

**Notes for Deliberations on PZC Application 22-01P – 25 Talbot Lane**  
Commissioner Stephen Wagner  
March 15, 2022

This statement is intended to address many of the issues raised by residents, interveners, and attorneys and form start of my participation in the deliberations. It presents most if not all of my rationales for a possible approval motion and a final vote on said motion.

To ensure a complete application without repeating every aspect of the presentations from the public hearings for Application 21-36P, the commission voted to incorporate those discussions in the record for the present application.

When I refer to the applicant, I mean the applicant as represented by various members of their team.

**Site Plan Considerations**

This section of the statement addresses issues that apply directly to the site plan review and associated regulations.

**Issue 1: Unknown occupant**

Several members of the public expressed concerns that the eventual occupant of the building is unknown. The applicant repeatedly stated that the applicant needed to establish a that the facility could be built before a tenant would sign on.

**Conclusion:** I agree with the applicant and am comfortable approving commercial and industrial applications where the eventual tenant is not established or at least not revealed in public.

Nonetheless, the commission must evaluate the application keeping in mind the range of future tenants that could occupy the facility.

**Issue 2: Mr. Derrick Butler's qualifications**

Mr. Butler presented himself as having long experience with many past roles in trucking. In the February 15, 2022 session of the public hearing, the applicant challenged Mr. Butler's qualifications. In the March 8, session Mr. Butler provided a detailed resume that provided sufficient evidence of his qualifications.

**Conclusion:** The applicant's challenge is unfair and misinformed. Mr. Butler is a credible expert witness as defined in Atty. Parks' March 8 2022 memo. Of course, I also reserve the right to question his or any other witness's presentation.

**Issue 3: Traffic Report Inadequacies and Adverse Results**

The January 2022 Langan "Traffic Impact Study ..." assumes zero truck traffic from the facility on the section of Governors Highway east of Talbot Lane. (See Figure 5) Repeated statements from staff, confirmed by the applicant, stated that any restrictions on truck traffic on that section of roadway are unenforceable, so the assumption is not supported by facts.

By adding up the arrows on Figures 4 and 7, peak trips increase by 43% (413/943) at the Route 5 intersection 22% (118/622) at the Ellington Road intersection. The report shows no change in

levels of service in Table 3 on Page 11. However, there is a substantial increase queue lengths for westbound traffic on Talbot Lane and southbound left turns off Route 5. There is not much improvement with signal timing optimization. These two queues are already at LOS E and D respectively and the new traffic only makes a bad situation worse.

In addition, the report uses a 25 foot vehicle length which does not reflect the effect of various trucks that would be using the site.

Based on data in the report, Governors Highway is properly listed as a major collector as defined in the Town of South Windsor Subdivision Regulations (See Exhibit 1) and the added traffic is not sufficient to change that status.

I have studied Attorney Connor's March 8, 2022, memorandum, "Limitations On Planning and Zoning Commission Review of Site Plan. It cites numerous court cases preventing the PZC from considering offsite traffic impacts.

**Conclusion:** The PZC cannot consider these issues as a basis for denying the site plan application. The above concerns should be reported to the OSTA for their consideration.

#### **Issue 4: Off-Site Maneuvering**

In Revisions 2 and 3 of the site plan, the applicant presented revised curb radii for the truck entrance off Talbot Lane which appear to be adequate. But Mr. Butler and others also raised concerns about the ability of trucks to enter and leave Talbot Lane at Governors Highway without crossing into oncoming lanes on both roads.

Drawing C-TM1, presented separately at the March 8 session, demonstrates that the new radii are necessary and sufficient for the design basis trucks at the site entrance.

Based on an eyeball check of Drawing C-TM1, it appears that the considerations at the entrance carry over to the Governors Highway intersection. It is possible to copy the truck curves from the drawing (See Figure 1) and apply these to the two right turns at the Talbot/Governors intersection (orange curves on Figures 2 and 3). I apologize for the low-tech presentation, but an engineering grade drawing would likely demonstrate similar issues.

