

Legal Notice

MEADE, STEPHEN Et Al v ENFIELD PLANNING AND ZONING COMMISSION Et Al

HHDCV206132034S

May 14, 2021 at 9:30 a.m.

Instructions to Take Part in a Remote Court Proceeding in a Civil Matter

Please Note: Do NOT delete these instructions until the end of your remote proceeding. The information that you will need to access and take part in this remote proceeding is included below. You will NOT be able to take part in the remote proceeding without the information in these instructions. If you lose or delete these instructions, please contact me immediately at Hartfordcv.caseflow@jud.ct.gov.

INSTRUCTIONS

1. Accessing the Remote Proceeding

There are 2 ways that you can access this remote proceeding:

A. **By video** over the internet on a computer or mobile device.

- To access this remote proceeding by video, click the “Join Microsoft Teams Meeting” link below.

OR

B. **By phone.**

- To access this remote proceeding by phone, call the phone number listed under the “Join Microsoft Teams Meeting” link below and enter the Conference ID listed under the phone number when the system directs you to.

PLEASE NOTE: You can only take part in this remote proceeding by phone if:

- ✓ The notice you got from the court about this proceeding says you may; or
- ✓ You get permission from the court before your proceeding.

You can ask for permission to take part in the proceeding by phone by filing a Caseflow Request. You can find the Caseflow Request form, JD-CV-116, at:

www.jud.ct.gov/webforms.

But, the court will only give you permission to take part by phone if the court finds that there is a good reason for you to take part by phone instead of by video.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 860-241-5230,33393383#](tel:+1860241523033393383) United States, Hartford

Phone Conference ID: 333 933 83#

2. Preparing to Join Your Hearing

- **Just like a regular courtroom, other cases may have been scheduled at the same time as your own. Please be patient. When you join your hearing, assume that court is already in session and make sure of the following.**
 - If you are participating by video, **your camera must be turned off and your microphone must be muted (off)**. The judge and the clerk are able to tell that you have joined your hearing.
 - If you are participating by phone, please remain silent and limit the amount of background noise where you are as much as possible.
- If you are participating by video, turn on your camera and your microphone when the judge or clerk calls your case or your name. If you are participating by phone, please respond when your case or your name is called.

3. Preventing Delays

In order to prevent delays because of technical issues, please:

- Make sure that your computer, mobile device, or phone is charged or plugged in before this proceeding;
- Access the proceeding at least 5 minutes early to make sure that your computer, mobile device, or phone and, if you're taking part in the proceeding by video, your internet are working correctly; and
- Have someone who can be ready to help you with technical issues if you need help accessing the proceeding or a technical issue comes up during the proceeding.

4. Recording this Proceeding

You are NOT allowed to record this or any other remote court proceeding.

If this proceeding is a hearing on the record, a Court Monitor will record it, and you will be able to get the transcript or audio recording after the proceeding if you need it.

5. Requirements for this Proceeding

Please refer to the notice that the court sent you about this remote proceeding for any specific requirements that you need to follow for this proceeding.

PUBLIC NOTICE

NOTICE
TOWN OF ENFIELD

Pursuant to C.G.S. §8-8(n), a remote hearing will be held at 9:30 a.m. on May 14, 2021, Hartford Superior Court, 95 Washington St., Hartford, CT, before the Honorable Mark Taylor, regarding the settlement of *Steven Meade, et al. v. Enfield Planning & Zoning Commission, et al.*, Docket Number HHD-CV-20-6132034-S, with regard to the property located at 113 North Maple Street, Enfield, Connecticut, in accordance with a Stipulated Judgment attached hereto and on file in the Office of the Town Clerk, 820 Enfield Street, Enfield, Monday – Friday, 9 a.m. – 5 p.m. Instructions for connecting to the remote hearing will be posted prior to the hearing.

