point of a horse dying to the cremation. A ‘dolphin sling’ is used to gently place the horse into the fully closed trailer. The trailer will be backed into the facility, all doors will be closed and then the horse will be removed. The only preparation of the horse is to remove metal shoes, if there are any. The cremation—depending upon weight of the horse—is about three hours. The truck, equipment, and tools will be sanitized. Ashes are vacuumed from the incinerator and placed in a 13” x 13” x 13” box. This is returned to the customer along with a sympathy card.

The rationale for this procedure being needed is the limited capacity of burial space in the ground and impact on groundwater from the toxins in chemicals used to euthanize horses. State-of-the-art equipment was described; this is used in California, where there are the most stringent EPA testing and air quality standards in the country. As an agricultural business, it fits the community. There is already a large population of horses in this area with ready highway access.

Current existing uses permitted in the heavy industrial zone include experimental research laboratories, theoretical testing, development, sales, pharmaceutical product testing (auxiliary use might include an incinerator for scientific testing for animals), light manufacturing, truck and freight terminal, warehouse distribution, etc. Jeff Blashke stated that they will have one or two cars and a pickup truck with a carrier per day. A truck and freight terminal would have a far more significant impact.

Jeff Blashke stated that he and his business partner, Dominic Gambardella, are family-oriented businessmen who will operate the business with their families. They've owned businesses for over 25 years. He has been environmentally safety certified for two years (40-hour course plus 8-hour refresher). He's been involved with horses for over 13 years and owns a barn and boarding facility. They are involved in their communities (Kiwanis, Boy Scouts, High Hopes Riding School, park and rec coach, Helping Hands, America Cares, etc.).

Letters of endorsement for the proposal were presented from Senator Ed Meyers, Durham Economic Development Commission, Middlesex Chamber of Commerce, UCONN Post, Connecticut Farm Bureau, and the horse community. Copies of testimonials were included in the Commission's packets. Pen-ram Corporation is the manufacturer of the equipment. A guarantee has been provided in writing that the purchase price of the machine will be refunded if the machine does not perform to the standards committed to in writing and presented to the Commission.

A video was presented showing the cremation machine in process. Animal loading was shown, it takes about 30 minutes for the upper chamber to heat up. The tape showed the temperature getting to 1800 degrees F before the lower chamber begins to process. The entire cremation would take 2 hours and 25 minutes (for this video, cremation of dogs and cats—in plastic bags—was shown). The outside of the unit was filmed, depicting the stack. There was no visible smoke whatsoever from the chamber. Eight minutes later, the levels were checked again. Again, there was no smoke. The temperature rose to 1845 degrees F. The top chamber remained at over 1800 degrees, the bottom chamber exceeded 1500 degrees. The stack continued to generate no smoke; neighbors' doors were shown open throughout the entire process. Contrary to some viewpoints, smoke from cremation is not white, but black.

Jeff Blashke explained that the paint on the stack does discolor over time because of the intense heat. The Commerce Circle site was selected because of the Commission's previous input that the heavy industrial zone is more appropriate for locating the business than the Design Development District. They are in the furthest located heavy industrially zoned building possible—they want to be good neighbors. He pointed out that in the horse business, it is essential to earn the respect of the entire community.

Attorney Corona presented to the Commission a proposed statement of facts as well as proposed conditions of approval for consideration. Attorney Corona read this into the record. The proposed location for the business is at 41 Commerce Circle, a 2.37-acre site with an existing industrial building in the heavy industrial zone. It is adjacent to the railroad corridor, approximately 1,000 feet from the nearest residence. Commerce Circle is nearly fully developed with a variety of heavy industrial uses. The facility will accept only large animals (primarily horses). The business operations were then described, including refrigerated transport vehicle. The process was again reiterated, as described earlier in the evening. The equipment will always be operated and maintained in

accordance with manufacturer requirements. There will be no visible emissions or odors detectable from off the premises. There will be no outside storage. Backup electricity generation will be available at all times. It is anticipated that there will be two staff members on site during operations—as required by demand.