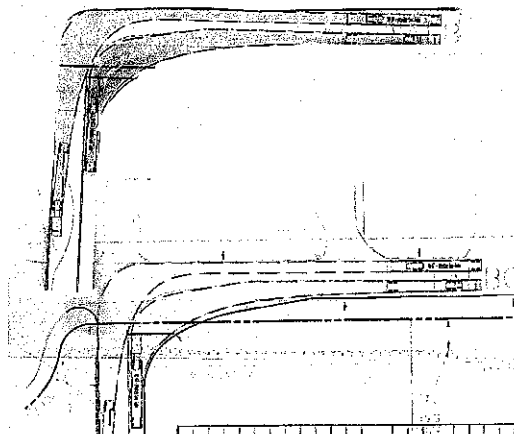


Figure 1: Copy of Truck Maneuvers from C-TM1

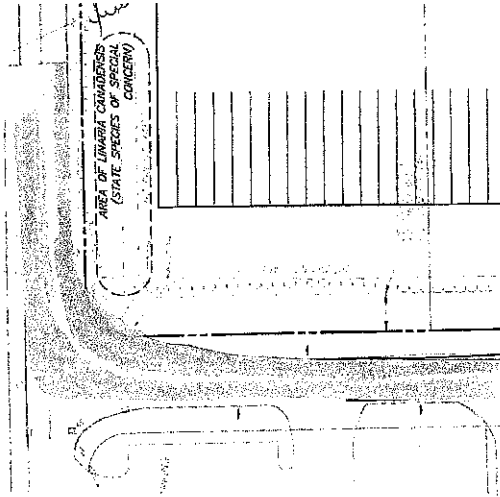


Figure 2: Right turn (orange curve) from Talbot Lane to Governors Highway

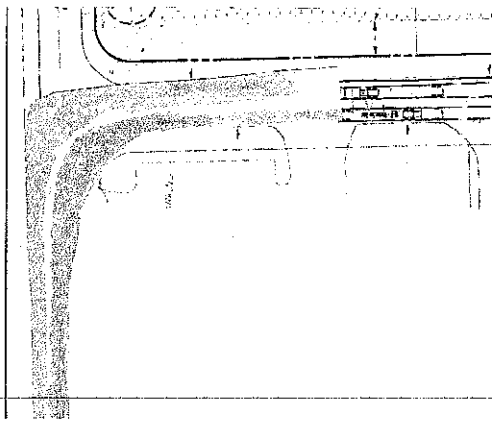


Figure 3: Right turn (orange curve) from Governors Highway to Talbot Lane

**Conclusion:** Mr. Butler’s concerns are valid.

However, as pointed out by Attorney Conner, offsite traffic considerations are not relevant to a site plan review. Hence, this issue cannot be a basis for denying the site plan application.

**Issue 5: Parking area concerns**

Members of the public and commissioners raised the following concerns regarding the design of the parking areas:

- Insufficient number of parking spaces
- Inadequate space for on-site truck maneuvers
- Missing required perimeter road
- Inadequate snow storage capability
- Insufficient unloading and loading times considered in queueing analysis (addressed in a separate section below)

### **Number of Parking Spaces:**

Table 6.4.3B requires 1 space per 1,250 sq. ft. of building area plus 1 space per employee. The proposed building has 359,640 sq. ft. and the applicant has stated that the site will have 408 permanent employees. See the applicant's "Municipal Fiscal Impact Analysis: Proposed Industrial Spec Building (Warehouse)" dated April 10, 2021, which shows 300 permanent warehouse jobs and 108 permanent driver jobs. Hence, the table would seem to require 696 parking spaces. Some discussions seemed to imply only a total of 300 jobs, which would lead to 588 jobs.

As noted in the Design Professionals, Inc. Zoning Compliance Narrative dated March 8, 2022, Sheet C-OS1 of the site plan provides a different calculation of parking requirements based on the presumed number, 100, of employees for the largest shift and uses a different divisor (1000 sq. ft.) for the office space. While Table 6.4.3B allows consideration of the largest shift for some uses, it does not explicitly allow this for warehouses and does not separate the office employees' parking requirement.

In the Design Professionals, Inc. Zoning Compliance Narrative dated March 8, 2022, the applicant calculates that the plan provides 466 spaces consisting of

- 318 automobile spaces,
- 92 reserve automobile spaces, and
- 56 trailer spaces. (A reduction from 111 spaces in the original application, as pointed out by Mr. Butler in his February 2 affidavit.)
- Note that, as appropriate, none of the loading docks or queuing spaces are included in this calculation.