NO. HHD-CV-20-6132034-S	:	SUPERIOR COURT
	:	
STEPHEN MEADE, ET AL.	:	
	:	JUDICIAL DISTRICT
V.	:	OF HARTFORD
	:	AT HARTFORD
ENFIELD PLANNING AND ZONING	:	
COMMISSION, ET AL.	:	MAY 4, 2021

**MOTION FOR APPROVAL OF STIPULATED JUDGMENT
PURSUANT TO GENERAL STATUTES § 8-8(n)**

Pursuant to Connecticut General Statutes § 8-8(n) and Practice Book § 14-7B, plaintiffs Stephen Meade, et al. (“plaintiffs”); co-defendant Enfield Planning and Zoning Commission (“Commission”); and co-defendant/applicant WE 113 North Maple Street, LLC (“WE 113”) hereby move for the entry of judgment in accordance with the stipulation set forth below. The terms of the judgment, and the process by which the settlement has been completed and approved, are explained below in §§ I. and III. K.

I. BACKGROUND

WE 113 owns 71+/- acres adjacent to Moody Road and North Maple Street in Enfield. The land is zoned for industrial use, with warehouses and distribution centers being as-of-right uses requiring site plan approval. The plaintiffs are owners of single-family homes that abut or are proximate to WE 113’s land.

In 2020, WE 113 applied to the Commission for site plan approval for a 501,000 square foot distribution/warehouse facility. The identified tenant for about half of the building was, and remains, Agri-Mark, a regional dairy products company. The tenant for the remaining space was, and remains, unknown and is referred to as “Tenant B.” WE 113’s application consisted of site plans and accompanying reports and exhibits as described in § II. below.

The application came before the Commission at a regular meeting on June 25, 2020, and then a public hearing on July 9, 2020. After closing the hearing, the Commission voted to approve the site plan application, with 35 conditions, eleven of which are site-specific, with others being applicable to all approvals.

Plaintiffs Meade, et al. appealed the approval to this Court. A trial was scheduled for April 27, 2021, but on that date the parties reported to the Court (the Hon. Mark Taylor, J.) a settlement in principle, subject to drafting and signing a proposed Stipulated Judgment and approval of its terms by the Commission in compliance with Practice Book § 14-7B. The parties jointly approved the contents of this motion on May 3, 2021, noting that the Commission's approval is subject to compliance with Practice Book § 14-7B, and that the entry of judgment is subject to approval by this Court as stated in General Statutes § 8-8(n).

II. PLANS AND DOCUMENTS CONSTITUTING THE COMMISSION'S JULY 2020 SITE PLAN APPROVAL

The Commission's July 2020 approval of WE 113's site plan application is set forth in the following documents listed in the Certified List of Papers as filed in this action October 8, 2020:

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
4	May 2020	Locus Maps (4 pages). Vicinity Plan. Proposed AGRI- MARK Distribution Facility, 113 North Maple Street, Enfield CT Prepared for: WE 113 North Maple Street, LLC c/o Winstanley Enterprises, LLC. 150 Baker Ave. EXT, Concord, MA 01742
5	June 2020	Plan Set Prepared by HSI Hayner/Swanson, Inc. (23 pgs) <i>REFERENCE PLANS: Map 82, Lots 1,2,3,4 Proposed Agri-Mark Distribution Facility, 113 North Maple St., Enfield CT, prepared for record owner WE 113 North Maple ST, LLC, clo Winstanley Enterprises, LLC 150 Baker Ave. Ext, Concord MA 01742; 978-287-5000, www.winent.com, prepared by HSI Civil Engineers/Land Surveyors, 3 Congress St., Nashua NH 03062, 603-883-2057; 131 Middlesex Turnpike, Burlington MA 01803, 781-203 1501; dated June 1, 2020 (22 Sheets)</i>