Proposed conditions of approval were presented:

- 1) The operation of the facility will be conducted in accordance with the above summary at all times. All manufacturer specifications for operation and recommendations for maintenance will be adhered to.
- 2) No emissions, waste, or other byproducts of operation shall be permitted to cause a nuisance or unreasonable annoyance to surrounding property owners. No odor or particulate matter shall be permitted outside the industrial zone in which the use is located.
- 3) No signage indicating the use shall be placed at the site or on any vehicle used in the operation of the business except as may be required by law.
- 4) The Town of Durham Health Department or any successor office or authority may order temporary suspensions of incineration operations during limited periods of extreme atmosphere conditions where such official determines such conditions may reasonably result in the transmission of odors, particulate, or other byproducts of incineration off-site. Such officials may inspect the facility at any time during business operations.
- 5) Written records of all incinerator activity shall be maintained at the facility and shall be available to the Durham Health Department or any successor office or authority during business operations.
- 6) Within the first 90 days of operation, the applicant shall furnish the Durham Health Department with at least one air quality testing report prepared by a professional air quality testing laboratory. The purpose of this report shall be to provide confirmation that all manufacturer's emission specifications and any applicable local or state emissions requirements are met. In the event the report determines that such specifications or requirements are not met, no further incineration shall occur until subsequent testing confirms that such specifications and requirements are met. Thereafter, the Durham Health Department or any successor office or agency may require such testing at least once each calendar year to confirm operation is within specifications and requirements.

The applicants are very interested in being good neighbors. They worked hard to locate a business site that the Commission recommended to them. It's an existing industrial building. There are a lot of vacancies in the industrial buildings, particularly the newer ones. If the buildings are to sustain themselves, it's important, from Attorney Corona's perspective, that the Commission begin to allow uses in those buildings. One of the buildings is in foreclosure for inability to attract tenants.

Attorney Corona stated that many letters have been presented as part of the record. They essentially read "To Durham Planning and Zoning Commission ... I, _____"

_____, am in full support of the proposed large animal crematory at 41R Commerce Circle.” He then stated the names of the signers of these letters:

- * Melissa Greenbacker, 148 Wallingford Road, Durham
- * Lois Greenbacker, 182 Wallingford Road, Durham
- * Joe Greenbacker, 182 Wallingford Road, Durham
- * David Greenbacker, 153 Wallingford Road, Durham
- * Larry Passavant, 2 Cherry Lane, Durham
- * Lisa Passavant, 2 Cherry Lane, Durham
- * Kay Sherman, 687 New Haven Road, Durham
- * Tom Chiari, 86 Anna Terrace, Durham
- * Debra Russell, 759 New Haven Road, Durham
- * Christopher Russell, 759 New Haven Road, Durham
- * Joyce Katonska, 45 Foot Hills Road, Durham
- * Sanda Prenta, 143 Tri-Mountain Road, Durham
- * Brenda Eddy, 385 Main Street, Durham
- * Valeria Cammera, 43 Madison Road, Durham
- * Linda Heiten, 199 Cherry Lane, Durham
- * Diane Lily, 28 Alponca Road, Middlefield
- * Linda Galea, 85 James Road, Durham
- * Charles Galea, 85 James Road, Durham
- * Russ Parmelee, 220 Creamery Road, Durham
- * Andrea Steele, 47 Salted Lane, Durham
- * Robert Sisk, 179 Cherry Lane, Durham
- * Jeff Doyle, 155R Wallingford Road, Durham
- * Sharette Hall, 145 Madison Road, Durham
- * Nancy Thiede, 30 Wilcox Drive, Durham

These were all submitted as part of the record. Attorney Corona stated that at previous hearings, the “crowd response” has sometimes gotten out of control; he asked that order be maintained so as to have an orderly presentation.

Frank DeFelice asked the mechanism for firing the incinerator; Attorney Corona stated it is propane. A 550- or 1,000-gallon tank will be on site; a second tank might be required. About 60 gallons of propane is required per firing. The fire marshal will review this. Frank DeFelice asked if more than one horse would be done at a time; this is not the case—only one horse will be cremated at a time (this is in contrast to the way dogs and cats are incinerated ‘in batches’; this business is not going to be cremating cats and dogs).

Richard Eriksen asked about the noise levels from the operation. Attorney Corona stated that the noise level is likely to be less than the school buses and Schwan’s trucks in the industrial neighborhood. The actual decibel level can be obtained. Jeff Blashke stated that normal conversation can be held in the building while the operation is ongoing. The only exterior sound is the air coming out of the stack (described at ‘less than a diesel truck’).