Section 6.4.9, Modification of Minimum Required Parking Spaces, allows the commission to reduce the number of spaces if, among other considerations, the applicant demonstrates that a lesser number of spaces would suffice.

In considering a possible modification of the required parking spaces, I have the following concerns:

- There are only 56 parking spaces for trucks and these are designated as trailer storage places. As the applicant stated several times, roughly 100 of the employees are expected to be truck drivers based at the site. (Long haul truckers delivering products to the site are not employees of the facility.) For some, if not all, of the possible tenants, these 100 drivers would presumably have some number of trucks parked at the facility (as happens at the Amazon facility whose site plan was entered as part of the record) when they show up for work.
- In response to a presentation from Mr. Butler, the applicant asserted that only trailers would be stored in trailer parking spaces. There isn't room for tractors to remain attached. Unless the tractors were all able to leave the facility immediately after parking their trailers, they would need parking spaces. This is unreasonable.
- The use of 100 as the maximum number of employees on shift at any given time is unreasonable. The applicant should not assume all shifts to be equal and must allow for surges due to overlap during shift turnover. Because of trucks used by 100 drivers based

at the facility, the applicant cannot assume that the drivers only need automobile parking while they are on shift. In fact, some of their trucks would be parked before and after the drivers are at work.

- Relative to Application 21-36P, the new queueing plan reduces the number of trailer parking spaces from 104 to 56. While the 21-36P queueing plan was unacceptable, fixing it, with a very appealing alternative, created an unacceptable parking plan.

**On-site maneuvering:**

Mr. Butler and Atty. Parks presented diagrams that appeared to show insufficient maneuvering space for WB-67 trucks in Revision 2 of the site plan which the applicant presented at the February 8 session.

In a February 8, 2022, memo, Mr. Scott Hesketh peer-reviewed the Langan January 2022 traffic impact study and reviewed the site plan. With respect to the sight plan, the memo states, "The site plan circulation pattern as designed is capable of accommodating a WB-62 design vehicle ..." However, during the March 8 session the applicant agreed with Mr. Butler's assertion that most tractor-trailers in use today are the longer WB-67 trucks. At the March 8 session, the applicant updated the maneuvering space between the queueing spaces and the island between there and the loading area, allowing an additional 5 feet to provide more maneuvering room in the queueing area.

Based on Mr. Butler's diagrams in his Exhibit D:

- A WB-67 truck pulling out of a queueing space would still not have enough room to execute a left turn, despite the extra 5 feet.
- Regardless of the extra 5 feet, a truck pulling out of one of the northerly queueing spaces would not have room to execute the S-turn needed to turn into the access way leading to the loading docks.
- A truck leading from the access way would be blocked by the tractor of a truck that had backed into the northernmost loading dock but not yet detached.
- A WB-67 truck pulling a trailer out of a loading dock, would not be able to maneuver past an occupied trailers storage space.

During the hearing, Mr. Hesketh challenged Mr. Butler's use of "Brazhuman Corp. design vehicles and turning radii" as coming from an unqualified, non-US source. But Mr. Butler also cites AASHTO (American Association of Highway and Transportation Officials) exhibits as a basis for his diagrams. Mr. Hesketh asserted that the applicant had performed simulations that proved that WB-67 trucks could make all necessary maneuvers. The applicant provided no details sufficient for the commission to judge the adequacy of their simulations. Mr. Butler's presentation is compelling and the commission's best available information. The applicant could have offered an extension to present these simulations but did not.

Note that NCHRP Report 505, which Mr. Butler cited, provides details of the truck designs referenced during the hearing.

**Perimeter Road:**

In the Design Professionals narrative, Design Professionals assert that a perimeter road, as specified in Section 6.4.4I for parking lots over 200 spaces, is not required because auto parking is two lots of 144 and 174 spaces.

There is only one auto parking lot made up of 410 built and reserve spaces. Though it is not a simple rectangular area, all sections are connected. A perimeter road is required.

**Snow Storage:**

Drawing C-LS1 shows the island between the building and the queueing area as a snow storage area. The island also has a row of evergreen trees (Village Green Zekovia) which would be destroyed by piling snow over them. As discussed in the hearing, the island and plantings are needed to discourage trucks from crossing the island. (See also item 9 in the applicants February 14 response to engineering comments)

In addition, Vice Chairperson Foley noted that snow should not be stored against the east side of the building as shown on the Drawings C-LS2 and C-LS3.

