

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

September 13, 2006

Chairman Vincent Camelli called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

Commissioners Present

Chairman Camilli
Commissioner Cariseo
Commissioner Ganley
Commissioner Fox
Commissioner Kornichuk
Commissioner Pruet
Commissioner Schatz

Commissioners Absent

Commissioner Andersen
Commissioner Prestage

Staff Present

Ed Meehan, Town Planner

II. PUBLIC HEARINGS

Chairman Camilli: For the record, all the public hearings tonight are going to be postponed because of the applicant's, at the applicant's request. I think we have to read the petitions, or not?

Ed Meehan: Well I think by consensus enter them into the record and then Norine can just record that they have been postponed.

Commissioner Kornichuk: What do you do about the public that wants to speak?

Ed Meehan: The public cannot speak because the applicant is not here to respond.

Chairman Camilli: Okay, just read the petition numbers for A, B, C, D first.

Commissioner Cariseo: Petition 33-06, Petition 34-06, Petition 35-06, Petition 36-06.

Chairman Camilli: As we said, those petitions all are being postponed until the next meeting.

Commissioner Kornichuk: Petition 38-06.

Chairman Camilli: And that is the Reno applicant which is also being postponed tonight.

- A. Petition 33-06 751 Russell Road and corner of East Cedar Street, known as Lowe Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, 45 Old Farm Road, East Longmeadow, MA, 01028 applicant, represented by Attorney Robert Randich, Shipman, Sosensky, et al, 135 South Road, Farmington, CT 06032, request for Zone Map Amendment I District to B-BT Business Berlin Turnpike, Intertown advisory referral to CRCOG, C.G.S. Section 8-3b) required. Continued from August 23, 2006.
- B. Petition 34-06 751 Russell Road and corner of East Cedar Street, known as Lowe Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, 45 Old Farm Road, East Longmeadow, MA, 01028 applicant, represented by Attorney Robert Randich, Shipman, Sosensky, et al, 135 South Road, Farmington, CT 06032, request for Zone Text Amendment Section 3.14.1 c to permit hotels and motels up to a height of 4 stories or 45' in B-BT Berlin Turnpike Business Zone and amend Table A: Schedule of Height & Area Requirements to permit hotels and motels up to a height of 4 stories or 45' in B-BT Zone District. Intertown advisory referral to CRCOG (C.G.S. Section 8-3b) required. Continued from August 23, 2006.
- C. Petition 35-06 751 Russell Road and corner of East Cedar Street, known as Lowe Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, 45 Old Farm Road, East Longmeadow, MA, 01028 applicant, represented by Attorney Robert Randich, Shipman, Sosensky, et al, 135 South Road, Farmington, CT 06032, request for Special Exception 3.14.1 and Section 3.11.3 and Section 6.11 auto related service gasoline station, B-BT Zone District. Inland Wetland report required. Continued from August 23, 2006.
- D. Petition 36-06 751 Russell Road and corner of East Cedar Street, known as Lowe Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, 45 Old Farm Road, East Longmeadow, MA, 01028 applicant, represented by Attorney Robert Randich, Shipman, Sosensky, et al, 135 South Road, Farmington, CT 06032, request for Special Exception Section 3.15.3 restaurant use, B-BT Zone District. Inland Wetlands report required. Continued from August 23, 2006.
- E. PETITION 38-06 Assessor Map NE 505 East Cedar Street known as Cedar Mountain parcel, Connecticut Children's Medical Center owner, Reno Properties, LLC 170 Pane Road, Newington, applicant, represented by Lewis Wise, Rogin, Nassau, Caplan Lassman & Hirtle, City Place I, 22nd Floor, Hartford, CT 06103 request for 4 lot subdivision CD Zone District to be accessed by a proposed commercial street over abutting property known as Lowe Manufacturing Company, 751 Russell Road. Inland Wetland Report Required. Continued from August 23, 2006.
- III. **PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.)

Patricia Lang, 27 DeCosta Drive: I'm going to read a letter. My name is Patricia Lang and I live at 27 DeCosta Drive. This is an over 55 condominium community consisting of thirty-nine free standing units. One of the phases currently being worked on is the planting of trees in the yards of the various units. There is great concern that many of the trees that were originally approved for planting based on the data provided by the contractor and architect four years ago is now not appropriate and will create hazardous conditions in the future. For example, based upon the

approved plans, Number One DeCosta Drive was to have twenty feet from the sidewalk to the foundation, with a sugar maple being planted, however in actuality there is only fifteen feet from the foundation to the utility lines that run parallel to the sidewalk. In addition, the yard has a large slope to it, the recommended planting for a sugar maple is twelve feet from the foundation, and six feet from patios, driveways and sidewalks. A mature sugar maple would be fifty to seventy feet tall, with a spread of thirty to forty-five feet. Similar conditions exist for the majority of homes on DeCosta Drive. I respectfully request that this committee require the contractor to stop additional planting of trees until new plans, based on actual location and style of homes is developed that would not create a hazardous situation.

Chairman Camilli: Thank you. This is an unusual request. Is there a way that we handle this?

Ed Meehan: Well first of all, this is a condominium development. I don't know if the board of directors have authorized any requests such as that, and I'm not sure that I agree with it, doesn't make any difference whether I agree or not, it would have to go before the Commission as an amendment to the site plan. The only way that I think that the planting could be stopped is with the concurrence of the developer, who is obligated to follow the plan. I was up there this afternoon, drove through, and looked at the plantings that have been installed, as of about four o'clock today, and I've got a copy of the planting plan if the Commission wants to look at it. I'm not sure if you can order the developer to stop. First of all, I don't know if this is a condominium association, does everybody up there agree, is it a vote of the board of directors, I don't know.

Patricia Lang: There are four of us on the association...

Chairman Camilli: I think it's a matter of process, we just have to do this in the proper way. We can't adjudicate this tonight, for sure. We just want to put you into the right pew, if we can and maybe you can get direction as to how to do this. It's unusual for this Commission to get into this situation. From the little that I can gather, it seems to me that it is between the association and the developer, the builder. I don't know if we can referee that or not. I think it is a process if the association wants to prohibit the builder from putting in those plantings, there must be a process...

Ed Meehan: Well, I think the process, and I did talk to Attorney Kelly, John Kelly who said he represents the association. So the question that I had for him, and he didn't have the answer, this was yesterday, not today, has this concern been brought to the homeowners association and have they taken a vote, as a body to authorize this request? If that is the case, then the process would be, I think, to petition the Planning and Zoning Commission to amend the site plan, the landscape planting plan for Fennwyck Estates, and since Mr. DeCosta is the responsible party, which has bonded this, I think he would have to be part of that request, and get a new planting plan before the Commission so that they can show you what they are going to substitute or what they are going to rearrange for a planting plan.

Chairman Camilli: Do you think he would be a willing participant?

Ed Meehan: I don't know.

Patricia Lang: No.

Chairman Camilli: I didn't think so. Obviously it might come down to money, are you saying that the association could not do this without.....

Ed Meehan: I don't now how the by-laws read, and at what point it was turned over to the homeowners association, this is where I think they need some legal advice. Can they, this is like if

they didn't want the finished pavement course on the road, can they tell the developer not to finish paving the road? This is a required development attribute of this site plan and I don't know if they can tell him to stop completely. He has bought the trees, they are stockpiled, some will be put in today. I think that would be the process, is to amend the site plan.

Chairman Camilli: If the trees go in, then it's a done deal.

Ed Meehan: Also, the Commission could go up and see what is planted up to this point. I'm not sure that I would agree that these trees are going to be hazardous or are going to be a danger. They are going to get larger in twenty-five to thirty years, but the species that I saw being planted today, which was aquoias, and lindens and some sugar maples, they should look around town where these are planted, they usually go in at twelve to fourteen feet, ten or fifteen years from now they will need to be pruned, and they should be pruned along the way, they may have to be removed, but there is space enough for these trees. If the person who is putting them in uses good judgment, and the mark-outs are followed, and the spacing from the sidewalk and the driveway are, common sense is applied, they shouldn't be a problem. If the homeowners can legally bring a petition to you, and say they want to change the planting plan, I think they have every right to do it.

Chairman Camilli: But if he is putting the trees in, I mean,.....

Ed Meehan: I think that is between the people who bought the homes and the developer, I don't think the Commission can tell the developer to stop his plan.

Chairman Camilli: Sir, you have to come up and state your name for the record. We don't generally do this, but I think tonight we will give you a forum, but I don't know how far we are going to get with it.

Tim Luddy, 23 DeCosta Drive: I'm the president of the homeowners association and we discussed this at a director's meeting. Our problem of course, one of the problems that we had to start with, was the fact that the trees, when they were going to put them in place, were too close to the wires and the gas lines, and the builder said he went by what the town told him to do as far as where to put them, and when he put the poles in, they were right next to the wires, and the gas lines, and even now, the trees that have been put in, there are some of them that are right next to the gas lines and the power lines, and what we are worried about, one phase of this thing is, as these trees grow, the roots are going to go, and go all over the wires, and the gas lines and the water lines and cause us major problems down the road. Another thing is, they indicated in the paragraph that Pat Lane read to you, about the, where they should be planted based on the size of the trees and what have you, and this was not built, the maple tree that was put in front of one of the families, obviously does not fall into that category. It needed twenty feet, there was only fifteen feet to work with, to start with, so that is probably a wrong situation right there. As far as working with the builder is concerned, that's not going to happen. Some of us have been there two and a half years and have not gotten the inside of our house completed yet, so, we have a problem with the pond, we have a problem with backyard swales, and so it has been a fight all the way through with this man, and now this is another problem we have. Thank you for your time.

Chairman Camilli: Thank you.

Ed Meehan: Was this a formal vote of the homeowners association, Mr. Luddy?

