

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

October 25, 2006

Chairman Vincent Camilli 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 Fox
Commissioner Ganley
Commissioner Kornichuk
Commissioner Pruett
Commissioner Schatz

Commissioners Absent

Commissioner Cariseo
Commissioner Andersen
Commissioner Prestage

Staff Present

Ed Meehan, Town Planner

Chairman Camilli: Before we get started, if anyone is here for Petitions 53-06 and 54-06, the Petitioner has asked that he withdraw, so if you are here for those Petitions, which are the Deming Street petitions, if you are here for that, we are not going to hear it, they withdrew their application. I just wanted to inform the audience.]

II. PUBLIC HEARINGS

A. PETITION 68-06 124 Beacon Street, Gregory and Maria Pastuszek, owners and applicants, 124 Beacon Street, Newington, CT 06111, request for Special Exception Section 6.13 Accessory Apartment, R-12 District.

Chairman Camilli: Is the applicant here? Do you want to come up please and, name and address for the record, and then you can plead your case.

Maria Pastuszek, 124 Beacon Street, Newington, CT: We are asking for a special exception for an accessory apartment. We pulled a permit in September of 2000, September 25th of 2000, we did not include a kitchen on the original permit. We were not being willfully non-compliant, however we couldn't even think about a layout of the kitchen at that time. We had spontaneously left for Europe to adopt three children. We were doing a lot of this over the phone, giving instructions to senior citizen parents, so it was a little chaotic. We were instructed to put a mud room in the plans just to justify plumbing until we decided how we were going to lay that out. October 10th of 2000 we submitted plans and that included a mud room, then we left for Poland for two months to adopt our children.

We returned in December of 2000, and I immediately delivered a layout of the kitchen to the town hall. I now understand that there was no date stamp on that layout of the kitchen, but it is in the file. Over the next five years we have had numerous field inspections by Steve and then later by Joe. We cooperated with all of the field inspection requests. The in-law apartment has more

than 500 square feet, the principal residence has more than 900 square feet, the structure maintains the appearance of a single family home. There is off street parking for seven vehicles, six in the driveway and one in the garage. We are asking for approval for the accessory apartment this evening, without inspection since it is no longer possible to confirm some of the details because they can no longer be seen. I do have a detailed list of everything that was required of us, so that we would be in compliance with Steve and Joe, and I can submit that list if you would like. I advertised our home as having an in-law apartment because I never anticipated any problems. I was instructed that if we wanted it zoned as a two family, we had to approach zoning, I did not know that we were not in compliance. My buyer was then told that he could not receive his funding, because we did not have a legal in-law apartment. My husband and I qualified for our new home without selling our existing home, so we were forced to go ahead with our purchase. If this is not approved this evening, it's financially devastating. We intended to provide a home for our elderly parents, and also receive support from them to assist us with our adopted children. We never expected to be in non-compliance with the town and we intended to sell the home to someone who was going to use it for the same purpose, so we are asking for you to approve this, this evening.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Fox: Through the Chairman, is this, you intend to sell to someone that is going to use it as an in-law apartment.

Maria Pastuszek: We already have a buyer.

Commissioner Fox: You already have a buyer, and he intends to use that in-law apartment for whatever relations.....

Maria Pastuszek: He's here to speak also this evening, and to give a written statement that he has blood relatives living with him. The closing is actually scheduled for tomorrow.

Commissioner Fox: Thank you.

Commissioner Schatz: Basically they are between a rock and a hard place with this financially. Now would the new owners have to come forward to us again, to make sure that everything is on the up and up?

Maria Pastuszek: They are here this evening and....

Chairman Camilli: Wait a minute, I think that is to Ed.

Ed Meehan: I think the new owners would have to put into the record that their in-laws, who is going to live in the accessory, if it's an in-law, that meets that condition of the regulations.

Chairman Camilli: And as the applicant said, somebody is here tonight to attest to that. I think you might have mis-spoken, you said it was a two family house?

Maria Pastuszek: No, it was always my understanding that I didn't need to approach zoning, unless I wanted it zoned as a two family, and I never wanted it zoned as a two family, so we never approached zoning. We just had our field inspections and assumed that we had done everything that was requested of us.

Chairman Camilli: Well, the field inspections, that would be a normal operation under any construction, so that would not, they would not come out and do an accessory apartment inspection. Is that correct, Ed?

Ed Meehan: They inspected based on the tickets and permits in the file, they inspected for what was on the applications.

Chairman Camilli: Sounds like a legal question to me, does ignorance absolve somebody, the town, was it taxed as a, it wasn't taxed as an accessory apartment.

Ed Meehan: I don't believe it has been because the Building Department's records don't reflect it as an in-law apartment so that is where the Assessor gets his information. The Assessor picks up the field card, and the information on changes in square footage, and the second kitchen, and the second kitchen is what makes it an accessory unit and that's reflected in the Assessor's evaluations.