The same mechanism and amount of sound is the same, regardless of the size of the machine; the operation is the same.

In the video observed, Jim Kowolenko noted that the animals (cats and dogs) were in plastic bags; this will not be done in this operation. It is likely plastic bags were used for the video so that the dead animals were not visible. Jim Kowolenko asked about the exhaust products from the stack—horses being 85% water, he asked about the operation in New England (i.e., very low air temperatures in the winter)—he suggested there would be a plume of white condensed water vapor from the stack.

Jeff Blashke stated that the response to that is that heat will be visible; the steam is burned off between the primary chamber and the secondary chamber. Condensation is *not* emissions. The system does run in arctic areas and is virtually invisible.

Jim Kowolenko asked whose responsibility it will be to ‘reclaim’ the site if it is shut down. That would be the responsibility of the business owners. He also asked what would happen for owners who do not want ashes returned. A professional hauler will be retained. Jeff Blashke stated a process is in place. Jim Kowolenko noted that there is no definition of “incinerator” in the regulations.

Attorney Corona indicated that the term crematorium is used as being more palatable than incinerator. The special permit process gives the Commission the ability to shape a specific approval. Jim Kowolenko indicated that the Commission has to have rules and regulations to address this use. Attorney Corona stated that the language can be altered and/or tightened up (i.e., incinerator or crematorium, large animal or something else), as the Commission desires.

George Eames noted that the Commission received a number of letters from residents as well as others. A June 6, 2008, letter from Senator Ed Meyer was received and read into the record. This letter provides support for the proposed operation in concept; however, Senator Meyer is careful to note that the location falls under the purview of the Planning and Zoning Commission. He adds that any location must be compatible with the character of the neighborhood in which it is located. A number of other letters and e-mails were received. The following people wrote in opposition to the proposal:

- * Julie Macnaught, 176R Skeet Club Road
- * Greg Bedell, 176R Skeet Club Road
- * John Bialobrzkeski, 122R Skeet Club Road
- * Matthew Bradley
- * Danielle Kowal
- * Kranich Family
- * Barbara Cushing, 132 Skeet Club Road
- * June Demarilas, 461 Powder Hill Road
- * Laure Dickson, Jessica Dickson, Allison Dickson, Morgan Dickson, Skeet Club Road

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- * Laura and Dan Gold, Skeet Club Road
- * Debbie Huscher, 37 Elihu Drive
- * Jim Kranich and Diane Hunter-Kranich, 202R Skeet Club Road
- * John and Melissa Lesniak, 200R Skeet Club Road
- * Jack Alan McCain, Jr., 262 Skeet Club Road

Attorney Corona stated that the McCain letter was available at town hall and was not in opposition to the application; he asked that it be read into the record.

Richard Eriksen stated that in the spirit of disclosing communications received, he received 13 specific e-mails from residents common to what was already read. He submitted them into the record, many of which are duplicates of what was mentioned already.

Geoffrey Colegrove stated that copies of all correspondence would be sent to each Commission member; in addition, a set of the correspondence will be placed on file for public inspection. Debate ensued over whether or not one or more letters should be read publicly. Concern of time was noted. Again, all Commission members will receive copies of all correspondence for review. Attorney Corona stated that as long as the public hearing is continued (enabling the applicant to review and respond to letters), he had no problem with letters not being read aloud. Attorney Corona did express concern with this being the second or third public hearing in which e-mails and letters are being sent directly to Commission members; it is completely inappropriate and unfair to the Commission as well as the applicant.

It was suggested that members of the Commission be polled to determine whether correspondence had been received. Richard Eriksen is the only Commission member other than George Eames, as chairman, to have received correspondence.

Patrick Sung, 427 Powder Hill Road, addressed the Commission. He stated that the video presented was deceptive, in his opinion, because cats and dogs were shown being cremated as opposed to horses, significantly bigger. He is skeptical about the process. He indicated he is a professor of biophysics and biochemistry with a specialty in cancer research at Yale University. He considered himself knowledgeable of disease transmission. He asked precautions that would be put in place to ensure that the animals are free of bacterial and viral diseases. The second question he had was the remedies for the machine breaking down in the middle of the cremation process and the resultant disposal of remains.