This will lead to storage of snow in parking spaces and areas protected by conservation easements, detention basins, wetland areas and rare plant protection areas.

Hence, there is inadequate snow storage on the site.

**Conclusion:**

The site plan does not provide the required parking required by Table 6.4.3B and the plan does not meet the requirements of Section 6.4.9 for modification of the parking requirements for the following reasons:

- The assumption of 100 employees during the largest shift is not justified, and in any case, is not a basis for setting the required parking for warehouses.
- The impact of locally-based trucks operated by permanent, locally-based driver-employees is not considered.
- The improved queueing plan reduces truck and trailer parking to an unacceptable level.
- A perimeter road is required and not provided.
- The snow storage plan is unrealistic and inadequate.

In summary, the building is too large to accommodate the resulting parking requirements. This is sufficient to deny the application.

The following conditions should be included in the approval motion:

- Before any construction or site preparation activities ensue, the applicant shall demonstrate to the Town Engineer's satisfaction with simulations using AutoTURN or similar industry-recognized software that all maneuvers of WB-67 trucks of KCRT (kingpin to center rear) lengths between 41 feet and 43.5 feet can safely execute all the maneuvers needed to enter and leave the queueing area, enter and leave the loading docks, and park and unpark trailers in the trailer parking areas. Any minor site plan

revisions resulting from this work shall be shown not to violate bulk requirements of the regulations.

- A chain link fence shall be installed to prevent snow storage in the area on the southwest corner of the truck parking area that is reserved to protect rare plant species.

#### **Issue 6: Queueing concerns**

The following concerns regarding queueing were raised during the public hearing:

- Effect of loading/unloading times on queueing analysis
- Adequacy of the trip generation estimates as they affect queueing
- Queueing still occurring in the Talbot Lane access drive

#### **Loading/Unloading Times:**

Mr. Hesketh's queueing analysis is presented in a separate memo dated February 8. It assumes 2-hour loading and unloading times. Mr. Butler's expert testimony and report stated that unloading times as long as 5 hours may be required.

Using statistical queueing theory methods, the analysis concludes that, given the assumed input parameters, there is significant excess capacity in the queueing area. If the assumed loading times are underestimated, that could adversely affect the queueing area performance due to delays accessing the loading docks.

Mr. Butler's analysis of the effect of longer unload times and allowance for using roughly half of the loading docks for loading (outgoing trucks) leads to an increasing backup in the queueing area with the potential to exceed the area's capacity.

#### **Trip Generation Rates and Queueing:**

In a memo presented at the March 8 session, Professional Engineer Wei Zhang challenged the trip estimates calculated in the January 2022 Langan traffic study.

Citing the 10<sup>th</sup> edition of the ITE Trip Generation manual, Langan calculated:

- 1,667 total (auto and truck) daily trips and AM and PM peaks of 275 and 253 trips.
- Of these, Langan calculated maximum daily, AM, and PM truck trips of 209, 32, and 22.

Citing the same 10<sup>th</sup> edition of the ITE Trip Generation manual, Mr. Zhang calculated:

- 3,830 total daily trips and AM and PM peaks of 421 and 342 trips.
- Of these, Zhang calculated maximum daily, AM, and PM truck trips of 480, 49, and 30.

Note that there is an 11<sup>th</sup> edition but predictions from this version were not presented.

Mr. John Holowczak cited an October 2016 report, "High-Cube Warehouse Vehicle Trip Generation Analysis," prepared by the ITE. Tables in that report lead to significantly more trips than calculated by either Langan or Zhang, especially if the site is presumed to be a Parcel Hub as opposed to one of the other uses of HCWs. However, his calculated peak trips of 82 and 148 for AM and PM peak hours do not seem possible from a site with 54 loading docks and loading times of 2 or more hours.

### **Talbot Lane Access Drive Queueing:**

The Hesketh memo notes that there is room in the access drive for four trucks. However, this assumes that two of the trucks proceed past the entrance to the queueing area, presumably having pre-qualified their paperwork while on the road approaching the site and waiting for the access drive gate to be opened. If there are more than 2 such trucks, they would back up enough to block the entrance to the queueing area.