Chairman Camilli: I have another question. As it stands now, does it meet the criteria for an accessory apartment.

Ed Meehan: It meets criteria as far as the physical dimension requirements, square footage of the in-law, the square footage of the principal residence, the means of egress and access comply, it has a second bathroom, second kitchen. The applicant is saying that they can park several cars in the driveway. The only open question is the question that Commissioners Fox and Schatz had asked about the perspective buyer being able to attest that a relative lived there, should the closing go forward.

I would recommend if this does go forward that the Building Department do a walk through to look at the kitchen, and officially give it a Certificate of Occupancy and sign off on it, which they never did.

Chairman Camilli: And if we were to look on this favorably, how could they do that without us voting on it.

Ed Meehan: They can't go forward.

Chairman Camilli: Can this closing go forward without our approval.

Maria Pastuszek: The closing can go forward, they are just holding a tremendous amount of my funds in escrow, and if this is not approved, then it goes to the buyer.

Commissioner Ganley: Under staff comment on your second page, last sentence, if the use of the accessory apartment is permitted, staff recommends that the building department re-inspect the residence to verify code compliance. I'm guessing that there are probably two ways to do this, one if we granted approval, it would be contingent upon that happening, or simply put off approval until it happens to see if they are in compliance. That seems to be the two choices that we are faced with, I can't think of another, off hand. Am I on base with that? Thank you.

Chairman Camilli: Any other questions? Well, I think, you said that there was somebody here in the audience, if I say that if somebody from the public, wishing to speak in favor of this application, if that person is here, the buyer, would you want to come up and speak as well now at this point, whoever the buyer is.

Please give your name and address and say what you want, what you are going to do.

Cesar Chanko: I currently live at 174 Bristol Street Southington, CT and basically I just wrote something out real quick, Dear Newington Town Planning and Zoning Commission: On October 26th, which is tomorrow, my brother Louis Chanko and I, plan to purchase our first home at 124 Beacon Street. If allowed, our parents, Rogellio, 77, Maria, 58, Chanko will be residing in the accessory apartment located within the house. My brother and my family which is Shanna, present also, 29, Devon, and our three kids basically, 12, 9 and 2 will have no where to go as of the end of this month because we basically have two different apartments that are already rented out. We ask the board to recognize this accessory apartment as legal.

Chairman Camilli: Okay, and you want to submit that letter.

Cesar Chanko: Yes.

Chairman Camilli: Okay, so this is the letter.

Ed Meehan: That is what the Commission needs.

Chairman Camilli: That's what we need to move this forward. Is there anybody else from the audience who wishes to speak in favor of this application. Is there anyone from the audience who wishes to speak against?

Joe Cavett: I live at 129 Boyleston Street, I'm in the back of their property. A couple of questions before I object, you know, why do we have to make it a legal in-law apartment before they can move in. That's my first question, if you make it a legal apartment, then they can rent it to anybody else. Is that correct?

Chairman Camilli: This is an accessory apartment, it would be, they would have to come before this board to get the permission to have an accessory apartment. Apparently there is one there without the consent of this board, so what they are trying to do is get the consent of this board.

Joe Cavett: But the question to the Board that I have is, what is the legal ramification afterwards, after you have it, given them permission for an accessory apartment, who can they rent it to, and are we going to have renters in there?

Chairman Camilli: I think as an accessory apartment, they can only have blood relatives, if that it?

Ed Meehan: Yes, that is the purpose of the letter, statement from the perspective buyer. The occupants of the accessory have to be related by blood, marriage, or adoption. They can't rent it to somebody outside of the family.

Joe Cavett: So those are the rules for the zoning accessory apartment?

Chairman Camilli: Okay, and that is why we needed this letter, if this were to go forward, they had to prove that it's going to be his parents that are going to be living there, which would make it a blood relative.

Joe Cavett: I moved into this town five years ago and I don't even work in town, I work in New Haven, I like this town, so I moved in here, and I like the neighborhood, I like the town, and the lack of understanding of the legal ramifications, or who can live or who cannot live, and why do we have to classify it as an apartment, that's the questions that we have. I mean, if his parents are going to live in the house, why do you have to have, you know, an apartment.

Chairman Camilli: It's because they built it. They put in another kitchen and they made an accessory apartment and not part of the house itself.

It's in our zoning regulations that a party can come before this board and say I want, if they have the space, and go through the hoops of putting an accessory apartment in, they have a right to do so. This doesn't mean they get it though. It's like out of the toothpaste though, it's already been done, so this is kind of a very unusual situation. Ordinarily they would have had to come before, and say, we want to do this, and we would have said, yes or no. So, we're, it's already there, and they want to sell. So it is a very peculiar situation, even for us.

Joe Cavett: I object to it, because if they can do it, if somebody can put in an accessory apartment without going here, and then I don't know what guarantees that then, after their parents pass on, not to rent it to somebody else. That is my biggest concern. If you build a whole kitchen and whatever without us knowing it, you know, so that is my objection to it. I'm objecting to it.