Tim Luddy: No, it was a discussion, and the consensus was to come before the council here and discuss this matter. We did talk to our attorney, which is John Kelly, but he said he could not represent us in this problem, because he is a town attorney, so he said he could not represent us at this meeting because he was a town attorney.

Ed Meehan: Well, I don't know how this Commission can entertain a change to the site plan, unless the party who filed the site plan and is bonded to do the work, is a party to that. I don't know how you can go out and tell a developer to stop what he is doing. He's fulfilling the site plan, but as this Commission knows, you have a landscape plan and it's not, every little tree symbol on that landscape plan is not going to end up exactly where it is shown on the landscape plan because that plan is drawn without benefit of the utilities being installed, and everything else that goes in, so once those utilities are installed, the landscaping goes in last, based on where the mark outs are given.

Chairman Camilli: I never heard of this, but obviously everything is underground. Is there a problem with the root system, did you ever hear of anything like that, what they are alleging?

Ed Meehan: Well, I have heard of problems with root systems but....

Chairman Camilli: Interfering with.....

Ed Meehan: Yeah, if you put a tree, you could get roots into sewer lines, and water, if the tree is planted right on top of a water line, you know, there could be problems, but, you know, I'm a little bit lost to tell you how to resolve this unless, I think the two parties can come to an agreement that they want to amend the plan.

Chairman Camilli: Well it doesn't appear that that is likely to happen. The only thing, for the benefit of the people who are here, is there any other recourse?

Ed Meehan: Plant the trees, and then take them out. I mean, that sounds ridiculous but we are going to talk about trees in another subdivision later tonight, and in that respect it is not unusual, because we have some developers who don't want to plant trees and they have their homeowners trying to plant trees, and that is a different situation a little bit, but.....

Chairman Camilli: We have a lot of condominium associations in this town, what happens when an association and a developer don't see eye to eye. Is it something they would do, is it a private matter between the two parties?

Ed Meehan: It's like the situation that Mr. Luddy said about the workmanship on the houses, which I'm aware of. We have been having some difficulties with the quality of the grading in the back of many of these units as far as the drainage swale and the completion of the retention basin. I've been up there a few times, and the developer asked me to come up again this week, and I said I'm not going to go up again until you tell me it's done. I've gone up there, and the work isn't done. This situation with the trees just came to my attention, I think it was Monday, and I have talked to different people, and I think there are forty-two units there..

Tim Luddy: Thirty-nine.

Ed Meehan: Thirty-nine?

Tim Luddy: There will be thirty-nine, there are thirty-four occupied.

Ed Meehan: So the question, the homeowners association is now constituted, so they could take a vote and decide that they want to change the site plan, but then they have to get Mr. DeCosta to agree with it, because he has a landscaper under contract, I think it was Concept Designs, New Concepts, putting in, you know they had the augers and the little bobcats up there this afternoon planting trees.

Tim Luddy: On DeCosta Drive, they are probably about ninety percent complete, putting the trees in, as of this afternoon. They have not gotten a contract yet for Memory Lane because that's not ready for trees.

Chairman Camilli: Well, it would seem to me that the association probably should get a lawyer and get some kind of injunction, some kind of injunction to stop it. I'm not sure.

Commissioner Kornichuk: But if he's ninety percent done.....

Chairman Camilli: But that is on one street, I think they want to stop it....

Ed Meehan: The other street is very short. Four or five houses. Maybe the Commission members can informally take a ride up and take a lot.

Chairman Camilli: But what can we do?

Ed Meehan: I don't think you can do anything. I think you may not agree with what you are hearing, I don't agree with what I'm hearing, I don't mean, it's not for me to say.

Commissioner Fox: I'm wondering what we would see, I mean, all we would see are the mark outs.

Ed Meehan: You could see the trees.

Commissioner Fox: And the trees that were put in there, and if they are that close to the mark outs, because I think the complaint is, of course that eventually they are going to be tearing up wires and gas mains and sewer pipes, but even if we were to go up there and look at it, he's following the plan, so, I am going to take a ride up there just to see, but you know, I don't think there is anything we can get from it.

Tim Luddy: Thank you for your time.

Chairman Camilli: Thank you.

IV MINUTES

A. Special Meeting Site Walk – August 23, 2006.

Commissioner Pruettt moved to accept the minutes of the Special Meeting Site walk, August 23, 2006. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YES.

B. Regular Meeting – August 23, 2006.

Commissioner Fox moved to accept the minutes of the Regular Meeting, August 23, 2006. The motion was seconded by Commissioner Kornichuk.

Commissioner Cariseo: Mr. Chairman, I missed the last two meeting, but I read all the minutes and I will be voting this evening.

The vote was unanimously in favor of the motion with seven voting YES.

IV. COMMUNICATIONS AND REPORTS

Ed Meehan: There was a communication relative to the Griswoldville-Deming Street light. I think it was in your packet. It was a request by the developer of the Walgreen's site, which the development company is known as TJJJ, LLC. asking the Commission and town officials to be aware of the agreement between the two developers that Griswoldville Associates, LLC., has not been forth coming with their part of the payments for the light. It's really between the two private developers as far as what arrangements they had between them as how to cost share the light, and the road improvements, but this was, I believe referred to the Town Attorney, as well as the Town Manager. Maybe this developer of Walgreen's may try to attach the bond before it is completely released when that time comes, to ensure payment. Again, this is a new one.

Chairman Camilli: I think this is another action that we're asked to more or less referee and I don't think we have any standing to do that.

Commissioner Ganley: But in either case, when their bond becomes due, we certainly could not decide on behalf of the other gentleman, that we would hold the bond until they can attach it. We're going to have to execute, when the bond comes due, we are obligated to release the bond. If they don't have any paperwork in saying, we are attaching the bond, we just have to do our administrative duty, and release the bond.

Ed Meehan: If the work is complete.

Commissioner Ganley: Yeah, if the work is satisfactory, that is the end of our obligation.

Chairman Camilli: Yeah, at this point, it's still questionable.

Commissioner Cariseo: Can you attach a bond?

Ed Meehan: I don't know how you can do that. There's a ways to go before the work at the Waverly Drive subdivision is ready to make any substantial reductions as far as bond releases. We have a \$550,000.00 bond.

Commissioner Cariseo: Cash?

Ed Meehan: It is a letter of credit, which is good until, I think it is June of 2007.

Commissioner Pruett: The light is blinking.

Ed Meehan: Yes, it went on flash today.

Chairman Camilli: I think this is one case where we tried to be business friendly, and I think it came back to bite us, even though we had two bonds on this particular light. It's going in, but for whatever reason, there were some legitimate ones I guess....

Commissioner Pruet: I think we did our job to help prevent this situation.

V. NEW BUSINESS

- A. **PETITION 32-06 2553-2557 Berlin Turnpike, Jayanti Patel and Kuntal Patel owners, JK Partners, Inc. 983 Hoop Pole Road, Guilford, CT 06437 applicant, represented by Richard P. Dimmock, Consulting Engineers, 11 West High Street, East Hampton, CT 06424 request for Site Plan approval for 100 Unit Comfort Suites Motel. Inland Wetlands Report required. Continued from August 23, 2006.**

Sean Dimmock: Good evening, my name is Sean Dimmock, I'm with Dimmock Consulting Engineering Firm located in East Hampton, Connecticut representing Mr. Patel on this property located at 2553 Berlin Turnpike, which is adjacent to the Bob's store mall, a little bit south, and next to the gun shop. Last time we were before the Commission we had different site plan, we decided to release and get rid of the, we had a 5,000 square foot office building right here, we had the hotel rotated, going this way. Basically, it was too much for the size of the lot, so we decided to get rid of the 5,000 square foot office building in the front and rotate the hotel so that it conforms, looks a little bit better, fits on the lot a lot nicer and subsequently we were able to make that thirty units larger. We had it at seventy rooms before, we are now up to one hundred. Some of the other things that have changed, all the leeching galley systems are all in one position now, before we had some over here, and some over here, the same basic structure, everything drains from the center respectively this way, and respectively this way to the catch basins which all drain down into the galleys where it's contained, and comes out where we have a wall, which is now about fifteen feet from the property line, as opposed to before, we had it a lot closer. It was about 130 feet long before, we have reduced that down to about 65 feet. We have reduced a lot of the landscaping that we were going to have to do, a lot of the grading in the back area here. We were up to about here before with the grading and as you can see, we are leaving a lot of the existing trees in the area, and also adding a lot more in this area and up along the side of where the residences are located in here.

The sanitary which we, hasn't changed at all, really, basically the sanitary from here, comes out of the hotel and goes down here, and then connects up to the existing sanitary. There is a state right of way, right to drain easement that comes through here, there is the existing one right here, drains into this area here, and then drains out. We are proposing coming along here, installing a manhole here, coming down, putting another manhole and continuing it down here where it connects up with the silt chamber before it is discharged into the normal area where it was discharged before.

We will also be beyond the property line up until the Berlin Turnpike, we will be planting grass there and we will be maintaining this area also.

Chairman Camilli: Is it going to be irrigated?

Sean Dimmock: I'm not sure, I don't, for the size of space that that is, I'm not sure if it's going to be irrigated. I know that there was some question as to whether we had to have it irrigated, or not.

Chairman Camilli: I think on the Berlin Turnpike we do, don't we?

Ed Meehan: Yep.