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
		<i>Map 82, Lots 1, 2, 3, 4 113 North Main Street Warehouse, Enfield, CT, prepared for Winstanley Enterprises, 150 Baker Avenue Ext., Concord, MA 01742; 978-287-5000, www.winent.com, prepared by HSI Civil Engineers/Land Surveyors, 3 Congress St., Nashua, NH 03062; 603- 8832057; also prepared by NV5 200 Brickstone Square, Andover MA 01810; 978-296-6200; dated June 9, 2020. (9 sheets)</i>
6	6/1/2020	Stormwater Management Report 6/1/2020 (219 pages): Proposed Agri-Mark Distribution Facility, 113 North Maple Street, Enfield Connecticut. Prepared for: WE 113 North Maple Street, LLC c/o Winstanley Enterprises, LLC, 150 Baker Ave Ext. Concord, Massachusetts 01742. Prepared by: Hayner/Swanson, Inc., 3 Congress Street Nashua, NH 03062 (603-883-2057)
7	6/2020	Traffic Impact Study (126 pages): 113 North Maple Street, Enfield, Connecticut. Prepared For: Winstanley Construction Management, LLC, 300 George Street, Suite G01, New Haven, Connecticut 06511 Prepared by: Fuss & O'Neill, 146 Hartford Road, Manchester, CT 06040.
14	6//9/2020	Architectural Drawings, including Floor Plans and Elevations / AgriMark Planning & Zoning Package (10 pages) Prepared For: WE 113 North Maple Street, LLC, c/o Winstanley Enterprises, LLC; 150 Baker Ave Ext. Concord, Massachusetts 01742 (978) 287-5000; www.winent.com Prepared by: HSI Hayner/Swanson, Inc., Civil Engineers/Land Surveyors; 3 Congress Street, Nashua, NH 03062, 131 Middlesex Turnpike, Burlington, MA 01803. Design by: CT Design Inc 350 Summer St, Second Floor Boston MA, 02210 (617) 848-9511; www.ci-designinc.com
18	6/17/2020	Wetlands Permit/ Notice of Decision Letter from Savannah-Nicole Villalba, Assistant Town Planner to J. Petropulos IW#607 (certified mail): Application for a permit to conduct a regulated activity in the 100-foot Upland Review Area to construct a proposed distribution facility and associated improvements on the property known as 113 North Maple Street; Map 082/Lot 1, 2, 3, and 4; Industrial Land Zone I-1; WE 113 NORTH MAPLE STREET LLC, owner and applicant. (5 pages)
38	7/1/2020	Updated Photometric Plan (1 page). Proposed Agri-Mark

<u>Item No.</u>	<u>Date</u>	<u>Item Description</u>
		Distribution Center. Designer: JAS. 113 North Maple Street, Enfield CT. Scale: 1" = 125ft
54	7/9/2020	Notice of Decision Letter from J. Pacacha, Assistant Town Planner, to J. Petropoulos re SRP# 1826 -- 113 North Maple Street - Site Plan Review application for a proposed 501,500 square foot industrial; warehouse building with associated parking and drainage; WE 113 North Maple Street, LLC, owner/applicant; Map 82/Lots 1-4; Industrial-1 Zone. (1 page)
55	7/13/2020	Notice of Decision Letter - Signed (6 pages) To: Mr. Petropoulos: WE 113 North Maple Street, LLC 150 Baker Avenue Extension Concord, MA 01742 From: Jennifer Pacacha, MRP, AICP Assistant Town Planner Including details 45a through 45g

III. STIPULATED JUDGMENT

The July 2020 action of the Commission, as set forth in its Notice of Decision Letter set forth above as Items 54 and 55, is affirmed, subject to the following additions, modifications, and clarifications:

A. North Maple Street Southern Access Drive and Elimination of Expansion Space

The southern access drive from North Maple Street will be relocated to the north, toward the Tenant B space, by 125 feet. This will increase the distance from the closest property line to the driveway from 183 feet to 308 feet. Additionally, the revised site plan will be revised to eliminate potential 100,000 SF future building expansion as illustrated in Exhibit A, which elimination will be binding on any successors or assigns of WE 113.

B. Road Modifications/Directional Signage to Direct Trucks to Use the Moody Access

Along the relocated southerly access road from North Maple Avenue, directional signage depicting “I-91,” accompanied by a left arrow, will be installed in the exit lane at this location. In addition, directional signage depicting “I-91 Moody Road,” accompanied by a straight arrow, will be installed in the approaching lane before the Tenant B docks, to direct Tenant B trucks to this exit. Agri-Mark trucks will be use Moody Road exclusively. A directional sign identical to that which will be placed at the North Maple southerly access point will be placed at the Moody Road exit. Exhibit B depicts the type and locations of these signs. The 20 MPH posted speed limit included in the site plan approval by the Commission has been reduced to 10 MPH, and this speed limit will be strictly enforced.