Chairman Camilli: Okay.

Commissioner Fox: Mr. Chairman, I noticed a couple of times the word rent was used, inadvertently, I think maybe people would be a little happier if we clarified that fact that an in-law apartment is not rented out to anybody, it's for the use of in-laws, or other blood relatives and you know, whatever support they give the homeowner is between them, but it is not to rent out to anybody.

Chairman Camilli: Is there anyone else that wishes to speak against this application?

Margery Johnson: My husband Steven Kulmick and I live at 127 Beacon Street, directly in front of this house that is owned by Marie. Marie, who was, and is a realtor, at the time of her moving in, she was a realtor, she is still a realtor, so her knowledge should have been there, knowing that she had to get certain approvals. There was no signage on this lot telling the neighbors that this was happening. In fact, as she stated that she legally had inspectors coming in from the town, was there no check and balance there, at that time? She mentioned some Steve and Joe who came through, may I suggest that if it doesn't exist, that it exist in the future. That you come into inspect and you are inspecting something that is illegal, that has been approved. There is parking in front of their house, there is three specified spaces in front of their house for parking. I have a picture of the house because she was selling the house for two years, she could not get anyone to purchase, she did not go back and convert it to what it was originally when she purchased it, it is still an in-law apartment.

I guess my concern is, as the other gentleman stated, do we have to police now anyone who comes in that they are not renting that to anyone. Is it up to the neighbors to police it and complain? I question that?

Chairman Camilli: What is the process with that, because that is really beyond this Commission's purview.

Ed Meehan: These accessory apartments, as you said Mr. Chairman, are very few in town, you get maybe one every couple of years, but the town has really no way a year from now, knowing who is still living there. We're going on the, call us naïve, we're going on the information that the buyer has put into the record tonight, that his parents are going to reside there, or some other family member in the future.

Margery Johnson: Are there any penalties if she was operating in the manner that she was, she didn't pay taxes on it, she didn't provide any money up front to the Commission, or however it is done, to apply originally? Again, I say, what happened with Steve and Joe that says, let me see your permit, lady?

Ed Meehan: Well, we have the permits in the file, and they are public information, and the application that she filled out, and the permits that she paid are all records of information.

Margery Johnson: Not to her neighbors, though.

Ed Meehan: Oh, you can look at the file.

Margery Johnson: I'm saying, there was never a formal, the reason that I am here now is that is a metal sign in front of the house, the reason he is here is that it didn't exist at the time that it was changed.

Ed Meehan: That is what the Chairman said earlier. The right way to start the process would have been to have an application before this Commission, for an accessory apartment, back in 2000. There would have been a notice on the property as well as in the paper and notice to abutters.

Margery Johnson: Since she didn't do that, that didn't happen, are there penalties.

Ed Meehan: No. Other than the Commission could say, we're not going to approve it, take the kitchen out. It's up to them.

Chairman Camilli: Is there anyone else from the audience? Yes sir.

Joe Perfido, 119 Beacon Street: I have lived there about thirty-five years, okay, these people moved into our area, the very first thing that they did, they tore down the one garage, they had a two car garage, they took down a one car garage, right away. Next thing they did, they built a top floor. Now, where was the inspector to check all of this? That's what I would like to know. Can you explain it to me? Where was the inspector?

Ed Meehan: As I said to the previous speaker, the building permit file shows that the property owner applied for a addition above the garage, bedroom, study, bath, shell only, electrical, plumbing mechanical, and security system not included. Then they applied for 200 amp service, then they applied for additional wiring, then they applied for plumbing for bathroom, shower, sink, Jacuzzi, toilet in addition. Those are the permits on file. There is nothing in the file that says that they applied for a kitchen and that is the crux of the issue. When you put a second kitchen in,

Joe Perfido: That's correct, and what we're saying now is that we have a two family apartment, right, so anybody that moves into that apartment can say, well all right, we are going to rent to these people over here, and we are going to make some money, and that is going to pay off the mortgage. Am I right, am I right? I'm speaking to you too, right there. Am I right?

Chairman Camilli: No, you speak to the Chair.

Joe Perfido: Oh, I speak to the Chair, all right. That's what I mean, that's what gripes me, because I was there for thirty-five years, all those homes, all beautiful homes, had two car garages, very first thing they did, they took the garage away. We didn't say a darn thing about it. Not a word, we let everything go by. In fact we felt sorry for them, because they were saying well,

I've got my mother-in-law to take care of, I got this to take care of, I've got an aunt that is retarded, this and that, but now wait a minute, what about us that lived there for so many years and tried to keep the property the way that it is. Now if we let these people do what they want to do, what is going to happen to Newington? What is going to happen to Newington? And beside that, is that I've been hearing lately that a lot of these homes that they can't sell the first time, what they do, they rent them out. So they collect rent off that property. They are making money off of Newington, right? So, they move out of town, they are collecting a beautiful rent. Is that right? Is it right or wrong?