Sean Dimmock: Okay, then if we do, we will have it on there. We will have it. Basically everything is still the same when it comes to everything else, like I said, we have moved everything over here, so that way we don't have to worry about grading over here, near the residential, there is one residential unit which is right there. That would be the closest one, and I believe that is a good approximately 120 feet just to the edge of the parking, 180 feet to the building. One thing we also did, like I mentioned before, we have a lot more screening with the trees over here, there are a lot of existing trees that are still being kept, we have a lot located right on the property line as requested by the town. This grove of pines here will be kept, all these here, obviously this is not our property, they have a right of way easement that goes through here that will be relinquished to the property owners. We also, some issues came up about the residences in the back, like it is more busy up there, and the lights may shine in the backyards, or something, what we have done is that we have proposed a six foot solid vinyl fence, which starts right here and goes all the way around the dumpster and all the way over to here, six feet high. As you know, or maybe you don't know, it grades downslope going this way, and then kind of goes down also on this, and then levels out. On this side over here where this property line is, we have put a thirty-six inch picket vinyl fence. The reason why we did a picket vinyl fence there is because the grade here, and the grade here is about a six foot difference in height, so you are going, your headlights are going to be shining into the hill, so you don't have to worry about anybody who lives over here getting headlights at night or anything like that. I did bring in a plan that shows the basic layout of what it is going to look like. Before we had discussed, we had another one that the builder had done in North Branford, this is actually a Holiday Inn, but the outside structure material will be the same. It's going to have a stone face like this, right there all along the whole front, and this other tan material will be, I think it is going to be a really attractive front with all this total brick right here, is going to look really nice around the whole entrance, I think that is basically, I wanted to recap what we made changes on, since the last time that we came before you, and we're just waiting on the Conservation Commission.

Chairman Camilli: Okay. We need a report now. Could they change, the Conservation Commission change the layout at all?

Ed Meehan: I think you are asking them for a map amendment.

Sean Dimmock: That's correct.

Ed Meehan: Because of the issue of the so-called water course that goes through here, so they are not going to have a substantial impact on the footprint of the parking lot, or the building.

Chairman Camilli: One other question that I have, they increased the number of units to one hundred, is there sufficient parking for those one hundred units?

Sean Dimmock: Yes, there is 112. That includes enough also for six employees and we also, inside the building there is a 660 square foot conference center, which we have enough parking for that, also.

Chairman Camilli: Just one other question. Any food going to be served, is there going to be a restaurant.

Sean Dimmock: It's not a restaurant, it's going to have like danish type thing, danish pastries, like for breakfast in the morning. Like coffee and danish, nothing that is going to be cooked there.

Ed Meehan: We did have the Fire Marshal, Chris Schroeder looked at the new plan, because we wanted to make sure that the apparatus could get in, get underneath the canopy, do a three hundred and sixty through the site, and his people tell him that they can, they can make the

clearance on the canopy and the turning radius. The building, the way that it is oriented now is a much better fit. The previous plan, as Mr. Dimmock explained, the grading was pushed right out to the property lines, sort of not following the natural contours of the land, and also would have required a waiver because of the buffer on the north side would have been changed. This plan, because it fits better, doesn't require that. I know, our engineer should be finished, there was a question on the galley system and the wall, being five feet off the property line along the south side there.

Sean Dimmock: We are fifteen feet now.

Ed Meehan: Fifteen feet, okay. The only other comment I have is, is there any way to put some windows in the building as it faces the Berlin Turnpike? I mean, it looks very stark, and I think the back, the other side of the pictures, looks as if they have windows in front.

Sean Dimmock: Right, yeah, I can ask the architect about that. Possibly, I'm not sure if that's like a stairway area, there to go up to the second floor, something where they can add a window.

Ed Meehan: Based on the floor plans that I saw, that is a room. Those are rooms on both sides. It just looks strange without having windows out front.

Commissioner Pruet: Looks like a fort.

Ed Meehan: The other one has windows out front. See, on either side of the portico. That's what I mean.

Sean Dimmock: I'm sure they can improve it some way, if not being an actual spot for a window, something.

Ed Meehan: If it's a stairwell, put a window in the stairwell, to balance it off, where the big white panels are, double windows in there, or something, as well as on the first floor, too.

Chairman Camilli: Is it going to follow the design of what you showed on the other side?

Sean Dimmock: The same material will be used, yes.

Chairman Camilli: The material, I'm talking about the design.

Sean Dimmock: The design is a little bit different, it's a little bit different, but it will be the same shape, same color, you can tell here where the brick will be used on the side, will be right here, and then here, here, here, here, and here on both sides.

Commissioner Cariseo: Does this look like anything on the Berlin Turnpike that burned down? Because that was very similar.

Sean Dimmock: I'm not sure.

Commissioner Pruet: Where, in Meriden there?

Commissioner Cariseo: Yeah, you know they had all that stone.

Commissioner Pruet: It does look similar to that.

Sean Dimmock: I'm not sure, I didn't see that.

Ed Meehan: Your elevations, it would be helpful to the Commission if you labeled the materials, drivet, split face block, whatever...

Sean Dimmock: I'm in the midst of trying to get some samples of what it is going to consist of so that you guys can actually have it in hand.

Commissioner Pruettt: I remember too the last time there was concern whether the neighbors were going to find it accessible on the drainage, on the first map there to the left, there was some concern about the neighbors, if it was going to conform to their pleasure, in other words, cleaned up a little bit.

Sean Dimmock: Yes, we have been in, basically up until about a month ago, we were in constant contact with Mr. Forrest and he is perfectly willing that we are basically going to ascertain that we are going to improve, even if we have to come down and improve some of his section there too, because every couple of years I guess he has to dig it all out and restone it all again, we actually have proposed piping it all the way down from here, piping it from here, then across to here, and then discharging it over here and getting rid of this whole area for him, so there is, he definitely is in the loop when it comes to what is going to happen. Like the fence, the six foot high vinyl fence, I think there was a comment about just a regular steel fence, and the reason we got this was because he preferred to have something nice looking if he had to look in there, it's not going to be wood, at least he is going to have a nice solid vinyl fence.

Chairman Camilli: Okay, any other questions. I think we are all set then.

Ed Meehan: Yes, you just have to wait for Conservation.

Chairman Camilli: Thank you.

Sean Dimmock: Thank you.

- B. PETITION 37-06 751 Russell Road and corner of East Cedar Street, known as Lowe Manufacturing, Cedar Mountain, LLC owner, Hunter Development Company, LLC, 45 Old Farm Road, East Longmeadow, MA, 01028 applicant, represented by Attorney Robert Randich, Shipman, Sosensky, et al, 135 South Road, Farmington, CT 06032, request for site development plan approvals for 15,120 sq. ft. hotel, 3000 sq. ft. bank, 5,256 sq. ft. restaurant, 3,500 sq. ft. gas station/convenience store and 9,000 sq. ft. retail use, B-BT Zone District. Inland Wetland report required. Notice required to Town of Wethersfield Section 8-3h C.G.S. Continued from August 23, 2006.**

Chairman Camilli: Petition 37-06 is postponed as well.

VI. OLD BUSINESS

- A. PETITION 45-06 Corner of Willard Avenue and Alumni Road, front vacant parcel former Torrington Company, Fountain Pointe, LLC, 838 Brook Street, Unit E, Rocky Hill, CT 06067 applicant, Rotundo Developers, LLC owner represented by Richard Rotundo, 838 Brook Street, Unit E, Rocky Hill, CT 06067 and BGI, 170 Pane Road, Newington, CT 06111 request for Site Plan approval, commercial development (3,500 sq. ft. bank and 25,000 sq. ft. office) CD Zone District. Inland Wetlands Report required, Sixty five day decision period ends October 27, 2006.**

Commissioner Pruet moved that Petition 45-06 Corner of Willard Avenue and Alumni Road, front vacant parcel former Torrington Company, Fountain Pointe, LLC, 838 Brook Street, Unit E, Rocky Hill, CT 06067 applicant, Rotundo Developers, LLC owner represented by Richard Rotundo, 838 Brook Street, Unit E, Rocky Hill, CT 06067 and BGI, 170 Pane Road, Newington, CT 06111 request for Site Plan approval, commercial development (3,500 sq. ft. bank and 25,000 sq. ft. office) CD Zone District be approved based on site plan entitled: "Fountain Pointe Professional Park, Willard Avenue, Newington, CT Sheets 1 to 8, scale 1" = 40' revised dated September 6, 2006; and building elevation design Sheets D-1 to D-2 prepared by Dante J. Boffi."

The following requirements shall be addressed prior to the Chairman's signing of the site plan mylars:

- A. The 5' sidewalk shall be constructed across the Willard Avenue driveway as directed by the Town Engineer.
- B. The applicant shall submit documentation to verify easements for driveway rights over property of N/F Newington Business Park, LLC have been secured and 20' drainage rights over adjacent property of N/F Rotundo Developers, LLC have been secured.
- C. The proposed location of fountain/project sign shall be clarified in relationship to the existing Newington Business Park pylon.

Prior to the issuance of the Certificate of Occupancy for the first structure the applicant's engineer shall certify to the Town Engineer that the site's storm water system has been constructed in accordance with the approved plan.

The motion was seconded by Commissioner Ganley.

Chairman Camilli: Just a question about the state as far as, was that taken care of, the egress?

Ed Meehan: It was determined that they need to amend the State Traffic Commission Certificate, so based on the information that Mr. Buberis presented to you, he is submitting an application to the State Traffic Commission.

Chairman Camilli: We're just assuming that that will go through okay?

Ed Meehan: It will be with the right turn in, and the right turn out onto Willard, exiting out of the site onto the private drive and back to Alumni. They won't be able to go west on Alumni until Alumni is open, when and if it is open, so they will come back to the traffic signal. So that will be the way back out of the site.

Chairman Camilli: And that doesn't have to be in this as far as the state is concerned.

Ed Meehan: No, because it is reflected in the revised site plan. The site plan is dated September 6th, shows that right in and that right out. It is also positioned on the property so that the next, what Mr. Rotundo called phase two, where the balance of the two acres is, would also be served by the same driveway.