**Conclusion:** While a revised queueing analysis considering the above issues has not been provided and this commission is not in a position to perform that analysis, there are sufficient problems with the queueing analysis to call into question its validity. The conclusion that backups are highly unlikely to bleed onto Talbot Lane or Governors Highway, as required by the regulations has not been demonstrated. This is reason to deny the site plan application.

### **Issue 7: Is it a truck terminal**

For both Application 21-36P and Application 22-01P, residents expressed a concern that the building could operate as a truck or freight terminal in addition to its declared use as a warehouse and distribution center. As a truck terminal, the facility would be subject to review as a special exception, whereas a warehouse and distribution center is permitted by right and governed only by a site plan review.

The zoning regulations do not define the two types of facility. Hence, the commission needs to review trade documents, articles, and standards.

The applicant provided

- A table showing loading dock to floor area ratios for terminals and warehouses in South Windsor. The facility falls among the warehouses rather than the terminals in this respect.
- A 2021 article by Jones Lang LaSalle IP, Inc., "Truck Terminal investment and occupier perspectives," that identifies several features of modern truck terminals. The proposed facility does not meet the ideal terminal properties. It has too small a ratio of truck parking to loading docks, too large floor area, too large building depth,
- But the same article cites uses that overlap distribution centers and warehouses: Final mile and Distribution Center Bypass.

During the 21-36P hearing, I (Commissioner Wagner) cited "The Geography of Transport Systems," FIFTH EDITION, Jean-Paul Rodrigue (2020), New York: Routledge, ISBN 978-0-367-36463-2 and FreightCenter.com. These references provided only vague guidance as to how to distinguish between the two types of facility.

It is my understanding that in situations of ambiguity such as this, a court is likely to give the benefit of the doubt to the applicant until the actual use is established.

**Conclusion:** There is currently insufficient evidence to conclude that the proposed facility will be a truck terminal that should have been reviewed as a special exception. However, as the applicant and others have stated, the determination should be based on the actual use.



The following condition should be included in the approval motion:

- Prior to construction and prior to subsequent changes in the occupant or the occupant's use of the facility, the owner and intended occupant shall submit to the Planning Department a description of the activities of the initial or subsequent occupant in sufficient detail to determine that the use is a distribution center and/or warehouse and not a truck or freight terminal. If the Planning Department determines that the use would be considered a truck or freight terminal, the owner shall apply to the Commission for review and approval of the use prior to construction, initial operation, or tenant or use change. The Planning Department should consider distribution of products to end users or to retail sites to be typical of distribution center use. Handling of international freight containers or distribution of inventory among distribution centers, warehouses, and truck or freight terminals should be considered typical of truck or freight terminals.

### **Issue 8: Idling**

The state mandated anti-idling sign displayed on Sheet C-D4 declares a 3-minute idling limit but also cites CT DEEP regulation 22a-174-18. The current laws and ordinances are CGS Sec. 22a-174-18. "Control of particulate matter and visible emissions" and Town of South Windsor Ordinances Sec. 94-74 "Anti-idling". EPA also regulates idling. The Town ordinance ties idling limits to zoning.

During the hearing for Application 21-36P (which has been incorporated in the record for the current application), the applicant committed to enforcing a 3-minute idling rule. However, the testimony of intervener Derrick Butler of 596 Governors Highway, during the earlier application's hearing and in his written affidavit for the present application dated February 2, 2022, is more credible because of his personal experience in and knowledge of the trucking industry. He testified that 49 CFR 396.11 requires inspections that leading to idling for at least 20 minutes prior to trip initiation.

The statute cites exceptions where a 3-minute limitation should not apply for safety or other considerations.

A subsequent affidavit from Mr. Butler, dated February 28, 2022, included a copy of a "CLASS "A" VEHICLE INSPECTION PROCEDURE --- TT" based on 49 FMCSR section 396.11 of the DOT regulations and noted that the required procedure overrides anti-idling ordinances and regulations and applies when a truck picks up a parked trailer.

Among the exceptions is "heating and cooling to ensure health and safety of the driver". Depending on how this is interpreted, a driver who is at or near his driving time limit and chooses to rest in the truck could continue idling for several hours.