C. Noise Analysis Demonstrating Compliance with State Regulations and Enfield Noise Ordinance

Plaintiffs’ acknowledge receipt and review in March 2021 of an independent analysis of both mobile and stationary noise sources, conducted by the firm of Cavanaugh Tocci. That report concludes that facility operations are expected to meet and comply with State of Connecticut and Town of Enfield noise standards. To further reduce noise below these standards and increase the margin of compliance, WE 113 will (1) install a 450 foot long sound/acoustic barrier wall, eight feet in height, constructed of wood or a similar wood composite material, parallel to North Maple Street, and parallel to the Tenant B parking area, as shown on Exhibit C, attached; (2) post a 10 mph speed limit as described above in § III.B and illustrated on Exhibit B; and (3) will require of Agri-Mark that all backup alarms on trucks it operates and controls will be broadband model (Brigade) devices that employ a swoosh sound instead of beeping noise and WE 113 will use its best efforts to encourage its Tenant B to utilize the same equipment.

D. Minimum Height of Berm; Maintenance Plan for Landscaped Berm

The berm adjacent to the southern boundary will be at least 10 (ten) feet high, and landscaped at minimum as shown on Exhibit C. The proposed berm landscaping complies with the “D” Buffer regulation and provides for approximately 50 additional trees. Existing trees and vegetation located on the WE 113 property at the northeast corner, adjoining Lots 65-67 and 87, will not be disturbed except as necessary to construct the drainage swale illustrated on Exhibit C. 113 North Maple site will have a dedicated Winstanley Property Manager, who will have direct authority over the selection and management of landscape contractors. Exhibit D is a berm maintenance plan, the provisions of which will be incorporated into any landscape contracts issued by Winstanley Property Management. Debris and dilapidated netting and fencing left from farming operations will be removed as part of construction and landscaping.

E. Photometrics Analysis Demonstrating No Off-Site Light Trespass

The plaintiffs acknowledge receipt and review of a photometric analysis. The site lighting layout and fixture selection demonstrated zero light trespass. As part of the conditions of approval, pole heights were reduced by 2.5 feet (32.5’ to 30.0’) in all areas of the site except two in the southwest corner where fixtures were reduced to 25.0,’ without any compromise in the illumination, to maintain safety. The selected fixture represents state-of-the art LED technology to allow for lower illumination levels without compromising safety.

The selected fixtures will also be International Dark-sky Association (IDA) compliant. Exhibit E includes the photometric analysis and an enlargement of the area along the abutting residences to demonstrate zero light trespass at the property lines. The LED fixture specification is embedded in the photometric analysis. See Exhibit E.

F. Tenant B Will Not Involve Heavy Industry

WE 113, as of the date of this Stipulated Judgment, has yet to obtain a signed lease for the remaining 240,000 SF of space to be assigned to Tenant B. As stated in a submittal to the plaintiffs dated 5 February 2021, Exhibit F, WE 113 and its successors and assigns agree that selection of a distribution company for the “Tenant B” space will be similar in overall quality to Agri-Mark and will not conduct heavy manufacturing, generate noise in their operations in excess of state or town noise regulations, generate hazardous chemicals, or emit noxious odors.

G. Address Drainage/Ponding in Adjacent

At the southern boundary of WE 113’s property, storm drainage from North Maple Street currently is directed through a culvert and onto an area between the rear yards of residences along Winter Way and the 113 N. Maple Street property. No defined drainage swale currently exists in this area. WE 113’s plan, approved by the Commission, includes a grassed swale designed to account for this stormwater from North Maple Street and in addition, to collect storm flow from the south side of the proposed landscaped berm as well as potentially any overland flow from adjacent properties, depending on storm conditions. This swale will be located on WE 113’s property adjacent to the rear yards of properties along the northern side of Winter Way. This swale will connect to a stormwater management area also designed as part of this project. Through stormwater modeling, this swale was sized to accommodate the stormflow conveyed by the swale in accordance with Town of Enfield specifications. The design was supported by a detailed stormwater management study and model that accompanied the PZC application. This swale will be located on WE 113’s property adjacent to the rear yards of properties along the northern side of Winter Way. The creation of this swale addresses storm flow from North Maple Street that was found to be directing stormwater through a culvert without discharging into a defined swale.