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

B. PETITION 52-06 Southwest corner of Pascone Place and Louis Street, vacant parcel 2.6 acres, Innate Investments, LLC owner, Mark Smith P.E. To Design, LLC, 114 West Main Street, New Britain, CT 06051 request for Site Plan approval to construct 5,000 sq. ft. professional office building. PD Zone District. Sixty five day decision period ends October 27, 2006.

Commissioner Ganley moved that Petition 52-06 Southwest corner of Pascone Place and Louis Street, vacant parcel 2.6 acres, Innate Investments, LLC owner, Mark Smith P.E. To Design, LLC, 114 West Main Street, New Britain, CT 06051 request for Site Plan approval to construct 5,000 sq. ft. professional office building, PD Zone District be approved based on plans entitled: "Jason Family Chiropractic, Louis Street, Newington, CT Site Plan Sheets L-1 to SU-2, scale 1" = 30' revised dated August 22, 2006; and building elevations sheets A-1 and A-2 dated August 1, 2006.

1. Prior to the Chairman signing the site plan mylars, technical changes to the grading layout and drainage design required by the Town Engineer shall be incorporated in the plans.
2. Prior to the issuance of the Certificate of Occupancy the applicant's engineer shall certify to the Town Engineer that the site storm water system has been in accordance with the approved drainage design.

The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion with seven voting YES.

Chairman Camilli: Motion passes unanimously.

C. PETITION 50-06 1052 Main Street, Joseph Motta, 12 Cumberland Place, Rocky Hill, CT 06067 applicant, Motta Investments, LLC owner request for Special Exception Section 3.13.3 apartments within business building, B-TC Zone District. Continued from August 9, 2006. Sixty five day decision period ends October 27, 2006.

Commissioner Schatz moved that Petition 50-06 1052 Main Street, Joseph Motta, 12 Cumberland Place, Rocky Hill, CT 06067 applicant, Motta Investments, LLC owner, request for Special Exception Section 3.13.3 apartments within business building, B-TC Zone District be postponed to September 27, 2006.

The motion was seconded by Commission Pruett.

Chairman Camilli: We need to have a discussion on this particular motion. Ed, maybe you may say it more succinctly than I would.

Ed Meehan: At the last time that the Commission had this before you was in the public hearing, and the applicant had brought forward revised elevations, colored elevations, to illustrate to the Commission some of the details that the Commission wanted to get a better fix on as far as the signage, the lighting, and where this proposed redesign of the back of the building, how it was related to the overall building, and Mr. Motta did that. There was also a question on his plot plan layout, so after the meeting I met with Mr. Motta, we walked around the site, to get a better fix, to understand exactly where the new sidewalks were proposed, where the paving ended, where the new curbing was going to be put in, and it became apparent as we walked around that what was presented to you wasn't as detailed as necessary to determine the actual layout of the site. How it would be constructed. We also saw that one of the overhead wires that would be affected would still be in the way of the second floor addition, if this was approved. There was a note on

the plan that one of the utility poles was to be removed, but that pole carries, it's either a cable TV wire or a phone wire to a adjacent pole, and that wire would have to be re-located. That was not taken care of on the plan. I also found out that it was the applicant's intent to demolish the back of the building, tear it down to it's existing footing and then rebuild it. That raises a concern when you take something down which is non-conforming, you lose the grandfathering of that building, and the building on the north side is only eight feet off the property line, so if you tear it down, you have got to put it back at the side yard setback of ten feet, and that was an issue before, also when the plans first came in, the side yard setback on the south side was I believe, only five feet. So, I brought that to the applicant's attention. I prepared a brief report for the Commission, and provided it to Mr. Motta. There is a way, in the zoning regulations, because his property is in the town center village district as far as design guidelines, that those side yard setback constraints can be overcome and that is, if the Commission, having reviewed the elevations that are proposed finds that it is compatible with what you think you want to see in the business town center for redesigned buildings, redeveloped buildings. If that meets with the consensus of the Commission, as far as the town center design guidelines, one of the benefits of meeting those is you can go to a zero lot line, if it is approved by the building inspector. The only role the building inspector has is not on the zoning, or not on the design guidelines, zero lot lines come into play as far as the fire code, separation of buildings, and so I showed this to Pete Hobbs and he said that would not be a problem in this case because on the north side, you have town property, which is part of the walkway that goes out to Main Street, and on the south side, you have sort of a, you can see it on the plot plan before you, you have an indentation of town property which is now there because under the town center improvements a couple of years back, the Town Council with a STEEP grant bought that building, the blighted building, and tore it down. So that is also town property, which means that if the Commission finds that the design is acceptable, the building could be placed at eight feet off the northerly property line, and closer to the southerly property line. The other thing that I observed out there is that having the apartment doorways on the north side, opens them up right to the town walkway that goes out to Main Street, right across from all the compressors and the back side of Wings. It didn't seem to be very practical. I think if the doors were brought to the south side, it would be closer to where the tenants might park, it would be close to where all the other tenants in this building that have apartments there, walk up the path to get to their apartments. I asked Mr. Motta about making that switch, and he pointed out that because of the grade difference and the concern for the side yard setbacks, his architect didn't want to bring the doorways over to the south side. Again, if the design is compatible with the town center design guidelines that, the doors could be brought to the south side because you are not going to have the constraint of the of the side yard setback of ten feet. So I think that is where this stands right now, is really some direction from the Commission as to whether you feel the designs you have before you are headed in the right direction. The applicant said he was going to try to improve the rest of the building eventually, when financial resources are available. I asked Mr. Motta to bring the colored elevations, because he took them at the last meeting, so although the public hearing is closed, and he can't talk, you just have black and white elevations, and maybe if we put the colored elevations up, and then if you say this is headed in the right direction as far as design guidelines, the adjustments to the eight feet, and the adjustments to the south side, as far as the apartment door could go forward. If that is not the Commission's wish because you don't accept this design, then I think it would be fair to let the applicant know that, so that he doesn't invest the time to have his land surveyors or his architects work on this plan any further.

Chairman Camilli: Now you know why I asked Ed to do this.

Ed Meehan: Trying to be concise.

Chairman Camilli: Thank you Ed, that was a good report. I think we have to make a decision as to whether or not we like what we see there in terms of the architecture, if that conforms to the town center guidelines and if that meets with your approval, then we can waive that setback so that we can move the doors to the south side, and do what he has to do, but I think the question that we have to address first is whether or not the architectural meet our approval. I can take the first shot, to me, it's a hard decision in terms of me being able to visualize what that is going to look like. Certainly what has been proposed is much better than what is there now. That doesn't mean that it meets up to the standard of the town center guidelines, but I think a half a loaf is better than no loaf. As far as I'm concerned, I think it would be okay. I'm just really not happy with that whole area. It's a very difficult area, it's old, so I went first, we need some direction here.

Ed Meehan: Yes, the Commission needs to get a sense of the Commission and the applicant, Joe, do you have the colored ones, I'll put them up. This is where you want to start with this first, these are the colored versions of what you have in black and white.

Chairman Camilli: Ed, do you want to explain again to the Commissioners what would happen to the entrances.

Ed Meehan: The concept, this is the low flat roof of the building coming in from the Main Street side. That back end would be torn off, and this two floor addition would be added, businesses on the first floor, two apartments on the second floor. This as drawn right now is showing the entrances coming in on the north side, this is the walkway that goes out between the Chamber of Commerce office and Novey Jewelers, to Main Street, the new patio area. Long range plans would be hopefully to convert some of that black top there maybe into pavers to bring people back and forth to the municipal parking lot, out to Main Street, past this area. In my opinion, that might be another reason not to have apartment doors here. This east side is looking into the parking lot. That looks out towards Roma Tailors, Century Eddy and the municipal parking lot, and they are proposing businesses on the first floor, and this gabled roof on top. This is the south side, which ties back into the building. This is where I would recommend if the Commission wants to go forward with these designs, the two doorways be put on this side, so this would be a blank wall. That is essentially it. This is brick, vinyl siding, asphalt shingle roof. So what would be removed is the, what is there now. Until I really started to walk around with the applicant, I really didn't realize he was removing that whole back part off, but this is the southeast corner that you are looking at the overhead door. The roof line in the background is, this is the front of the Flowers, Etc., building and this is the back part of that building in there. Underneath this is Wings.

Here is another shot of it, this end here is this end here, so you can obviously tell that these were all added on over the years, you can see different elevations and so forth. This is the north, this is the side where the walkway is that goes out, past here, this goes out to Main Street, and this is the old part, and this line right here is where Mr. Motta would break the building, knock this off, and rebuild it. This is eight feet off the property line. If you just rebuilt this the way that it is, you could continue with that non-conformity, but once you take this down, you are going to lose that, so that is really what started this whole issue.

Commissioner Cariseo: On the north side of that building, there is going to be commercial, downstairs, where those two doors are?

Ed Meehan: No, these two doors are, under the current plan, these doors go up on an internal stairwell up to two apartments upstairs.

Commissioner Cariseo: Well how did you get commercial things on the back of that?

Ed Meehan: The commercial things, this is the east side, you go into the commercial area on the east side.

Commissioner Cariseo: Oh, that's the east side, which is off the alley.

Ed Meehan: No, it's off the back, parking lot.

Commissioner Cariseo: Does it go all the way to the front?

Ed Meehan: This here, no it goes just to that new section.

Commissioner Cariseo: Okay, so the other stores in the front would still be there.

Ed Meehan: Separated, but still there. It's basically all new from this section back, tear it down, bring it back.

Commissioner Cariseo: Oh, so there is a wall that separates them.