Senator Ed Meyer addressed the Commission and the public. He indicated that he had been asked to meet with area residents from the Skeet Club and Powder Hill area. At a recent meeting, he was asked the state law in Connecticut with respect to large animal crematoriums. There are no laws currently that establish standards for this operation. Of course, regulations exist for human crematoriums. He stated that he chairs an environmental committee, on which Representative Ray Kalinowski serves. A bill will be

introduced in the General Assembly before the environment committee to establish standards for large animal crematories. It was suggested that this application be held in suspension until legal standards can be crafted. A special session would have to be held—or regular session (January 2009).

Representative Ray Kalinowski, also a Durham resident, addressed the Commission. He asked that his remarks be associated with Senator Meyer. He stated his confidence that this could be moved forward quickly in the legislature.

Laurie Stevens, Skeet Club Road, addressed the Commission. She lives directly across from Commerce Circle and is opposed to a change in the regulations that would allow the proposed application. A petition with 79 names in opposition was presented; primarily Skeetfield Point, Skeet Club Road, Elihu, Powder Hill, and Anderson roads were included as well as the majority of businesses in Commerce Circle.

Greg Bedell, 176R Skeet Club Road, addressed the Commission. He read his own letter of opposition into the record. He lives in close proximity to the proposed operation. Their location above the operation would enable odors to waft in their direction (they currently can smell the diesel buses). The use of spray disinfectant was questioned. He read the specific directions from the disinfectant itself and the use of water after the disinfectant. Given there is no drainage proposed, where will the runoff go? Greg Bedell stated that he has been in the environmental safety and remediation business for 30 years and is familiar with the product. The disposal of this type of disinfectant is not allowed by state regulation into groundwater. A sanitary sewer with sewage treatment plant is the only alternative permitted. This product is regulated by the EPA. He cited serious concern with Durham's groundwater. While there is support for increases to the tax base, there is none when it comes with the costs of this proposal. A document was submitted from the EPA; this product is not biodegradable.

Fred Mastele, 197 Maiden Lane, addressed the Commission; he lives about five miles from the proposed operation. He is in support of the operation, having attended several of the hearings. A horse crematorium is needed.

Matt Brady, 174 Skeet Club Road, addressed the Commission. He cited concern with proximity to so many homes. In comparing Ozick Drive to Commerce Circle, there are many more homes near Commerce Circle than Ozick. The nearest homes at Ozick are 1100 feet and nearly a quarter mile. There are six homes closer to the Commerce Circle site than located at Ozick Drive. There are eight homes within the 1100 foot range of Commerce Circle and just one at Ozick Drive. He stated that if Ozick Drive was determined inappropriate because of residential proximity, then Commerce Circle is far worse.

Matt Brady also stated that the use table for the heavy industrial zone was considered before he bought his house; had a crematorium or incinerator been on the table, he would have thought twice.

A member of the public clarified that the application before the Commission is not a continuation of the former Ozick Drive application (as was previously stated). He asked if the manufacturer of the incinerator had involvement in the development of the video presented. He also asked about the scientific data presented as part of the application—has it been verified by an independent third party? He then discussed dismemberment of horses by some vets; will this facility restrict crematory services to just full-size horses?

Kevin Upton, 166R Skeet Club Road, addressed the Commission. In terms of smell, he stated that research he has conducted has shown that smell is a common problem with animal crematoriums.

Cathy Crotu addressed the Commission and stated her adamant opposition to the proposed crematorium. She stated that being in the real estate business, she knows that property values in the area will be negatively impacted by the proposed business. She contacted an appraiser and outlined the proposed application; it will directly affect the marketability and pricing of homes in this area. She also pointed out the dangerous curve on Skeet Club Road.

Attorney Corona stated that the ongoing audience applause throughout the hearing is impolite. He asked that the Chair maintain order of the hearing process.

Cathy Crotu stated that the neighbors have had to endure the power lines as well as the Permatreat business (citing a problem with a high-combustion machine); she can also smell the odors from the DEP.

George Eames indicated that the previous evacuation was not caused by Permatreat; Geoffrey Colegrove indicated it was Graphite Diemold.

Melissa Lesniak, 200R Skeet Club Road, addressed the Commission. She is opposed to the proposed zone change and business activity. She cited concerns with dangerous emissions (especially dioxin). She has suffered from exposure to dioxins herself.