It is reasonable to require the operator to enforce the more detailed statute and ordinance. By requiring the operator to enforce the rules, objections that the operator does not own the trucks are overridden. This also gives the zoning enforcement officer, in addition to police, the authority to enforce this provision by issuing cease and desist orders and taking any needed follow-up actions.

**Conclusion: I**

The following condition should be included in the approval motion:

- The facility operator and operator's security services shall monitor and enforce compliance with all federal, state and local idling ordinances. Anti-idling signs shall be posted on site in areas visible to truck drivers. The applicant shall utilize the State CT DEEP model design for such signage. Lengthy idling needed to provide heating and cooling during driver rest is not permitted; the operator shall provide alternative rest accommodation.

**Issue 8: Storm Water**

Several residents raised issues regarding storm water discharge. Our Town Engineer reviewed this aspect of the plan and, once his comments were resolved, found no issues.

**Issue 9: Wildlife**

Several residents raised issues regarding wildlife impacts. The Inland Wetlands and Conservation Commission has reviewed the plan for these issues and found the site plan satisfactory in this regard.

## Subdivision Considerations

### Issue 8: Erasure of Prior Subdivision

Figure 4 is portion of Map 2732 from the May 2000 resubdivision of Constitution Landing. It illustrates the existing configuration of Talbot Lane, except for a slight change in the cul-de-sac that has minimal impact on the current application. It is hard to imagine that the PZC, when approving that application envisioned a radically different use of Talbot Lane than that required by Lots 1 and 2 on the map. For that reason, the considerations of the subdivision regulations should apply to this application.

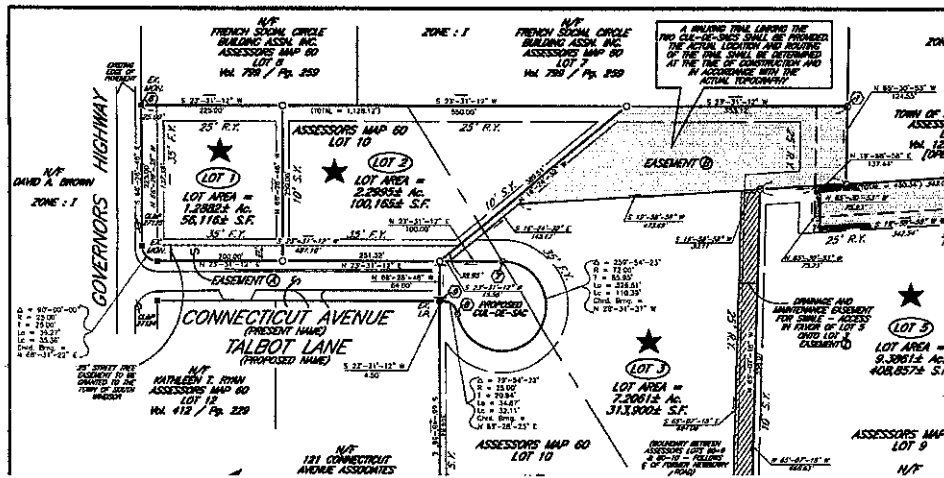


Figure 4: Section of Map 2732 Illustrating Subdivision of Constitution Landing

Consider Section 4.B.5 of the Town of South Windsor Subdivision Regulations:

#### **Section 4.B.5:**

#### **B.5. Commercial and Industrial Development Design**

Commercial and industrial development shall be designed according to the same principles governing the design of residential developments, namely, buildings shall be located according to topography, with environmentally sensitive areas avoided to the maximum extent practicable; factors such as drainage, noise, odor, and surrounding land uses considered in siting buildings; sufficient access shall be provided, and such access shall conform to applicable access management regulations; and adverse impacts buffered.

In approving the current subdivision, the commission must have explicitly or implicitly evaluated the above design criteria, including "factors such as drainage, noise, odor, and surrounding land uses ... in siting buildings." By merging Lots 1 and 2 with two properties on Governors Highway and installing a large warehouse with associated truck traffic, on-site parking, and maneuvering, the applicant overrides the rationale approved by the PZC for the smaller lots.

When approving the resubdivision of parcels abutting Talbot Lane in May 1994 as well as the two Governors Highway parcels at a date not presented during the hearings, the PZC in its Planning Commission role must have explicitly or implicitly considered “factors such as drainage, noise, odor, and surrounding land uses.” For that reason, the current PZC is obligated to review and consider the same factors.