Ed Meehan: Yeah, there is going to have to be a fire wall in here. Actually I think the building department and the Fire Marshal will treat this as a fire rated wall, a separate building. It's going to have to meet the fire code, it may have different electrical systems, I'm not sure how they do that, but... This is the utility pole which is labeled on the site plan to be removed, but when you go out there you see these wires, these wires are going to another pole and so that has to be addressed because this gable here, goes up near that, so you have to relocate those wires and take the other pole down. I don't think you can take the other pole down though.

Chairman Camilli: Have you discussed that with Mr. Motta, how that would be done?

Ed Meehan: We have talked about it, we walked around out there, and he is going to have to talk to the utility companies about bringing the wires in from another direction.

Chairman Camilli: Let's stay focused on the issue, does the architecture meet our standards?

Commissioner Kornichuk: Now my first question is the brick. Now is the brick the color, what we decided we want in there? Is it going to match the church across the street, that seemed to be the direction that we were going.

Ed Meehan: Yes, this is red, the standard red common brick.

Commissioner Kornichuk: Okay. Now my next question is, what's in the middle part of this, between the two buildings? That part that is staying, what is in there?

Ed Meehan: I think there are some apartments in there.

Commissioner Kornichuk: And that is going to stay the white?

Ed Meehan: I believe it will.

Commissioner Fox: Are you talking about up in.....

Commissioner Kornichuk: To this point it is going to be new, this section in here is going to stay the white?

Ed Meehan: Yes.

Commissioner Kornichuk: So we are going to have this new look, and then we are going to go....

Ed Meehan: That was my understanding.

Commissioner Kornichuk: Well, I'm just trying to understand it, because now is the time...

Commissioner Fox: What is in that little section, apartments or storage?

Ed Meehan: On one side there are apartments, on this south side back to here there are apartments, this area, where this car is parked, this is the back to the platform is, used to go into the restaurant, but now there is a nail salon or something, in there. The rest of this might be storage.

Commissioner Kornichuk: Okay, now the red car, is it parked in the right of way?

Ed Meehan: This is parked in the, when this picture was taken this was parked in the right of way because (inaudible). This is probably the property line right here.

Commissioner Kornichuk: I can see it in the next picture, it's the same red car. Actually, there is not supposed to be anything there, right?

Ed Meehan: No.

Commissioner Kornichuk: It's just a walk way.

Ed Meehan: It's just a walkway, and there are fire lanes, that was when Wings went in, the Fire Marshal went over and posted fire lanes in that area, so I don't know how long the car was there.

Chairman Camilli: Any other questions, Pete?

Commissioner Kornichuk: I'm just trying to visualize this, you know, this new looking building attached, you know, it's going to be attached to this old thing, this addition, whatever it was, and then we have the front building.

Ed Meehan: On Main Street.

Commissioner Kornichuk: You can go to somebody else, I'm still trying to digest it.

Commissioner Ganley: I just want to clarify this thing with the stairways, the north versus stairways on the south. The architect cited an elevation problem and therefore he prefers the doorways on the north side, as opposed to the south side, is that correct?

Ed Meehan: Yes, the elevation is that this side is the north, it's a little bit higher than this side over here. Because of the difference in elevation, you need more steps, so from what I understand, that would have made the platform of some sort required on the south side, so you would have a landing to come up to, and the concern was that that platform would have been inside the ten foot setback.

Commissioner Ganley: Which is the very issue we are discussing, eight versus the ten.

Ed Meehan: If you go back to the original issue, which is the concept of the design guidelines being what you are looking for, the landing for the steps to go in on the south side, becomes a moot point, because you can have a zero lot line here. That is the whole issue, do you want to go with a zero lot line?

Commissioner Ganley: Okay, so if we were to address it from an aesthetic point of view, and say look, put the stairway, the landings on the south side, okay, we'd still be within, I don't know what you would call it precisely, but we would still be able to maneuver around the property lines, the lot lines, what difference would it make if we said, put it in there and that is fine with us.

Ed Meehan: That is true, because the lot line, the ten foot lot line setback goes away. If you agree that this is the architecture that you want. The other thing is, in addition to being aesthetic, there is also some functional reasons, because of where the cars might park for these tenants, where other tenants access the back of this building, but I'm also thinking, in the back of my mind, you have two doors opening onto a town walkway that has to be plowed, safety issues, privacy. That walkway was a problem this last winter, and has been a problem because our Park and Rec people have to go in with smaller equipment and clean it out. Now if you have two residential openings onto it, it makes it just that much more difficult.

Commissioner Ganley: And the sun never gets in there. A little morning sun, and the rest of the day it is in the shade.

Commissioner Cariseo: I do like the design for this, it really looks nice. I guess my only concern would be, is there any way for him to match the old with the new, to make it look more cohesive? I don't know how much is shown, but just looking at that up at the top you would have to match in, but I don't know....

Commissioner Kornichuk: It's forty feet.

Ed Meehan: Yes, as Pete said, if you take and go back the other way, that's about forty feet to the original main building.

Commissioner Kornichuk: That's a lot. I don't know, even if, maybe painting that red, to get rid of that, so it kind of, you know what I'm trying to say....

Commissioner Pruet: Blends in.

Commissioner Kornichuk: Where it doesn't you know look....

Ed Meehan: One of the things that we talked about, this owner has done this, to some extent, there used to be all kinds of wires hanging all over these buildings, they were probably discontinued and instead of taking them down, they just painted over them, and left them there, there were miscellaneous gutters. A lot of that has been taken off, and some of the gutter work, one of the gutters hanging down there now has to be really fixed so it doesn't become an icing problem. Those are some of the things that should be cleaned up on that side of the building.

Chairman Camilli: Do you have any suggestion that would give it a little continuity without a major something. Is there anything, because it's going to look a little.....

Ed Meehan: It's going to look funny because you have a certain roof line, and it drops to a flat roof, and comes back up again, but maybe cleaning up some of the gutter systems, and some

painting in that area would help. We still don't know what is going to be required, the elevation he has tried to depict with the electric meter panels may go, and again, you are going to have that utility, this is now going to become more of the utility side of this building versus the south side where you have people coming and going. There may be a need for a transformer or something there, I don't know.

There is enough room to do some buffer plantings along the side of the building. It's the north side though, so it won't be a lot of light, but there could be some plantings there. I think short of painting it,....

Commissioner Cariseo: What is the material, is it cinderblock or

Ed Meehan: It's block with like cement troweled down it.

Commissioner Cariseo: So it was cinder block and they just troweled over it with cement?

Ed Meehan: Yes.

Commissioner Kornichuk: My thing is, as you said, this is a pathway to the front, where you are going to have, you know, if you really want everybody to be walking through this, what is everybody going to say as they walk this pathway, you have this nicer looking building, and then all of a sudden you are going to hit this white, stark, and then you get to another building where the town is doing all this work to the front of the buildings. That's just my thinking. I know that the gentleman said that in the future when money is available, he wants to do something to the middle section, that's why I said, maybe just painting it would kind of get it to blend in with the back building. That was just a suggestion.

Commissioner Pruet: I agree with the Chairman, anything of this nature would be a positive improvements. That is one of the oldest sections of Newington, and perhaps an agreement, with the direction of the Town Planner that some kind of, like Pete mentioned, painting would blend in to make it aesthetically uniform with that area. Also, I think with the entrances on the south side for safety reasons should be placed there.

Commissioner Fox: I think we all agree, and I think short of actually changing the roof line, and residing that little piece, they aren't going to do much except clean it up, paint it and make it look nice. As David said, Mr. Motta should be commended for trying to do what he is doing. I think I mentioned at the last meeting, it would be nice if, and Ed mentioned that Mr. Motta would be doing it, now part of it is going to look like a little plaza, you know, with all those apartments there, and once it is finished, it should look nice, and hopefully Mr. Motta will be able to continue with that.

Commissioner Schatz: It's an improvement, very much so, and as long as the architect said he would move the doorways to the other side, I think that would be.....

Chairman Camilli: The question that Tom brought up becomes moot at the point of....so we are okay as long as we agree....

Commissioner Pruet: He will have the latitude to work without that restriction.

Commissioner Ganley: You know what is going on here, the guy is putting a diamond in a coal patch, you know what I'm saying, it's a good looking building, irrespective of whatever else is around it, and we have to do our best to make at least something good looking be there without getting too much of a dilemma of what the rest of the place could conceivably look like at a later date.

Commissioner Fox: Well Tom, you know, with enough pressure, coal turns to diamonds, so eventually this will be just one of many diamonds there.

Commissioner Ganley: Point well taken.

Chairman Camilli: We know that the town has been trying to clean up the back of that for a long time, and I don't know if it conforms to what the town originally wanted to do there.

Ed Meehan: Well, if we had a lot, a lot of money, we would have tried to negotiate with the prior owners to take that last forty or fifty feet off of the back of this, and square up the municipal parking lot and deal with the adjacent property owner who is Mr. Bonelli, that is all the parking behind Cugino's, and purchase that, and establish a uniform grade and complete the municipal parking lot. That is the grand plan. We were able to get the blighted building out of there, which is a step in the right direction and still have to work on Mr. Bonelli.

Chairman Camilli: Okay, I think we have come to some conclusions and directions for you, it seems like the Commission will be willing to say that the architecture is going to be acceptable, and whatever could be done to improve that other forty feet or so, if something could be done there, and move the doorways, and take care of the pole. It's a tough thing when you are dealing with that old piece of property. It's very difficult.

The vote was unanimously in favor of the motion to postpone, with seven voting YES.