Pete Glenewinkel, 198 Skeet Club Road, addressed the Commission. He was disappointed with the amateur home video presented and had hoped for something more professional. He is concerned with property values. Those writing in favor of the application do not live in the area of Commerce Circle. He implored the Commission to listen to the residents who are in opposition to this application.

Susan Storey, Skeet Club Road, addressed the Commission. She has two horses that she maintains in Guilford. They will be buried there when they die and not incinerated.

John Bialobrzkeski, 122R Skeet Club Road, addressed the Commission. He was pleased to see both the state senator and representative at this meeting. He remains opposed to the application based upon impact to property values.

Another resident asked how many incinerators there would be and what would happen if there were multiple animals that died on a given day.

Representative Ray Kalinowski addressed the Commission. He stated that he is a native of the area, growing up in Middlefield and living in Durham that last 25 years. He stated that the issues being discussed tonight relate to quality of life. He is in his third term in the General Assembly and is a former first selectman in Durham. He is sensitive and sympathetic to acquiring industry and *proper* development appropriate to the town. He is in opposition to this application because of proximity to residential areas. He has owned horses for the past 25 years, he boards them in his barn and believes there's a need for such a facility—but not in the proposed location. A number of good points were introduced this evening. He, too, is concerned with the concerns of possible odor, traffic, and the town being known as a 'dead animal' community.

Lisa Tregoning, 36 Elihu Drive, addressed the Commission. There are 11 children under the age of 10 on Elihu Drive. They are located about 1,000 feet from the application; two homes with four children are within the 1,000 foot range.

Hugh Curley, Haddam Quarter Road, addressed the Commission. He serves on the Economic Development Commission. This group did come out in favor of this application, compatible with the economic strategies adopted by the group. He framed several questions. He asked what the 1,000 foot range being mentioned indicated—safety or what the actual distance is. Anything to stimulate businesses in town is encouraged—but making sure that environmental systems have redundant, closed loops (i.e., no discharge, treatment of effluent, etc.). From an economic standpoint, he'd like to see every effort be made to ensure this operation can be safely conducted in the proposed location.

Carl Obrick, owner of Arrow-Cam, located at 36 Commerce Circle, addressed the Commission. He stated that he would be more affected by this business than anyone else; if he were to leave, it would be a problem; he asked that the Commission 'not kill the park' (business park).

Stan Murawski, 154 Skeet Club Road, addressed the Commission. He moved to Durham 23 years ago because of the good schools and not for a crematorium. He is opposed to the application.

Julie Macnaught, 176R Skeet Club Road, addressed the Commission. She asked about the vehicle for transportation—it has been described as a carrier, refrigerated truck, an enclosed trailer. What, specifically, is the vehicle (concerns over visibility and leakage)? If animals are accepted that have had autopsies, there will be considerable 'ick' and leakage from the animals. The disinfectant alone will probably not be adequate.

George Eames asked Attorney Corona to respond to those issues raised. Attorney Corona was appreciative of the legislative presence; he stated that it would have been more ideal to have already had the legislation in place. If not in an industrial zone—as many have expressed concern with—the rhetorical question is, where should it be? There will be a refrigerated unit on site. If something happens during the course of cremation, the animal can be refrigerated. The applicants also hope that someday, a second machine can be added (thus redundancy).

In terms of comments about the impact to children, Attorney Corona indicated that it was difficult to assess how this operation would affect children in the neighborhood. The dangerous curve on Route 157 was mentioned. This is an existing building in an existing industrial park in an existing zone that has been in place for a very long time. While there is a dangerous traffic condition along Skeet Club Road, that, too, has been the case for a long time. The traffic coming and going into the industrial park will probably be the lowest of any business enterprise already there.

Attorney Corona stated that to the issues of this particular use affecting their property values, those homes are already in proximity to an industrial park; at any moment, a variety of uses on the industrial use table could transpire and as far as this use affecting their property values more than others, it didn't seem likely. He cited a funeral home on Main Street opposite the town green. Many towns have funeral homes in residential areas and along main streets. The applicants have attempted to listen to all concerns cited and conditions have been proposed; certainly the Commission can impose additional conditions or restrictions. The use of disinfectant was explored with the town sanitarian, Bill Milardo; this was found to be acceptable. If there are additional measures desired by the State Health Department or the town sanitarian, the applicant is more than willing to explore those. The insinuation about dioxins and use of agent orange—those comments are simply untrue.

