

BOARD OF SELECTMEN

BRANFORD, CONNECTICUT



**ANTHONY J. DAROS**  
*First Selectman*

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November 6, 2003

Ellsworth McGuigan  
Chairman  
Planning & Zoning Commission  
Town of Branford  
P.O. Box 150  
Branford, Connecticut 06405-0150

Re: Application of New England Estates, LLC for Amendment to Zoning Regulations, Zone Change of Tabor Drive Parcel and Site Plan Approval

Dear Chairman McGuigan:

Well before the application that is before you was filed, the Board of Selectmen voted unanimously on May 21, 2003 to acquire the 77-acre parcel at 48-86 Tabor Drive for the Town. We voted to take the parcel by eminent domain, if necessary, to give the Town control of the site. It was our belief, based on the information before us, that the site should be restricted to non-residential use for the foreseeable future; that the Town should take responsibility for thoroughly investigating the site, remediating it, if necessary, and monitoring it for as long as deemed necessary to secure the health and safety of the residents in that area.

We believed then and continue to believe that a Town use commensurate with this ongoing monitoring, namely, primarily recreational use (ball fields) fits well with this purpose and avoids any subsurface disturbance that could exacerbate existing conditions. In addition, control of the site, while costly now, is fiscally and ethically responsible over the long run. Should development occur on this site while the landfill is still generating contaminants – whether residential as now proposed (exposing the Town to greatly enhanced liability given both the heightened environmental standards required for residential and the intense use of households and sensitivity of residents to conditions in the area of their homes) or industrial – the Town will be exposed to liability claims, changing environmental standards requiring additional protections and so forth, and changing environmental conditions, all of which are more readily addressed if there is no build-up of the site and the Town is its owner.

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The vote by the Board of Selectmen has been ratified by a unanimous vote by the Representative Town Meeting and by unanimous votes by the Board of Finance and the Representative Town Meeting to appropriate the necessary funds. The unanimous decisions of these bodies reflects that this is the proper and responsible decision for the Town. This is confirmed by the support expressed by the DEP and, in fact, has been re-enforced by the recent discovery of soil contamination at 483-545 East Main Street in Branford. The contaminated soil was evidently deposited on that site sometime prior to the 1960's, at a time when no standards existed for the contaminants the soil contains. The concern over this soil now, some 50 years later, merely points up the need for the Town to think out many years in the future when making decisions involving environmental contamination.

Since the original decision of the Board of Selectment, we have learned even more about the condition of the landfill, and, indeed, the condition of the 77-acre site itself. We have a lot more to learn – but we know, the 77-acre site is not a place for residential development now or for the foreseeable future.

You may wonder why this issue did not come before you in connection with prior applications for development on this very site. The answer is quite simple. Following the Commission's denial of an application for a residential development on this property last year, the Town Counsel, Penny Bellamy, was brought in to assist in reaching a settlement with the developer. In the course of discussions, Peg Hall suggested to Penny Bellamy that she might want to discuss with Fuss & O'Neill, longtime engineering consultants with responsibility for advising the Town on the landfill, the proposal to change the zone from industrial to residential use. Penny sought the advice of Fuss & O'Neill and was apprised that the landfill was not a use compatible with residential development, identifying various areas of real concern.

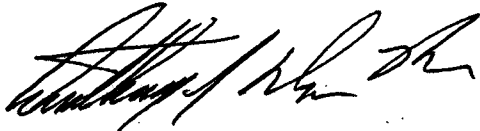
At about the same time, I was hearing about claims by residents of other towns, against towns and town officials, relating to claims that ill-health had been caused by emanating landfill conditions. I realized that often these conditions exist, notwithstanding the fact that the Town has acted fully in accordance with all legal requirements and with the best then-available engineering advice. The Town sought to engage the developer in discussions about more fully exploring the site and addressing these conditions, but over the course of some weeks, when the developer showed little interest or concern, it became clear to me that only the Town had the real interest in fully looking out for the health and safety of its residents over the long term.

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Should we have given this consideration before? Yes, but needless to say, a tardy correct decision is better than a timely bad one.

As you know, I did not run for re-election and I will shortly be leaving office. My decision on the condemnation was made with no thought of political consequences. My only concern was that the Town avoid health risks to residents and the prospect of very expensive litigation in the future over responsibility for the contamination and adverse health effects. For the same reasons, I urge you to deny the application before you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anthony J. DaRos". The signature is stylized and cursive.

Anthony J. DaRos