VII. PETITIONS FOR SCHEDULING (TPZ September 27, 2006 and October 11, 2006)

- A. PETITION 53-06 Assessors Map SE 307, 1987 and 2169 known as 119 Deming Street, Frank A. Accarpio and Thomas Accarpio owners, Deming Street Development, LLC, 312 Murphy Road, Hartford, CT 06114 represented by Attorney Timothy Sullivan, 9 High Road, Berlin, CT 06037, request for Special Exception Section 3.19.2 (24 detached residential units), PD Zone District, Inland Wetlands Report required. Date of Receipt August 9, 2006. Schedule for public hearing September 27, 2006.
- B. PETITION 54-06 Assessors Map SE 307, 1987 and 2169 known as 119 Deming Street, Frank A. Accarpio and Thomas Accarpio owners, Deming Street Development, LLC, 312 Murphy Road, Hartford, CT 06114 represented by Attorney Timothy Sullivan, 9 High Road, Berlin, CT 06037, request for Site Plan approval, 24 detached residential units, PD Zone District. Inland Wetlands Report required. Date of receipt August 9, 2006. Schedule for presentation September 27, 2006.
- C. PETITION 55-06 57 Church Street, John A. Amaning owner and applicant, represented by Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-12 Zone District. Date of Receipt August 9, 2006. Schedule for public hearing September 27, 2006.
- D. PETITION 56-06 2-14 East Cedar Street, Newington Development Associates, LLC, owner Jeff Hedberg, 120 Northwood Road, Newington, CT 06111 applicant, request for Site Plan Modification, B-TC Zone District. Schedule for presentation September 27, 2006.

- E. PETITION 57-06 426 Hartford Avenue, Rosario & Maria Giarratana, owners, Alex Kosovskiy, 444 Bloomfield Avenue, Bloomfield, CT 06002 request for Special Permit Section 6.11 Auto Dealer Use, I Industrial Zone District. Schedule for public hearing September 27, 2006.
- F. PETITION 58-06 183 Louis Street, Aero-Craft, LLC, 179 Louis Street, owner, PDS Engineering & Construction, Inc., Attention Chris Eseppi, P.E. 107 Old Windsor Road, Bloomfield, CT 06002 applicant, request for site plan approval 27, 000 sq. ft. industrial use building and waiver of buffer distance, PD Zone District. Inland Wetland report required. Schedule for presentation September 27, 2006.
- G. PETITION 59-06 2909 Berlin Turnpike (former Krispy Kreme) Wek Tuck Realty, owner, Acnco Sign Company Inc., attention Jeremy Waycott, 1133 South Board Street, Wallingford, CT 06442, request for Special Exception Section 6.4.2 Free Standing Sign, Citibank, PD Zone District. Schedule for public hearing October 11, 2006.
- H. PETITION 60-06 Intersection of Rowley Street and Berlin Turnpike (formerly known as Caldor Plaza) 15.4 acres vacant parcel and adjacent properties, American National Insurance Company, 1 Moody Plaza, Galveston, TX 77550; RK Newington, LLC, P.O. Box 111 456 Providence Highway, Dedham, MA 02026-0111; First Brook Properties, LLC, 1 Stickley Drive Manlius, NY 13104; McBride Properties, Inc., 3153 Berlin Turnpike Newington, CT 06111 owners, Realm Realty, Attn: David A. Stern 900 Town and Country Lane, Suite 101 Houston TX 77024 applicant represented by Michelle M. Carlson, P.E. Fuss & O'Neill, Inc., 145 Hartford Road, Manchester, CT 06040, request for Special Exception Section 3.19.3 retail use over 40,000 sq. ft. PD Zone District. Inland Wetland Report required. Schedule for public hearing October 11, 2006.
- I. PETITION 61-06 Intersection of Rowley Street and Berlin Turnpike (formerly known as Caldor Plaza) 15.4 acres vacant parcel and adjacent properties, American National Insurance Company, 1 Moody Plaza, Galveston, TX 77550; RK Newington, LLC, P.O. Box 111 456 Providence Highway, Dedham, MA 02026-0111; First Brook Properties, LLC, 1 Stickley Drive Manlius, NY 13104; McBride Properties, Inc., 3153 Berlin Turnpike Newington, CT 06111 owners, Realm Realty, Attn: David A. Stern 900 Town and Country Lane, Suite 101 Houston TX 77024 applicant represented by Michelle M. Carlson, P.E. Fuss & O'Neill, Inc., 145 Hartford Road, Manchester, CT 06040, request for Special Permit Section 6.11.6 gas station use, PD Zone District. Inland Wetlands Report Required. Schedule for Public hearing October 11, 2006.
- J. PETITION 62-06 Intersection of Rowley Street and Berlin Turnpike (formerly known as Caldor Plaza) 15.4 acres vacant parcel and adjacent properties, American National Insurance Company, 1 Moody Plaza, Galveston, TX 77550; RK Newington, LLC, P.O. Box 111 456 Providence Highway, Dedham, MA 02026-0111; First Brook Properties, LLC, 1 Stickley Drive Manlius, NY 13104; McBride Properties, Inc., 3153 Berlin Turnpike Newington, CT 06111 owners, Realm Realty, Attn: David A. Stern 900 Town and Country Lane, Suite 101 Houston TX 77024 applicant represented by Michelle M. Carlson, P.E. Fuss & O'Neill, Inc., 145 Hartford Road, Manchester, CT 06040 request for site plan approval, 133,945 sq. ft. Sam's Club retail store and 12 pump gas station pad, PD Zone District. Inland Wetlands Report required. Schedule for presentation October 11, 2006.

- K. PETITION 63-06 Newington Town Plan and Zoning Commission applicant, 131 Cedar Street Newington, CT 06111 request for Zoning Regulations Amendment, Sections 1.2.2.(b); 1.1.1 (D); 4.1; 4.3.1; 4.4.4; 6/14/2 and 6/14.9 Purpose of proposed amendments is to clarify the design requirements for a Residential Lot, Section 6.14 Referral to Capital Region Council of Governments and Central Connecticut Regional Planning Agency required.

Chairman Camilli: We go through K, and we have the other that have been postponed, so we're, this is going to get backed up even more.

Ed Meehan: Let me bring you up to date. I got a call this afternoon from the attorney representing Petition 53-06 and 54-06, Attorney Sullivan. That was before the Conservation Commission back in August and there was a question on the vote, how the vote was tallied, apparently what he is going to do, he is going to resubmit his application to the Conservation Commission now and ask them to re-vote the project. He may also ask his client to make some modifications to the wetlands part of this. That being said, he said he would be more than willing to have this pushed off to October 11th, so that is something that you can keep in mind. As the Chairman said, looking ahead to the September 27th meeting, I did sort of a spread sheet for you here, you will have Reno, a public hearing on Reno continuing, that is for the subdivision, you will have applications from Hunter continuing, four public hearings ongoing for Hunter. The zone changes, the gas station use. There is also a petition here for 57 Church Street for an interior lot and an application for 426 Hartford Avenue for an auto dealership, that is to reuse an old gas station up there. So that's a pretty good size public hearing work load right there. Then there are site plans, you will have Hunter's site plan, which you have seen several times before, a lot of which you will see as far as site plan will be covered in the public hearings anyway. Aero-Craft on Louis Street is set for the 27th, that is the 27,000 square foot manufacturing building. That is going before wetlands on the 19th of September and Mr. Hedberg's site plan modification for 2-14 East Cedar Street is scheduled. So that is a pretty good night of work right there, I think. The Hunter and Reno applications, although they are a continuation of public hearings, the Commission will have the benefit of the special traffic engineer that the town has retained to look at these traffic reports, so those reviews and comments of course will be put into the record.

Chairman Camilli: Will he be here for the meeting?

Ed Meehan: He can be here, if needed. He is going to do a written report. Then, under Old Business on the 27th, if the Conservation Commission acts on the wetland application for Comfort Suites, that would move from New Business to Old Business for a vote. Then the application that you just heard, 1052 Main Street would be up for a vote. Do you want to stay with that?

Chairman Camilli: Yeah, fine.

Ed Meehan: On October 11th, which is the next hearing night, the hearings that would need to be scheduled would be the Deming Street age restricted housing, unless for some reason they get tied up in the Conservation Commission and they need to grant an extension.

Chairman Camilli: They are backed up too

gas station use, and then the store over 40,000 square feet, so those will be public hearing items. Under the New Business site plan portion of your meeting you will have a site plan for the age restricted housing, and a site plan for Sam's. Then, under Old Business, you are going to need to close the public hearing on Reno and on Hunter's on the 27th. The time is running out on that and move that to Old Business. You may not be ready to vote on the 11th of October, you may still want to talk about that for a meeting, but that would be under Old Business. Aero-Craft site plan for the property down on Louis Street, I believe that will be ready for a vote, because there is not much wetland impact, and I was talking to our acting town engineer, and they may treat that with administrative approval and move that along, so that would be under Old Business. 57 Church Street, the interior lot would move to Old Business, 426 Hartford Avenue, the auto related use would move to Old Business, and Mr. Hedberg's site plan for 2-14 East Cedar Street would be moved to Old Business. That may be the schedule. That could get fouled up with something getting slowed down in wetlands again.

Chairman Camilli: ZBA postponed their hearing on 426.

Ed Meehan: That's correct. They left the hearing open. It doesn't make a difference as to who goes first there, but they will, they meet the first Thursday of October, so they will still meet before you meet on the 11th. There are some other projects still coming in, I didn't list here yet because the agenda had already been posted.

Chairman Camilli: Okay.

Commissioner Pruet: Might want to think about starting at 6:00 p.m.