In a March 7, 2022, letter, Mr. Richard Delhaie commented that eliminating the relatively small Lots 1 and 2 overrides the basis of the subdivision and adversely changes the nature of businesses that the subdivision was intended to attract.

In a February 14, 2022, email, Jane Ryan of Ryan Business Systems, located on the corner of Talbot Lane and Governors highway commented that the “constant loading, unloading and docking of tractor trailers” and “tractor trailer traffic this warehouse will add to the road will negatively impact the ability of our truck and trucks that deliver and pick up from our location to operate in a safe and timely manner.” Kathy Ryan, a part owner of the business also commented on the negative impact on the business.

In a February 14, 2022, email, Randy Fries, President of Electro-Methods commented that the increased truck traffic would create cost and safety issues for his business located at 330 Governors Highway.

During the hearing for Application 21-36P, the commission heard ample evidence that, based on studies of similar facilities around the country, adding over 200 truck arrivals and departures daily could expose nearby residents to hazardous levels of particulate and noise pollution. This would arise from the arrivals and departures, from movement within the parking lot, and from the idling of trucks allowed by the statute, ordinances, and regulations cited previously. The interveners provided an article from the American Journal of Public Health, Supplement 1, 2011, Vol 101, No. 51, “Residential Proximity to Environmental Hazards and Adverse Health Outcomes,” by Brender, et al, that reviewed literature regarding the adverse health effects of proximity to various industrial sites, including transportation facilities.

It is worth digging separately into the Noise and Air Pollution issue components of this issue.

#### **Issue 11: Noise Pollution**

Though unenforceable for trucks whose engines are running, State and town noise ordinances set a standard for healthy levels of noise pollution.

The town’s noise ordinance (Article III Noise Control) cites the following purpose for the ordinance:

##### **Sec. 50-61. - Purpose of article.**

The policy of the state under C.G.S. § 22a-67 is to promote an environment free from noise that jeopardizes the health and welfare of the citizens of the state. To that end, the purpose of this article is to establish a means for effective enforcement of a noise pollution standard. Further, the state legislature has found, and the town council finds and declares that:

- (1) Excessive noise is a serious hazard to the health, welfare and quality of life of the citizens of the state and the town.

- (2) Exposure to certain levels of noise can result in physiological, psychological and economic damage.
- (3) A substantial body of science and technology exists by which excessive noise may be substantially abated.
- (4) The primary responsibility for control of noise rests with the state and towns.
- (5) Each person has a right to an environment free from excessive noise that may jeopardize his health, safety or welfare.

**Sec. 50-65. - Performance standards** sets limits of 61dBA and 51dBA for day and night noise emitted from industrial properties to the boundary of adjacent residential properties.

During the hearing for Application 22-36P, I drafted rough noise calculations based on source data from [www.trb.org](http://www.trb.org). I asked the applicant to provide a study from a more qualified expert. Brooks Acoustics Corporation provided a study in a November 23, 2021, letter:

- The study evaluated noise emitted by a single truck emitting 75dBA (at a record distance of 50 ft) and parked behind the noise barrier adjacent to the southernmost loading dock.
- The study concluded that this source and sound path would lead to noise levels of 43 dBA at the boundary of the nearest residential property which meets the day and nighttime limits.
- The 6-foot berm contributes 5 dBA of the reduction.
- The noise barrier contributes between 9 and 21 dB depending on frequency, but is not present once the truck pulls away from the dock. This is a concern because trucks not hidden behind the installed barrier can be predicted to exceed the nighttime limit. Multiple trucks would add to this effect.

It may be possible to modify the site plan to bring noise transmission from the parking lot to abutting homes to safe levels. However, the applicant provided no enforceable solution to protect homes along Governors Highway from truck noise on their street. A passing truck emitting 80 dBA at fifty feet will be heard at 80 dBA at a home set back fifty feet from the road. The applicant asserted that trucks would only access the site from Route 5, i.e., through industrial and commercial zones. I don't find that credible. As testified by Mr. Butler, who works in the trucking industry, a substantial fraction of the 200 plus truck transits is likely to use truck GPS applications and find the route through the residential zone shorter and faster. The Town is unable to enforce an existing ordinance limiting truck traffic through this residential zone.

