

To: Stony Creek Association

From: Daniel Bullard, President, Stony Creek Association

Date: November 4, 2016

RE: Summary of Appeal to the Branford Zoning Board of Appeals, December 2014

We are here today because the formal mediation concerning the Legacy Theater and the Town of Branford was terminated on Monday October 31, 2016. However, there is still room for a settlement.

Following the breakdown of the mediation, Jim Straub from the Legacy Theater, asked that the lawsuit be pursued, which resulted in the judge issuing an order to "Answer and File Record" to the Town of Branford and the Legacy Theater.

Through many meetings, formal and informal, and through positive collaborative efforts of all parties involved, the majority of the objections that were originally permitted in the Fit Up Permit have been remediated. The one outstanding issue is parking. Specifically, the co-plaintiffs are concerned about their ability to park on the street in front of their houses during major theater events.

Brief History (High points only) (DAB edition)

- June 5, 2014 – Zoning enforcement officer approved a Fit Up Permit to the Legacy Theater. It allowed parties, rentals, weddings, etc. (As mentioned, most of these issues have been remediated through a collaborative effort.)
- July 18, 2014 – A notice of an Appeal to the Zoning Board of Appeals concerning the Fit Up Permit was filed by the Stony Creek Association. The ZBA upheld the Fit Up permit through a series of meetings concluding November 18, 2014.
- As a result, the Stony Creek Association held a Special Meeting November 24, 2014 to which many members of the community attended. The Stony Creek Association and co-plaintiffs then appealed the decision of the Zoning Board of Appeals in civil court naming the Branford Zoning Board of Appeals and Legacy Theater. This was filed in December 18, 2014.
- March 2015 – Sam Kirby was appointed to mediate on behalf of the Stony Creek Association.
- May 4, 2015 – First formal mediation was held with the judge and Tim Lee the Stony Creek Association's attorney. These meetings were held on and off.
- November 2015 – At the Stony Creek Association meeting, Jake Greenvall and Greg Ames were added to the mediation team. Also, the Stony Creek Association recommended mediation without the attorneys to save money in legal fees and move it along. This process has been on going ever since, ending October 31, 2016 when there was a breakdown in mediation.

I would like to repeat that there is still room for a settlement as we enter the next phase of the legal process.

The proceeding is my attempt to objectively report the events leading up to this point.

The following is subjective ie. My opinion. First, let us all remember that at this point, Legacy has won and we, both the Stony Creek Association and co-plaintiffs, have lost everything. The score is 10-0.

Legally, we are shut out...done. Any gain will be a hail mary followed by a successful on sides kick, or drawing successfully to an inside straight.

As we proceed down the legal process, the initial fork in the road is that the court will either a) approve the prior Fit Up Permit or b) send the issue to Planning and Zoning. If the Fit Up Permit is approved, we the Stony Creek Association and co-plaintiffs are done...again.

If the issue is sent to Planning and Zoning, I believe the majority of the accommodations already mediated will be out the window. I believe parking will not even be on the table. Therefore, I believe, we, the Stony Creek Association, and the co-plaintiffs have nothing to gain by continuing the legal process.

I believe the best interests of the Stony Creek Association as a whole and the individual plaintiffs are best served by reaching a settlement before the legal process proceeds any further.

Lastly, I believe there should be a drop-dead date no later than the December 6 meeting of the Stony Creek Association for the Association to withdraw its appeal.

Following my presentation, the mediation team of Greg Ames, Sam Kirby, and Jake Greenvall will present their review of the process and present our options. We will then have public comment and board discussion. After which the board will vote on the options presented.