Ed Meehan: I just want to discuss Petition 63-06, Newington Planning and Zoning, applicant. This is on the agenda because of clarification issues that have been brought to light in a court case decision for the section of the zoning regulations known as residual lots. It was put into the zoning regulations three or four years ago. I think we had had two or three applications for them, by Special Exception. Very unusual situation. There was a residual lot approved for Vivian Street, the on-going Vivian Street situation. The Commission approved the Special Exception, there was no appeal, the applicant built the house, sold it to a party that took a mortgage out and has moved in, hasn't got a Certificate of Occupancy yet and why the Certificate of Occupancy hasn't been issued is because the Zoning Enforcement Officer's zoning certificate of occupancy was appealed to the Zoning Board of Appeals by abutting property owners. ZBA upheld the Zoning Enforcement Officer's grant of certificate of occupancy which was then appealed to Superior Court, and the Superior Court judge who read this, felt that the regulations were defective because it wasn't clear enough how you determine the frontage for the residual lot. I think that is the simplest way of putting it. So Attorney Boorman, who has carried this case since he was town attorney has spoken with the judge. He has put an appeal into Appellate Court to hold the town's place there, but in the mean time, he has drafted suggested amendments to these various sections to reduce the ambiguous language, to make it more clear. That's why this is on your agenda. I do need to refer this to the regional planning agencies so this probably can't go to public hearing, I'll check my dates, until the second meeting in October.

Chairman Camilli: Mr. Meehan was very kind as to the judge's decision. Residual lots did not have any specific frontage attached to it, so, since they were residual lots, the regulations did not have a specification as to what the frontage would be. That's why they are residual lots. It didn't make too much sense to me.

VIII. PUBLIC PARTICIPATION (For items not listed on agenda)

Steven Taber, 52 Rockledge Drive: This is part of the Rockledge Drive subdivision built by Premier Development, Patrick Snow. I just wanted to bring to the Commission's attention, there are several issues in the subdivision that have not yet been completed by the developer and other builders in the subdivision. Mainly one issue is a grading issue on the abutting lot to my property, which the town has taken an independent bond from that builder for \$2500.00 to see that this grading gets completed. It's been roughly three years and nothing has been done. I have been in communication with the town, back and forth with Ed Meehan and recently Art Hanke, who is in contact with this builder, to try to get it done. In the overall scope, of the subdivision, when I had my final as built done, the engineer put a notation that the grading on Lot #4 does not conform to the three to one slope requirements per the approved subdivision plans, Note number 12, on sheet number five, which means ultimately that I don't think the bond would be able to be released to Mr. Snow, unless all of the grading is completed in that subdivision. Aside from that, there are several other issues, cable TV junction boxes, transformer pads, etc., there is exposed wiring on all these pads, not all of them. Between Lot #2 and #3 there are several cable TV wires hanging out. These junction boxes and pads have never been graded and finished by the developer.

There are several cracks in the sidewalks. The tree issue, where we have all received letters that the developer was supposed to supply us with two trees per lot but when you read the sales agreement on the lots themselves, when we bought our lot, it said we have to pay for those trees, but now in reading all the prior minutes of the meetings, that Pat Snow has to supply these trees, and I told Ed Meehan, yes, if they are free, we want two trees in front of our property.

The other thing is, last, I don't know if it was last fall or last summer, Pat Snow's company, the engineering company there, they had to regrade the detention pond and in doing so, they have dumped all the excess material on the town property. It says, noted on the plan, property to be deeded to the Town of Newington once this subdivision has been finally approved. It's between my lot #3 and lot #2. There's piles of material all over there, and there's kids playing there and it's not at final grade.

Chairman Camilli: It's still there now?

Steven Taber: It's still there now. Curbing, a lot of the curbing is chewed up from the construction vehicles coming in and out of there. I know the binder was down and they tore up all the curbing and they put it down again, recurbed the road and they put the final paving, the top coat down, but still, it's in rough shape.

Another issue, with telephone poles, that, the whole subdivision up there is basically on ledge and what they did to put the telephone poles in, they blasted holes into the ledge, filled them with sand and then used wooden telephone poles. The soil conditions cannot support those poles and since they have been put in, they are gradually leaning, more and more towards the street. I brought this to Art Hanke's attention. The poles, they are about twelve to fifteen degree angle now, listing towards the street, and it's getting progressively worse, as you have the freeze, thaw cycles of the seasons. I noted that the Waverly Drive subdivision has the light weight fiberglass poles with the small concrete bases which is really what should have been put on our street, but Mr. Snow, I don't know if he took the cheapest way out, or that was the standard that CL&P provided, or what, but that is basically it.

I know that you are having a bond a discussion staff meeting on the bond later tonight. Now is this the actual releasing, to discuss the releasing of the bond itself, or it's just a hearing, I mean, not a hearing, but a discussion?

I was just wondering, the public, the residents of Rockledge Drive, do we have the right to participate publicly at the actual bond release hearing, would we be notified, or is just strictly for your discussion only.

Chairman Camilli: You can hear what we are going to say, and I think you will be satisfied.

Steven Tabor: I mean, this particular one, at the end of tonight.....

Chairman Camilli: It's not a public hearing, it's a staff recommendation, and we are going to vote on it. Just wait a couple of seconds.

Steven Tabor: I mean, we can stay?

Chairman Camilli: You can stay, you just can't make any comments, it's not a public hearing.

Steven Tabor: Okay, thank you.

IX. REMARKS BY COMMISSIONERS

Chairman Camilli: The only remark that I have is that we are having some problems with developers. At least two.

Commissioner Cariseo: Well, we have one guy doing what is supposed to do, and they don't want him to do it, and one guy not doing it.

Chairman Camilli: I think there is quite a bit of unhappiness there. It's a very difficult thing for this Commission to act as judge and jury.

Ed Meehan: I'll be happy to give you more background on E, when you get to it.

X. STAFF REPORT

Bond Releases and Reductions

A. Dunkin Donuts – 2601 Berlin Turnpike

Commissioner Cariseo moved that the remaining bond held for Dunkin donuts site work at 2601 Berlin Turnpike in the amount of \$2,600 be released all improvements having been completed.

The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

B. WalMart Plaza – 3164 Berlin Turnpike

Commissioner Kornichuk moved that the site bond of \$5,000 held for the installation and operation of the irrigation system for Wal Mart Plaza along the Berlin Turnpike be released, this system having been completed.

The motion was seconded by Commissioner Pruett.

Chairman Camilli: My only question is, do they turn it on?

Ed Meehan: Yes, they have been using it.

The vote was unanimously in favor of the motion, with seven voting YES.

C. Sovereign Bank – 3237 Berlin Turnpike

Commissioner Fox moved that the Sovereign Bank site bond of \$25,000.00 be released all work having been satisfactorily completed.

The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

D. 148 Maple Hill Avenue

Commissioner Pruett moved that the bond of \$4,800.00 be released to the developer of 148 Maple Hill Avenue, Premier Building and Development, upon receipt of the land surveyor's certification that iron pins were set.

The motion was seconded by Commissioner Ganley. The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

E. Rockledge Drive Subdivision

Commissioner Ganley moved that the \$29,000.00 performance bond held for completion of Rockledge Drive be held until the following items are submitted to the satisfaction of the Town Engineer.

1. Certification of the detention basin by the developer's Engineer.
2. Submission of the as-built roadway plan.
3. Certification of merestone and lot pin placement by the developer's engineer.
4. Resolution of waiver request from the developer seeking relief from the subdivision regulations, Section 3.12 requiring the planting of two (2) street trees per lot.

The motion was seconded by Commissioner Pruett.

Chairman Camilli: Now we heard under public discussion some other issues, would they be included in this?

Ed Meehan: We have two bonds for this subdivision. We have the performance bond for work that has not been completed pursuant to the subdivision regulations such as the certification of the detention bond, the street trees and the as-built plans. The as-built plans would be used to show the merestone placement for the street right of way and the perimeter of the subdivision. That is valued at about \$29,000.00 worth of work. The town is also holding a one year maintenance bond for the road which has gone through the public hearing process and was voted to be accepted but with conditions, and the conditions include repair of sidewalk, cleaning out of catch basins, the grading and stabilization of the utility boxes, many of the things that you heard. Not on the list was the street lights. That is something that I just started to hear about.

Chairman Camilli: What about the clean-up of where they dumped some.....

Ed Meehan: That is our town property, that would have to be cleaned up and graded. That is under the maintenance bond, which is a \$50,000.00 maintenance bond.

Chairman Camilli: What about the slope issue?

Ed Meehan: The slope issue, in this particular case, with the party who came and spoke, is between Mr. Taber, who bought a lot on his own and developed it and there were grading issues throughout that process and his neighbor. The builder of the adjacent property to Mr. Taber has posted a small bond, \$2500.00. We asked him to do three things. There was a concern about the water coming off his property onto Mr. Taber's. We asked him to put the drainage from the gutters into a system and tie it into the street, which he did. The second thing, we asked him to look at the grading, to see if he could shave, it's a rock face, I'm not sure it's bedrock, but there are some big rocks and very steep, better than a two to one slope, he could take a piece of equipment and pull that back. There was some attempt to do that, it wasn't satisfactory to Mr. Taber, there have been some issues between the neighbors, and that still has not been resolved. If that was resolved a little bit better, the third part of it, what we were trying to do is to get some ground cover between the two properties, some juniper, some pachysandra, something to stabilize so it looks better. At this point, I think Mr. Taber, through his wife, has given us permission, if we can get the other neighbor's permission to go on the property with a piece of equipment to get it done. His neighbor has not given us permission.

Chairman Camilli: Have you asked?

Ed Meehan: We have asked and they haven't been communicative with us, I think it is Aldeary, is the name, and they have not responded. We have set various deadlines and you know, \$2500.00 is probably not going to do all the excavation work that is needed here, but it would maybe help dress up that slope a little bit. At one time, Aldeary was going to put a fence up, because they have small children, and this is a slope down, and we said before you put the fence up, let's get the grade fixed first, and then they backed off and we haven't heard from them since. So, that is separate from Mr. Snow's bond.

Chairman Camilli: And that was the independent contractor.