Attorney Corona remarked on the comment about Ozick Drive 'being determined unsuitable.' What the applicants understood was that the Commission felt the heavy industrial zone to be more appropriate than the Design Development District. As to the image of the town, everyone seems to like the agricultural and rural aspects of the town (i.e., "like the cows, not the poop"). It is appropriate for a town that has a supply of horses to provide a way for dealing with their disposal.

To the query from Hugh Curley about the 1,000 foot distance that has been mentioned, it is the point to the closest residence on the map from the proposed location. It was not for a scientific purpose that this distance was indicated. Human crematories may be as close as 500 feet to a residence. Again, Attorney Corona asked that the dignity of the hearing process be respected. He stated he was willing to engage in discussion and debate about facts.

The applicant has no problem with being governed by any change in the legislation should there be regulations enacted at the state level. In terms of the petition circulating,

the decision on this application is by the Commission on a land-use policy and would not be dictated by a head count, popular vote, or action of people to elect or un-elect people serving on the Commission. The town's Plan of Development refers numerous times to the agricultural use of the town; this application is more focused than most on this purpose. No business is anticipated from the Greenbacker farm. It would not generally be economically viable for destruction of farm animals in a crematorium.

The person making the video did this per request of the applicant and was not renumerated by the manufacturer. The idea was to provide a real-life view of the operation itself. Had a professional video been prepared, criticism might have resulted that it was too orchestrated. Scientific information has been presented by the manufacturer, who has been in the business for a long time. Many of the units are deployed around the world and in California, where air quality standards are the strictest in the country. The applicant has not conducted independent scientific research; if the Commission desires, this request can be made through the town sanitarian.

To the question of whether or not the applicant would accept dissected horses, the answer is no. Jeff Blashke indicated that the State of Connecticut has funds available for 'horses out of the ordinary'; those horses would be dealt with at UCONN.

Someone remarked that the incineration of four or five cats does not properly represent a horse being cremated; the video was to demonstrate the process of how the equipment is used. If a video of an actual horse being cremated were desired, this could be provided. The principles are the same.

An absorbent material is used to soak up any fluids in addition to the disinfectant. The disinfectant itself will be further discussed with the town sanitarian. In terms of impact to quality of life—again, the proposed site is in an existing industrial park with many industrial uses already in existence. Whether this use at the bottom of the park near the railroad tracks and adjacent to all the other uses will impact quality of life 'measurably' is impossible to know.

Conditions of approval offered give the town the ability to stop the operation if, for some reason, there is a problem (smell, particulates, etc.) that is not as represented. The applicants are prepared for the financial consequence of having to dismantle the operation if the facts are not as presented.

To return to the issue of home values and resale possibility, Attorney Corona stated that there will be no signage on the buildings or vehicles and there will be no advertising in general publications. It would be impossible to conjecture impact on property values any more than if a homeowner on Skeet Club Road were to advertise a house for sale 'adjacent to a Dattco bus terminal.'

It is the job of the Planning and Zoning Commission to balance the competing interests in the town for economic development and residential purposes; the town could not survive as only a residential community.

Jeff Blashke described the transport vehicle as a car carrier that will be air-conditioned, fully enclosed. It will be towed behind a car. A piece of equipment is a tractor-like apparatus that will be driven into the trailer with the animal; the animal will be removed the same way.

Patrick Sung asked how it will be assured that the animals being accepted to the business are free of diseases. He also queried what would happen if the machine breaks down during the cremation process. He asked the safeguards that would be in place. Jeff Blashke stated that the applicant is purchasing \$8,000 worth of parts for the equipment that could be likely to fail. If the machine stops in process, the top chamber stops the airflow from going out; everything would be fully enclosed in the bottom cylinder until repairs are made. Overnight service (6 hours away) would be summoned; local furnace people can also service the equipment.

A local veterinarian spoke regarding the infectious disease issue, basically all diseases of concern for transmission to humans require some sort of direct contact with the animal (salmonella, rabies, etc.); anyone outside a 1,000 foot radius of the business would not need to be concerned. The operators of the equipment will need to ensure specific safeguards when handling the animals.