#### **Issue 9: Air Pollution**

In an email submitted February 8, 2022, John Drenga of 144 Edgewood Drive cited a number of resources documenting the adverse health effects of Diesel Particulate Matter and other exhaust gases. These included:

- International Agency for Research on Cancer – this organization has classified DPM as an A Group 1 Carcinogen and cites other adverse health consequences including decreased lung function in children.
- California Air Resources Board – cites DPM as responsible for 70 percent of the known potential cancer risk from air toxics in California, allergies, premature mortality, asthma, and

heart and lung disease. Diesel trucks spew many times more harmful gases than cars. People should not live within 1000 feet of a distribution center.

- American Cancer Society – Exhaust from diesel engines brings a complex mixture of soot and gases to roadways, cities, farms, and other places. Health concerns about diesel exhaust relate not only to cancer, but also to other health problems such as lung and heart diseases.

Brian Smith of Robinson & Cole in his letters dated October 26 and November 9, 2021, commented “that placement of all loading docks on the westerly side of the proposed building could generate excessive amounts of air pollutant from trucks idling. While Carla’s Pasta utilizes trucks to deliver of its own products, the sheer magnitude of the anticipated truck traffic that can occur ... can adversely impact the Carla’s Pasta.”

### **Conclusion**

The combination of properties facing Talbot Lane ignores consideration of important factors considered by the PZC when approving the subdivision. These include factors such as noise, odor, and surrounding land uses. Air pollution would also be a factor.

Evaluation of the proposed plan under considerations allowed by subdivision regulations leads to a conclusion that the plan creates unacceptable medical hazards to residents within

Though we are advised that signs are not enforceable by the police, some benefit to Governors Highway residents should result from signs attempting to limit truck traffic easterly of Talbot Lane. In addition, a somewhat larger timber noise barrier should expand the benefit of the barrier in the current plan. The following two conditions should be added to the approval motion:

- Modify the sign shown on sheet C-SP1 that reads “TRACTOR TRAILERS NO RIGHT TURN” to read “TRUCKS NO RIGHT TURN”. (The police department’s sign across Governors Highway from should read the same.) Add a sign on the Governors Highway frontage of the site that reads “TRUCKS NO LEFT TURN”.
- Move the timber noise barrier from adjacent to the southernmost loading dock to the south side of the southernmost driveway and lengthen it to suppress noise from additional trucks in addition to the truck parked at the loading dock.

Hence, I oppose the resubdivision of these parcels to accommodate the proposed facility. Maintaining the current property lines and access points will make the proposed use infeasible and result in more modest industrial projects. While residents buying homes in nearby neighborhoods would certainly be expected to realize they were near an industrial zone, the limitations of the current property lines would lead to a conclusion that the uses would be more modest than the proposal and would involve far fewer trucks.

## Summary

### Overall Conclusions Regarding the Site Plan

While other commissioners may raise other issues and may not agree with me, my conclusions related to the site plan raised in this statement can be summarized as follows:

- Issues with offsite traffic impacts, though valid, are not a legal basis for denying the application.
- Issues with large trucks being unable to turn into or out of Talbot Lane at Governors Highway without crossing centerlines are valid concerns but not a legal basis for denying the application.
- Both in the regulations and in various industry sources, there is inadequate definition of terms like truck and freight terminal, distribution center, and warehouse to claim that this site will become a freight terminal requiring special exception review.
- The building is too large for the site. This leads to issues with parking areas, including: insufficient number of parking spaces, particularly for trucks; improper use of employee counts in the required spaces calculation; inadequate truck maneuvering room at various points; lack of a required perimeter road; and inadequate snow storage. This means that the parking is insufficient to support a modification of the required parking spaces and is a basis for denial of the application.
- There were sufficient deficiencies in the queueing analysis that the applicant has failed to show that queues will not back up onto public roads. Deficiencies included: use of loading and unloading times that were unrealistically short; maximum trip generation rates lower than could occur by possible future tenants and uses. This is a basis for denying the application.
- The operator of the facility needs to be tasked with enforcement of anti-idling regulations.

### Overall Conclusions Regarding the Subdivision

- Combining the properties facing Talbot Lane bypasses important considerations by the PZC when the subdivision was approved.
- The site plan creates unacceptable noise and air pollution health hazards.
- Other than rejection of the application, there are minimal mitigations available.