Ed Meehan: Yes, and the bond was posted by Webster, Larry Webster.

Chairman Camilli: And he hasn't asked for it?

Ed Meehan: I think he's given up on the \$2500.00. He's walked away from it. That is where that stands.

Chairman Camilli: So what happens, so we could try to fix it with the \$2500.00?

Ed Meehan: Well, if the town wants to call this bond, we can do it. There is a procedure in the bonding where we can call it, but ultimately we have to go on private property because that is how you get the work done.

Steven Taber: The bulk of the grading has to be done from his side.

Ed Meehan: On the uphill side, yes. So, until they say no, you can't come on our property, we're in a bind.

Commissioner Cariseo: What good is the bond then?

Chairman Camilli: The builder wants the bond, the town has the money, and we can't do anything more, that's what it seems like.

Ed Meehan: Well, we will continue to try to get a resolution to it. I don't know.

Chairman Camilli: They just don't want to cooperate, or....

Ed Meehan: They won't answer the letters. We sent a rash of letters, about four, five months ago, we sent certified mail back and forth to everybody, and set some time frames. Mr. Taber answered, and his wife answered, but his neighbor didn't answer.

Chairman Camilli: Well, I don't know if that answers Mr. Taber's questions, but the bond of \$2500.00 isn't being released, and the \$29,000.00 bond isn't being released.

Steven Tabor: What about the \$50,000.00 bond.

Chairman Camilli: Nothing is being released, everything is being held.

Ed Meehan: The other background is that the town engineer, our acting town engineer was on the site this morning with the project engineer, Jim Cassidy, and they went over the detention basin issues, and the issue with the merestoning. They reached some agreement on what has to be supplied to the town engineer, but until that is forthcoming, that is why this motion was drafted before that happened, but the bottom line is, the staff is recommending that none of this money be released.

Commissioner Schatz: I have a question. What if these builders and contractors walked out the door, is there enough money there to complete a project? What happens then?

Ed Meehan: \$2500.00 would help do some of the landscaping, but if the party won't let us, say the town called that, we hired a private landscaper, they won't let the landscaper on the property, it's not going to do us any good, unless we work from Mr. Taber's side. This boundary line sort of goes through this slope.

Steven Taber: To work on my side, you can get a small piece of equipment like a bobcat in there to clean up, but my air conditioning units are on that side, there is only ten foot of clearance, and I granted the town ten feet to go onto my property, and cooperate.

Ed Meehan: We don't want to ding up the guy's air conditioning system;

Steven Taber: No, one swing the wrong way with the bobcat.....

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

F. New Britain Avenue Subdivision

Commissioner Schatz moved that the bond amount of \$23,900 held for completion of the five (5) lot subdivision at the corner of Stamm Road and New Britain Avenue be held until the developer's engineer certifies the detention basin's design, certifies the placement of lot pins and merestones.

The developer's request for waiver of Subdivision Regulation Section 3.12 two (2) street trees per lot will be discussed by the Commission.

The motion was seconded by Commissioner Fox

Chairman Camilli: Any discussion on the trees. Do we want to waive that?

Commission: No.

Chairman Camilli: I don't think we want to waive that, no. Have you sent letters?

Ed Meehan: We sent letters, the five lots, we got waiver requests in writing from four, that was from the developer of this project which was Keane Street properties, which was Pat Snow, Premier Building and Development, and one property owner has called me saying that she does want trees and the other four that we sent letters independently have never responded. These are the four lots that you see coming right up New Britain Avenue.

Chairman Camilli: You would think they would want something there.

Ed Meehan: Well, there was a comment made about the contracts which this development company does when they sell lots. They give the impression, and this is starting to happen over on Waverly, Sunrise, that the property owner is responsible to pay for the trees. So by the time a property owner gets to this point, where they got their c.o., they are getting the lawn in and so, they are trying to get furniture in the house, the last thing they want to do is go out and buy \$1,000.00 worth of trees. But the way the subdivision regulations read, and the way we do our bond schedules, we set aside \$1,000.00 for each lot and that is the developer's responsibility as far as we are concerned.

Chairman Camilli: Let me ask you this question. It appears from what Mr. Taber said that these people in the different subdivisions are led to believe that they have to pay for the trees.

Ed Meehan: It's in the lot transfer contract.

Chairman Camilli: However, it doesn't absolve Mr. Snow from putting them in, and I don't know what that letter says, but I think you know, it's got to be, free trees, kind of submission, to let them know, they may think that, you know the trees can go in there if you want them, but the question is not if you want them, I think it has to be perfectly clear that these trees are to be put in by Mr. Snow.

Ed Meehan: I have talked to a lot of people in Rockledge, I'd say ten, twelve people, and even if the trees were free, they won't let this guy on the property.

Chairman Camilli: But he's not doing it, right?

Ed Meehan: No, a subcontractor, and they make the point that their lawns are established, they have done some plantings, they have lived there for three years, they don't want anybody to come in and ruin their lawns, they don't want anybody to come in and the same thing we heard earlier, come in and possibly damage any utilities, of course you would have a mark out before you did anything. I'd had a couple of people say, we are in litigation with the developer and we don't want to have anything more to do with it.

Chairman Camilli: Well, in that case, I think he gets a free pass, for those people.

Ed Meehan: Well, we got twelve waiver letters, that was from the developer getting the waiver letters, we followed up with our own independent waiver letters, we got a couple of more back, and then telephone calls, I talked to about another four. There is only one property owner at the end of the cul-de-sac, at the top, who really said to me that he wants two trees.

Chairman Camilli: Mr. Taber wants them too.

Ed Meehan: Yes, he said that he wants them too, that is the first time that I've heard that. I he only lot that there is, there are a couple of lots that do have trees, they are not really specimen street trees, they are smaller trees, and then there are trees that are planted down around the detention basin, at the bottom of the hill.

Chairman Camilli: I just think that some of these people think they have to pay for these trees if they want them, so I think we have to make that perfectly clear.

Ed Meehan: I can write another letter saying these trees would be done with the town bond money at no cost to you.

Chairman Camilli: Yeah, something about no cost to you if you want the trees, that way they would understand it. As I say, I didn't see the letter that was sent.

Commissioner Cariseo: I would think if I owned the property, and the town said, this is what you have to do, you have to put two trees in, I now choose to sell the lot, and I tell you, the buyer, two trees have to go in there, I'm not putting them in, it's part of the town's plan, and you are getting this lot for \$100,000.00, you have to put two trees in there. I should be able to pass that on, I would think, I don't know.

It's part of the regulation that they have to be put in, but I've sold them the lot, and they fully understand that two trees have got to go in there, I would assume.....

Chairman Camilli: But that understanding was that they had to pay for the trees.

Commissioner Cariseo: Right.

Chairman Camilli: But that is not supposed to be like that.

Ed Meehan: As far as the town is concerned, who pays for the trees is not really the point. The point is, it's a subdivision regulation to put them in and to re-beautify the street, provide shade, provide stabilization, all the things you want to do in a nice subdivision, particularly one like this that was clear-cut. I mean, this place was a pile of rock and was clear-cut, and on either side, for two hundred, three hundred feet going straight in, there is nothing but a few houses and, the only thing that sticks up the most are the street lights.

Compare this to Barn Hill. Barn Hill is a ninety lot subdivision, and this issue never came up in Barn Hill. Same type of terrain, clear cut, and you drive up Barn Hill, or Stonewall Court or Ridge Road now and it's been up five, six years, all those trees are, look great. So I think it has to do with the way that this particular developer has carried forth his plan, because we are starting to see this happen over on Sunrise, where people are calling, saying, why do I have to put trees in?

Commissioner Cariseo: This is the same situation, where he sold lots off, didn't he?

Ed Meehan: All the lots were sold off.

Commissioner Cariseo: Oh, he didn't do any building in there?

Ed Meehan: He did a couple of his own, but basically I would say, out of twenty-two, twenty-six lots there, probably twenty of them were sold for \$140,000 plus a \$30,000.00 lot package, which if you buy the lot you pay another \$30,000 for the lot grading and the sidewalk if you have it on your side and for street trees, and loam and seed.

Commissioner Fox: So that \$30,000.00 would include trees? In other words, the developer would be required to put the trees in at his expense, at the proper time.

Ed Meehan: I had one property owner call me and say, do I have to spend \$1,000, can I reduce that thirty to twenty-nine if I don't put the street trees in. I'm trying to get in, I don't have the money to buy the trees, can I not do the trees. I'm saying, that was the arrangement, you get a Certificate of Occupancy, your lot is supposed to be done, one of the things on the list is two street trees, and they really should be done in the next four or five weeks. We talked about this last May.

Chairman Camilli: I think there is a communication problem.

Commissioner Kornichuk: A lack of hearing problem.

Commissioner Fox: Or selective hearing. But it seems to me, like Ed just said, we require two street trees per lot, we don't say who pays for them, so this is either selective hearing or selective blindness in the way the contract is set.

Ed Meehan: I mean the developer has, under contract to go back on these lots, using his grading contractor to do the grading and may even have, under his contract, he's responsible for the driveway apron and so forth, and I would think that a couple of street trees would fall into the same area as lot grading and loam and seed and a driveway apron. I just don't think he should get a pass from putting these trees in.

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Camilli: Motion passes unanimously.

12 Pfister Drive.

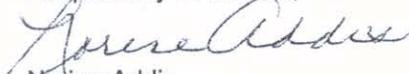
Commission Cariseo moved that the bond of \$3,600 for completion lot grading be retained until the developer complies with the plot plan and establishes the homesite's lawn.

The motion was seconded by Commissioner Pruett. The vote was unanimously in favor of the motion, with seven voting YES.

II. ADJOURNMENT

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Kornichuk. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,


Norine Addis,
Recording Secretary