Patrick Sung followed up with a comment that there are infectious diseases that people still do not fully understand (like SARS). The veterinarian responded that horses do not acquire SARS. There are funds in place to study horses that die from anything unusual; UCONN handles this fully. Will the applicant ascertain the cause of death before the pickup of every horse? (Patrick Sung reiterated his background as a professor of molecular biophysics and biochemistry, involved in the field of biomedical research for 25 years; he is a full professor and vice chair of the department of molecular biophysics and biochemistry at Yale University; he works with infectious agents and his specialty is in cancer research.) Conversation/ debate ensued.

To the comparisons that a trucking terminal could be in this zone, a resident noted that trucking companies aren't hauling dead horses into the area.

Attorney Corona stated that concerns are being drawn to the fact that horses are dangerous, disease-ridden, etc. If this is the case, the town is filled with many horses simply being disposed in the ground. He personally has dug two very large holes with a backhoe and buried two dead horses. And though he does not have a doctorate degree in molecular biology, this is not a good idea. A good alternative is being offered.

A resident who is a physician queried how the pooling of secretions will be handled (sputum, urine, feces), especially with regard to the transport vehicle. Medical science,

she asserted, knows that this is how vector-borne diseases are spread (airborne). If horses come from sites with diseases (respiratory-borne diseases, neurologic diseases, and not just old age), is there something that those secretions can transmit once concentrated in one area (raccoons, birds, etc. that could transmit to a secondary vector)? The veterinarian's response indicated that there would need to be exposure to the outdoors. If the trailer is fully enclosed and being brought to a fully enclosed garage, the access to vectors would be extremely limited.

Jim Kranich, Skeet Club Road, mentioned the burial of horses and impact to seven subsequent animal generations (coyote eating horse, something eating the coyote, and so forth). He stated that there is the possibility of drippage and spillage in the course of transport, unless there is a completely airtight container. In the April 22, 2008, *Town Times*, Commission member Frank DeFelice is quoted as saying, "I do want to see it in Durham, but mention that it is perhaps more appropriate in an industrial environment." That's where the 'inappropriateness' of the Design Development District originated.

A resident indicated that legislation could be crafted with the input of the Environmental Protection Agency, Department of Environmental Protection, etc. But this process takes time; he asked what the "hurry was" to do something before January (when the legislative process might take place).

Attorney Corona stated that there are other crematoriums operating in the state, including a small animal facility in Westbrook. Transport issues would probably be equal among all animals. Jeff Blashke stated that it was the product used to euthanize horses that can extend seven generations (not the animal itself).

Another resident stated that there is a large need for this service, but that this proposed location is not the right spot (nor is Ozick Drive with a daycare facility on the corner). His concern is with the sanitation methods proposed and possible impact on water supply. He suggested a water capture system to address the sanitation issues. He also pointed out that he frequently attends assemblies at the area schools and has found that the 'kids are much better behaved than everyone present at the hearing tonight.' He stated that most of the residents have 'acted like a bunch of children.' He implored the chairman to take more control of the process.

Mike Pitch, Wheeler Hill Drive, addressed the Commission. His wife is 7 1/2 months pregnant. After the meeting, he stated that he is 'downright scared.' He is concerned because the applicant cannot offer assurances of 100% safety. For the minimal financial benefit to the town, this crematorium makes 'absolutely no sense.'

Richard Eriksen stated that despite any effort of legislators to craft legislation at the state level, the timing for this application will long have run out. Therefore, he recommended continuation of the hearing to enable the Commission to fully receive copies of all correspondence to review in advance of that hearing. The communications will also be available to the public for review.

Motion by Richard Eriksen, seconded by Dave Foley, to continue to July 16, 2008, the public hearing on the zoning text amendment to Section 07.01.03. (23) of the Durham Zoning Regulations to allow large animal crematories by special permit in the Heavy Industrial Zone. Motion carried unanimously.

Motion by Dave Foley, seconded by Frank DeFelice, to continue to July 16, 2008, the public hearing of the request for a special permit for a large animal crematory at 41A Commerce Circle. Owner: CSK Realty, LLC. Applicant: CT Horse Cremation. Motion carried unanimously.

Motion by Ralph Chase, seconded by Jim Kowolenko, to reconvene the regular meeting at 10:44 p.m. Motion carried unanimously.

6. Outdoor Wood-burning Furnaces

George Eames stated that Portland and Haddam have denied these types of furnaces in their towns because of the potential height of chimneys (up to 55 feet). There are two in Durham now (both legal with permits) that are not close to residences. Dick McManus is concerned about crowded areas in residential neighborhoods. With the cost of oil, people will be pursuing alternatives.