Chairman Camilli: Well, it's your testimony.

Joe Perfido: Well, my testimony is this, they are pulling a lot of stuff which I don't care for, okay, and the thing is, we went along with everything, but now, it's going too damn far. We had a two car garage, two car garage, now you have a one, and that second garage you never even used at all. You used it every night and day, I could see a light in there when I came home.

Chairman Camilli: Okay.

Joe Perfido: No, I've got a little more to talk about.

Chairman Camilli: Well, speak to me.

Joe Perfido: Okay. The thing is this, if we let this go, it will be like, everything will be all screwed up in Newington. Before you know it, everybody is going to start building in the backyard, oh, my mother has to live here, my father has to live here, oh boy, that is going to be great. That is how we start. If let the water go through that gate, you know what is going to happen, we are going to get a flood, and if we don't stop it now I'm telling you right now, Newington is a beautiful town, I love it, I love the school system, I love everything, and my children went to that school, and everything else, and they also have children too that go to that school, and I think they have all loved that place, but their only concern is money, money that's all it is, let's be honest. That's the way it goes, and it's not right.

Chairman Camilli: Thank you. We're going to give it consideration. Thank you for your input, the Commission has not made any decision at this point, we're going to listen to everyone.

Jim Michaelman: Good evening, I reside at 100 Beacon Street, the same side of the street with the house that we are discussing, along with my wife, and we brought up four kids there. We've been there for thirty-seven years, and I agree with all the other people here that have said that they are disagreeing with what is going on. I think that what we have to look at is the integrity of Beacon Street. When we all bought there, we paid a lot of money for those lots, at the time, it was a lot of money, if you put it in today's perspective it would be a lot more, and we did not intend to have it as a duplex house, we didn't have it as a rental property, or anything like that. It is a single dwelling unit houses that we intend to live in. I've been there for thirty-seven years, I intend to go as long as I can there. Don't intend to move out. I think you really have to look at the integrity of that street. It is not zoned for it. It was not intended to be zoned that way. I know the people, I understand the difficulties that you gentlemen have to go through, making a decision on this, but that's my feeling, my wife's feeling, and there should be more people in the neighborhood to voice theirs. Thank you for your time.

Chairman Camilli: We would appreciate all that would want to speak. Anyone else?

Henry Bilack: I live at 116 Beacon Street, and I have lived there for thirty-four years, and my neighbors they have lived for thirty-seven years, and it has always been a single family residential area, now people come in and they have a house for sale, advertising duplex, two family house in a single family area. I say, what is going on. It's supposed to be a residential area. How come we have a two family house? They say they got a permit, fine. But they got the wrong permit. How can the town approve now an excess apartment, when they broke the law. We live there for thirty some years in that area, they just moved five years ago. What they did, they made a two family house out of a single family house, they want to sell it, and move someplace else, change the house again. To make money, that is not right, you should consider that. This is impossible, they are moving to a different house, why are they moving? They need that room, why are they moving? They are selling this year, they are selling the year before, the same thing. So they don't need that room. The petition should be denied.

Chairman Camilli: Thank you. Is there anyone else who wishes to speak against the application? Ed, I don't think we are going to get any more on this, I think the Commission has enough information at this point from the public, but the part about the town inspecting it, would, could be close it and still put that in the record.

Ed Meehan: Yeah, you could make that part of the record that Tom Ganley mentioned two options and they would have to be requested to go out and to inspect it, by whoever is going to own it next week. I don't know how that is going to work out, but somebody is going to have to request an inspection, then come back and provide a report that we can pass onto the Commission.

Chairman Camilli: Well, I would think it would have to be the original owners because I don't think it will convey until the approval is granted, if it is granted.

Ed Meehan: I don't know what the arrangement is, she said something about an escrow account.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Pruett: Just a clarification, I thought I heard someone say it was advertised as a duplex?

Ed Meehan: I don't know.

Commissioner Pruett: I just wanted to know if that was the case?

Chairman Camilli: Like in the newspaper?

Commissioner Pruett: Yes.

Commissioner Fox: Maybe we should allow the.....

Chairman Camilli: I will. You can come up again, and answer that question if you wish.

Maria Pastuszak: I advertised it not as a duplex, but a duplex style, it was the only way to describe it, because it is an up and down apartment, kitchen on the first floor, bedroom on the second floor. When people did come to see it, and they saw it was up and down, many in-laws want three or four rooms on a first floor only, because an elderly individual cannot always climb the stairs. Can I say anything else while I'm here?

Chairman Camilli: Yeah, go ahead.

Maria Pastuszak: It was questioned many times why we were selling, we've lost tremendous money. It was not about money, my mother is extremely ill, she was ill last year, we hung in there a little longer, and that is the reason, she no longer cooks, she is no longer able to take care of herself, my father, they don't need the same space. We've moved to a raised ranch where they have a bedroom and a living room. As far as my aunt, she is in and out of a nursing home on a regular basis. This was not for profit.