As part of this Stipulation, the drainage swale in association with the landscaped berm will be shifted to the north as shown on Exhibit C to provide more distance between the swale and adjacent properties, and is intended to alleviate the existing condition and, to the extent possible, standing or ponded stormwater at the southern boundary of the project.

H. Provide Snow Management Plan Including Application of De-icing Materials

Snow storage areas at 113 North Maple were identified as part of the site plan application approved by the Town of Enfield. These locations are shown in Exhibit G, which also includes the Snow Management and De-icing Plan. Winstanley will prohibit the use or application of glycol-containing products, and directs the contractor to procure and apply calcium chloride and/or sand. In addition, at Winstanley's discretion and approval, the use of non-toxic materials will be considered if deemed suitable.

I. Provide final set of plans showing all changes

The exhibits to this Motion illustrates all site plan revisions. WE 113 will incorporate all July 2020 conditions of approval and the provisions of this Stipulation into final site plan. WE 113 will provide to the plaintiffs the proposed final site plan, drainage plan, landscaping plan (including initial height of plantings), and lighting plan, as revised in accordance with this Stipulation, no less than ten (10) days before submission to the Commission as required by Condition 26 of the July 2020 Notice of Decision Letter. Such referral shall be for review and comment, and so long as these final plans comply with the terms and illustrations of this Motion for Stipulated Judgment, neither WE 113 nor the Commission shall be required to make any further revisions.

J. Compensation for Attorneys' Fees

Within fifteen (15) days of the entry of judgment in accordance with this stipulation, WE 113 shall pay to Attorney Slater, as trustee for the plaintiffs, plaintiffs' attorneys' fees, through

the date of judgment, not to exceed the amount of thirty-five thousand (35,000) dollars, provided proof of billing is provided.

K. Compliance with Practice Book § 14-7B(j)

The proposed terms of this Stipulated Judgment were identified on the agenda of a meeting of the Commission on May 6, 2021, and approved by majority vote, with reasons stated for approval, as shown on Exhibit H, attached.

PLAINTIFFS,
STEPHEN MEADE, ET AL.

By /s/ Kenneth R. Slater, Jr.
Kenneth R. Slater, Jr., Esq.
slater@halloransage.com
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103
Juris No. 026105

DEFENDANT,
ENFIELD PLANNING AND ZONING
COMMISSION

By /s/ Mark J. Cerrato
Mark J. Cerrato, Esq.
townattorney@enfield.org
Office of the Town Attorney
Town of Enfield
820 Enfield Street
Enfield, CT 06082
Juris No. 105034

DEFENDANT,
WE 113 NORTH MAPLE STREET, LLC

By /s/ Timothy S. Hollister

Timothy Hollister
thollister@hinckleyallen.com
Hinckley Allen & Snyder LLP
20 Church Street
Hartford, Connecticut 06103
Juris No. 428858
PHONE: (860) 331-2823
FAX: (860) 278-3802
Attorney for WE 113 North Maple Street, LLC

CERTIFICATION OF SERVICE

The undersigned hereby certifies that on May __, 2021 a copy of the foregoing was filed electronically through the Court's Electronic Filing System and served by electronic means via email transmission on the following counsel of record:

Kenneth R. Slater, Jr., Esq.
slater@halloransage.com
Halloran & Sage LLP
One Goodwin Square
225 Asylum Street
Hartford, CT 06103

Mark J. Cerrato, Esq.
townattorney@enfield.org
Office of the Town Attorney
Town of Enfield
820 Enfield Street
Enfield, CT 06082

/s/ Timothy S. Hollister

Timothy S. Hollister
Commissioner of the Superior Court

Exhibit A

Proposed N. Maple/South Access Drive Relocation

Exhibit B

Proposed Directional Signage

Exhibit C

Illustration of Site Plan Modifications:

- Acoustic sound wall
- Parking lot connection
- Sidewalks

Exhibit D

Landscape/Berm Maintenance Plan

Exhibit E

Photometric Analysis

Exhibit F

Commitment Letter

Exhibit G

Snow Management/ De-icing Plan

Exhibit H

Commission Agenda For May 6, 2021