Tom Russell stated that some models do smoke a great deal; a current system called 'green burn' can be installed inside houses. It operates at 2200 degrees with no smoke and no smell whatsoever. An older chimney requires a special flue liner.

Frank DeFelice stated that he is familiar with these operations. If they burn at low combustion levels, they spew smoke. Secondly, it is a structure. If the smoke stacks aren't properly installed, there can be a problem.

Mike Geremia stated that many people install them with a flue that's too low. This creates a smoking problem. Geoffrey Colegrove stated that regardless of height, in the right weather conditions, the smoke can hang in the area. Jim Kowolenko stated he has been in the boiler business for 30 years; if there is no air control, the system will smoke.

Cathy Devaux stated that she did not see the difference between the smoke from an outside furnace and an interior-installed woodstove.

George Eames stated Dick McManus's primary concern is height of the chimney and smoke in neighborhoods. The Department of Environmental Protection and the Environmental Protection Agency have come up with regulations for these systems.

Mike Geremia agreed that with the cost of fuel, people will be pursuing these types of alternatives for heat, yet not properly installing the systems. A zoning permit and a

building permit will be required. Regulations should be crafted that address height, setbacks, temperatures, etc. The DEP language can be incorporated.

Frank DeFelice stated that the Commission can't dictate what model people must buy; instead, performance criteria can be regulated. Geoffrey Colegrove stated that, presently, people are required to pull permits to erect such a structure. Not everyone does, of course. Bottom line, Portland and Haddam decided not to regulate but, rather, wait for standards from the DEP/EPA. This has not yet happened. For the time being, in those towns, they are prohibited uses (until there are state regulations in place).

Richard Eriksen indicated that perhaps a moratorium might be imposed until such time that state regulations are available. Jim Kowolenko concurred. Existing systems in town are permitted and would be grandfathered.

Geoffrey Colegrove will provide language from what other towns have done.

7. Comprehensive Revisions to Section 12.06. "Special Flood Hazard Area Regulations" in accordance with the State of Connecticut Department of Environmental Protection and the Federal Emergency Management Agency

Geoffrey Colegrove explained that the language must be enacted by August 28, 2008, in order to enable towns to be able to secure flood insurance.

Motion by Jim Kowolenko, seconded by Richard Eriksen, to approve the proposed amendments for the comprehensive revisions to Section 12.06. "Special Flood Hazard Area Regulations" in accordance with the State of Connecticut Department of Environmental Protection and the Federal Emergency Management Agency, 12.06.04.19 market value -- ... shall be determined by an independent appraisal by a professional appraiser. Effective date: August 28, 2008. Motion carried, 8-1, with all in favor with the exception of Frank DeFelice (in opposition).

8. Approval of Minutes

Motion by Jim Kowolenko, seconded by Ralph Chase, to approve the minutes of the June 4, 2008, with the following changes: Mike Geremia was seated for Dian O'Neal; Cathy Devaux was seated for Frank DeFelice. Motion carried unanimously.

9. Payment of Bills

Motion by Richard Eriksen, seconded by Dave Foley, to approve payment of the following bills:

- Connecticut Federation of Planning and Zoning Agencies — \$90.00 (annual dues)
- Attorney Thomas Byrne — \$6,800.00 (Silver Eagle)
- Midstate Regional Planning — \$5,175.42 (May expenses)

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- Midstate Regional Planning — \$6,432.03 (April expenses)
- *Middletown Press* — \$188.39 (tearsheets provided)
- Absolute Advantage — \$359.91 (6/4/08 minutes)
- Absolute Advantage — \$310.38 (5/21/08 minutes)

Motion carried unanimously.

10. Miscellaneous

George Eames read a letter from the town librarian; a request has been made that any smokers should remove butts, matches, etc. from the area outside the library. In addition, tables and chairs need to be returned to their correct placement within the meeting rooms.

George Eames stated that he had received a letter of resignation from Dian O'Neal, Commission member; she is moving to California. This matter will go before the Democratic Town Committee; the position must be filled with a Democrat (Cathy Devaux is the Democratic alternate).

Motion by Ralph Chase, seconded by Richard Eriksen, to adjourn the meeting at 11:12 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik
7/9/2008