Chairman Camilli: If somebody want to rebut, anyone who spoke, you have a couple of minutes, if you want to rebut that answer, you certainly can come back up to the microphone, other wise we are going to close it.

Joe Perfido: Here we go again. I'm seventy-eight years old, and I wear glasses, and I look out that window, and it seems to me that that family, they are all healthy, they walk around, they do everything they want to do, okay? Now the old saying, a liar's a liar, your pants are on fire, are you pants on fire?

Chairman Camilli: Let's keep it civil. I don't have a gavel, I don't usually need a gavel.

Joe Perfido: All right, I do know they have an aunt that is retarded, I do feel sorry for that person, all right, but I really think, in that house, that they are all very healthy because last night, I heard a lot of rumbling, until about, I don't know what time it was, but a lot of rumbling, throwing a lot of stuff in these big vans, whatever, and they keep throwing stuff away, and keep throwing stuff away, and I say to myself, what are they doing, collecting furniture or something. It seems like everything that is done, it is always done at night. But I can hear, and the thing is, I don't know why they have to lie about this,

Chairman Camilli: Okay, thank you.

Joe Perfido: We're out for the money, that's all it is.

Chairman Camilli: Thank you.
We aren't going to make a decision tonight.

Joe Perfido: Oh yes, how can they have a closing?

Chairman Camilli: Well, that's not our problem. We are going to close Petition 68-06 and there will not be a decision tonight on this, so we are going to have to mull this over, this is highly unusual for this Commission, I think the Commissioner's are going to want to discuss it at some point, and we are going to sit on this for at least another meeting, November 8th.

Joe Perfido: Are we going to have a notice sent to us, to let us know.

Ed Meehan: The hearing is closed, there is no further notice.

Chairman Camilli: The hearing is closed, in other words, there is going to be no more, we're not taking any more testimony from either the applicant, or the public.

Joe Perfido: So what's the next thing?

Chairman Camilli: The next thing is we have to make a decision, which probably will be done on November 8th. But the public doesn't have an opportunity to speak at that time.

Joe Perfido: So, do we get a letter of what is going to be happening after this?

Chairman Camilli: You don't get a letter. If you want to come to the meeting and wait until we go through the process, we will either vote the petition that we heard tonight, up and down.

Audience: We are invited to come though?

Chairman Camilli: Oh sure, absolutely. That's why I said, November 8th, but it will be probably under Old Business which will be at the end of the meeting, so it will not be, you can certainly come at 7:00 o'clock, but it will probably not be adjudicated until maybe nine, nine thirty, ten, something like that, because it is at the end of the agenda. Thank you for coming, thank you for your testimony.

B. 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. Continued from October 11, 2006.

Chairman Camilli: Is the applicant here.

Daniel Kleinman: Good evening Mr. Chairman and Members of the Commission, I am not Michelle Carlson, you will hear from her shortly. My name is Daniel Kleinman, I'm a land use attorney with the law firm of Levy and Droney and we are located at 74 Batterson Park Road in Farmington, CT and we represent the applicant this evening.

You have before you this evening somewhat of a smorgasbord of applications to hear, and given the time constraints that you are placing on the applicant, we'll try to be as brief as we can, although there is going to be some overlap because the two public hearings this evening do contain similar matters of fact and the site plan application, which is a matter which you have under New Business this evening will also be a matter which I have here, and I understand from your rules that you prefer not to integrate the site plan application with this hearing, so we will kind of revisit that when we get back to that agenda item later this evening, although you will be hearing some very similar testimony.

This is an application for a proposed development of 133, 000 square foot members only Sam's Club and a twelve pump gas station as well as a 6500 square foot retail building all located at the northwest corner of the Berlin Turnpike and Rowley Street, which is known to you as the Caldor Plaza. Let me just state, for those of you who may not be familiar with Sam's Club, it is a members only operation and that extends to the gasoline, this is not a retail gasoline center, it's open and only available to members of Sam's Club. Sam's Club, for those who are not familiar is a division of Wal-Mart, currently is located in Berlin and is seeking to relocate to Newington. It is the number two membership warehouse chain in the country. They have 565 stores in 48 states, 100 stores internationally, forty-six million members, and carry over 4,000 discounted items. It sounds like I'm marketing for them. Everything from bulk office supplies, food, clothing, electronics and jewelry.

The presentation tonight that you are going to hear is for a Special Exception for retail use over 40,000 square feet and the testimony that you'll hear tonight, and Michelle will present to you as she works the site plan for you, meets all of the standards that your Commission has under

Section 5.2.6 and well as the traffic impact requirements that this Commission has imposed by its regulations in Section 3.19.3. We'll also hear the issues of the location of the gasoline station and of course the other site plan coming up in a separate hearing. The existing site, just by general overview, contains approximately forty-eight acres, including 4.7 acres of naturally landscaped area consisting of wetlands and ponds in the parking lot area. The current stores that are located on the site are Stew Leonard's which this Commission approved earlier which is going into the Caldor building and is under construction now, Stickley's Furniture and Toys 'R Us. This center goes back to 1992, 93 when this Commission did approve the Shops at Newington Fair as they were called. At that time they included Caldor's, Stickley's, Toys 'R Us, and a proposed but not constructed building in the proposed Sam's location and other smaller retail buildings, again, which Michelle will comment on.

On February 22nd of this year, Stew Leonards was approved by this Commission and as I said earlier, is just now in the process of being completed. The applicant reviewed its application with the Wetlands Commission and on September 19th of this year received unanimous approval of process and permit. Most importantly, this Commission should know that this application and the plans that you see before you have been the product of close to two years of work. It began in January of 2005, and the Commission had over twenty meetings with the Army Corps of Engineers, US. Fish and Wildlife, the Environmental Protection Agency, Connecticut DEP and most importantly with town staff, the Town Planner and the Town Engineer as well as their consulting engineers from Milone and McBroom to develop plans which we think are sensitive to the concerns of the Planning staff and engineering staff have raised to us in the course of our application. I will say that the plans that you see now have been modified a number of times to be reflective of Planning Staff's comments and I want to thank publicly Mr. Meehan, his staff and others on the town staff, they were accessible, they were available to the applicant, and worked with us to allow us to create a plan which we believe will be something that not only will the applicant be proud of, but certainly the town.

We put together an excellent development team and you will hear from Michelle Carlson who is a civil engineer with Fuss & O'Neil, Patrick Baxter who is our traffic engineer, also with Fuss and O'Neil and Jeff Wagner who is our architect with WP2 Design Consultants. I think it is extremely important for the Commission to know who the developer is, to have someone accountable for the development and to know the qualifications and background of the developer, and I'm pleased to introduce to you, for a few comments Dan Kirkland who is vice-president of development for Realm Realty who is going to be the developer of this project to say a few words about what attracted them to this site, and the experience that Realm has in developing sites of this kind. When Dan is done, we will have Michelle walk the Commission through the site and then followed by Jeff and Patrick Baxter. We will be available of course, to answer questions.

Dan Kirkland: Good evening, I'm Dan Kirkland, Vice President for Development, Realm Realty and very pleased to be here this evening. For those of you who are not familiar with Realm Realty we're a successful commercial real estate development company. We typically do six to eight projects a year, some smaller, some larger than this project and currently we have five projects under development in one phase or another in New England. I'm particularly excited about this project, I guess almost nostalgic you could say, because back in 1972 I was head of real estate for Caldor Corp and I actually oversaw the acquisition of the property here. We went ahead, we hired a developer, they developed the Newington Town Fair, they built us a beautiful store, then they built the Toys 'R Us, the second phase was the Levitz actually was what it was in the rear, of course everybody knows that Caldor went into bankruptcy, and we never, we closed our stores, and the third phase was in the rear, where the Sam's will be was never completed. Anyway, lo and behold, as it turns out, two years ago, we got a phone call from the lender who had reacquired the property, and they had no idea what to do with it. It had been vacant at that point for about ten years, and we looked at it and we saw that it had real promise, particularly knowing the history of the past as I did. So, we got involved, we started negotiating with Sam's

Club who had real interest in relocating here in Newington, and along the way, when we started marketing the front, we ended up with Stew Leonards. So, we went ahead and got the approvals there, so now we're back and hopefully at long last, after ten years, we'll see the successful completion of the project. We have an exciting presentation for you this evening, and I'm going to turn it over to Michelle Carlson. Thank you.

Michelle Carlson: Good evening, my name is Michelle Carlson, I'm a professional engineer licensed in the State of Connecticut. I work for Fuss and O'Neil, we're located at 146 Hartford Road in Manchester, CT. As Dan Kleinman said, Attorney Kleinman said, we have been working on this project for almost two years now. We started back on January 11th, of '05, working with staff, that is when we had our first meeting with town staff. In the process met informally before the Conservation Commission, we then had meetings with DEP, the Army Corps, we were even able to pull off a joint meeting with staff, the Army Corps and the DEP. We got everybody in the same room, went over a bunch of different scenarios, and came up with a plan that everyone seemed to be on board with. Just for a little history, when Realm Realty, we started working for Realm Realty, we were only working with the Stew Leonard's and the Toys 'R Us piece here, and then this with the pond in this area. Stickley's was not part of the project, nor was this piece of property up in here. Through conversations with the town, we at one point, had the gas station up in here, and nobody seemed to like that, members of the town staff always said, right here is a good spot, why don't you move it away. We had a whole bunch of locations for the gas station, at one point, it was even in the pond, on top of the pond, the detention pond. We got the message that that wasn't going to happen, so Realm Realty went and spoke with Stickley's and acquired an option on the Stickley's property, at the same time, they got an option for this piece here, which is all one piece, and we are going to break off three and a half acres of that approximately 5.2 acre piece, and that three and a half acres is going to be put into Conservation. So that is kind of how the whole project was assembled. Then once we assembled the project, we had many, many meetings with the town staff, coming up with a plan that was workable and that they would support. We went to the Conservation Commission and received unanimous approval on September 19th, and now we are here before you. We submitted our application to the town, we have been working with Ed, we met with Ed on October 17th, and went over his whole laundry list of questions, concerns, comments, we re-worked the plans and resubmitted a set of plans on October 19th. Prior to the meeting with Ed, we had already talked to him about his comments and were aware of some of his concerns and then we had the meeting to go over the comments, and then we produced new plans, which I believe you have the latest plans in front of you that are dated October 19th, and another sheet was handed in today, just to clarify the interior parking lot landscaping.

The project, the existing site, the storm water management facilities were designed for the full buildout. I don't know how many of you were here in '93 when the original project was approved, but the original project, and we have the drawings if anyone wants to see them, the original project that was approved, had a building right here, a small building here, it had a bigger box here, and then a series of, like a strip mall here. There was about, in the area of the Sam's, there was about 80,000 square feet of retail development that was approved, and then there were the two smaller buildings in front of the Stickley's. As Dan said, that never happened, and now we are back here before you today, with our proposed plans.

The detention basins, everything was put into place, those detention ponds were sized for the full buildout for the full development. We worked with Milone and McBroom and town staff and came up with a storm water management plan that was accepted and approved by the Conservation Commission on September 19th. The MDC has several easements going through here. There is a main water line, there is a trunk sewer line, that traverse through the property and we are going to relocate the water and the sanitary sewer and connect to those relocated lines. We have been working with the MDC at length, coming up with an alternate route that is acceptable to them. Our plans are before them, for formal approval, they have verbally approved the technical

aspects of it, and now we have the plans in front of them for formal approval. It will go before their board to relocate the easements later this year. Water and sewer is available, gas is available, electric available, the whole infrastructure is here, and it was here, put back in when Caldor's was built. Stew Leonards, as Dan said, wanted to come to the site, they were excited about Sam's Club, they feel that they compliment each other, they're not competing interests, they compliment each other. In addition, Sam's Club is going to put a gas station right here, it's for members only, it's going to go right in this area where this pad was, right here, it's for members only, you have to be a Sam's Club member, they only sell gas, no cash is accepted, it's credit card only. There is an attendant, but he is there only if someone has a problem, doesn't know how to operate the pump. They don't sell candy, soda, cigarettes, lottery tickets, anything like that, it's just strictly gas, and it's credit card only.

Our site plan conforms to all the bulk standards for set backs, parking spaces, the center is parked, the requirements are that the center be parked at a minimum of 4.5 spaces per thousand, and we are above that, we are about 4.7 spaces per thousand with the project as a whole. The interior landscaping, when we look at the interior landscaping, we looked at what is in the existing plaza now, in here and then we added the parts here that are going to be between the parking lot and then the landscaped islands within Sam's parking lot itself, and that comes up to about 26 percent. If one was to take out the water area, and just strictly count the green, it's at about 15 percent.

The types of landscaping, each island is going to have deciduous trees, it will be a maple tree, a london plain, the honey locust, a variety of trees in there, there will be ground cover such as juniper, rhododendron, rose of Sharon, there will wood bark mulch in the landscaped islands, in every island. Around the pond, here around the detention pond, and around the ditch, the man made ditch, there will be wetlands and native plants in there, we went through that with the Conservation Commission and got them to approve our planting scheme. You will notice that this water course, this man made ditch that was made as part of the conveyance system has been relocated. It was, here right now, existing, we are moving it about 150 feet toward the east, toward the Stew Leonard's building so that we can facilitate the installation of the Sam's Club and the associated parking, and so that ditch, as part of the project will be shifted to the east, and replanted, and the bottom will be restored to its natural condition as it is today.

For site lighting, our intent is to match the existing lighting standards that are out there, and not have anything greater than a 5.0 foot candle per the Town Regulations.

Chairman Camilli: Excuse me, you're into the site plan, just the traffic because you are going to come up again on these others. I'll let Patrick speak about traffic. If you look at Section 5.2.6 A-G, I think I have addressed those with what I have been talking about. Patrick will talk about the traffic and that should take care of the rest of that section and show that we are going to be in conformance with those items.

Chairman Camilli: You want to talk about traffic.

Ed Meehan: Under the, the purpose of a Special Exception, because this is considered a box store over 40,000 square feet, so under Section 3.19.3, the applicant is required to put into the record a traffic impact analysis for both on site and off site activities, and to be able to explain any mitigation measures necessary for turning lanes or traffic control or whatever, in their professional opinion is necessary to accommodate the plaza, and particularly Sam's at this location. That is one of the criteria of a building this size, and the second criteria is as Ms. Carlson started to address, is the fifteen percent green space which I think the Commission needs to talk about that a little bit, as far as your interpretation, what you are going to count as green, or not green.

Chairman Camilli: That was a question that I had. Do we count the actual pond itself as part of the green space, or not?

Ed Meehan: Well, I think it is an interpretative issue. Normally we don't have sites that have such large water bodies on them. You know, you just count your improved islands, in the interior part of the parking space, the parking field. This detention basin is being approved pursuant to the Wetlands Commission directions as far as planting and re-grading, and the perimeter sort of, the wetland planting, I should say. But it is also between two large parking fields. Between the Stickley field to the south, and the proposed 6500 square foot building and the Sam's Club and during our staff meetings, I said, you know, I think this needs to be discussed by the Commission as, do you want to count this as part of the Plaza green space? As I said, twenty-nine percent if you count that pond, there's a lot of water and landscaping on this site. If you don't count the pond, I thought it was down to eight percent, or nine percent.

Michelle Carlson: Well, if you only count the islands, that is 8.8 percent, and the existing center is actually 8.6 percent. If you count the perimeter of the water, you don't count the water, the normal level of the water, but you count the perimeter green, that gets you up to the 15 percent, and then the water is what makes it twenty-six.

Ed Meehan: The Stew Leonard's side of the site is grandfathered because when that came in, '92 or '93, the fifteen percent requirement for green space was not in the zoning regulations at the time. So, really we are just talking about the additional area generated by the Sam's Club, that northwest corner of the site.

Chairman Camilli: If the Commission decides that we don't count the pond, then what would they have to do?

Ed Meehan: Well, I guess there are two issues here, if you don't count the water, they feel that they are still okay, but if you are not going to count the perimeter upland area around the pond, because you don't feel that it is part of the parking area, then they would have to substantially reduce the parking to come up with some additional islands or downsize the buildings or eliminate the little 6500 square foot building.

Chairman Camilli: There's another building in there?

Ed Meehan: There's a little building.

Michelle Carlson: That is pavement right now, currently.

Ed Meehan: You know there's a balancing act you need to go back and forth between the....

Chairman Camilli: You didn't mention, what do you propose for that little building there? This is the gas station, and what is this going to be?

Michelle Carlson: They're not quite sure yet, that's kind of what makes acquiring Stickley's become viable, is to put this here so that they can put a little bit more development here. They are seeking tenants now, there is no known tenant yet. Dan is in the process of working on that now.

Chairman Camilli: The thought that just crossed my mind, if you used that for parking, or for green space, it would like kind of take care of your problem.

Michelle Carlson: There is parking there today, where that building is, right here is parking.

Chairman Camilli: I know, eliminate the building.

Michelle Carlson: And put green here?

Chairman Camilli: Yes. I'm just thinking out loud.

Attorney Kleinman: Let me just clarify for the Commission a little bit. This is a very sensitive development in this regard. The tolerances are very, very tight here. In talking to the Wal-Mart people, Sam's Club people their needs for parking are just met with what we've got here, in terms of the rational for them to move. I do think that it is appropriate for this Commission to take a look at the intent of the regulations, because we are talking about fifteen percent of the interior of the parking area, be landscaped, and I do think that it is appropriate to take into consideration things like the natural vegetation, which borders the pond. I personally believe that if they had developed a pond in the interior of the parking, a man made pond, that would count. This Commission would look upon that favorably as part of the landscaping, if it had been man made, in the sense that they created some kind of waterfall effect with landscaping. I think what we are asking the Commission here is to take cognizance of the fact that one, the parking tolerances are very tight here, but most importantly if you look at the spirit and intent of the regulations and that is to provide some green space, some buffering, some alternative to the black top, that you certainly have that with this large pond area, as you have. If you take out the water, as an amenity, or a landscape amenity, you still have the vegetation which is planted around the pond, which is green space as well, so I can't speak to the business side of this deal, but I would say to the Commission that this has been a carefully thought out site plan, including the inclusion of the 6500 foot building which the applicant feels that they need in order to be able to meet the economics of the development of this site. As I say, we are at fifteen percent using just the vegetation that surrounds the pond, so I would simply try to frame that in perspective for the Commission. That building, I think was always contemplated by this Commission, going back to the original approvals, that there was going to be an out building, if not exactly in that location, Michelle tells me that it was in that location, and I recognize things change, but we are very, very close here to meeting these regulations, and as Michelle accurately also stated and I realize the other sites are grandfathered, and there is no question about that, we clearly, even without the pond and the vegetation surrounding the pond, we are in excess of what the other developments on the site area, so we have done everything that we can, and I think Mr. Meehan will acknowledge that where ever we could squeeze out additional green space and remove some parking, we were able to do that, but we are down to the part now where the number of parking spaces are really what Wal-Mart, Sam's Club needs in order to make the relocation to this particular site, so I think we clearly meet both the intent and the spirit of what the regulations say here, because that landscaping does in fact exist.

Chairman Camilli: That building though doesn't affect the Sam's Club parking does it? It wouldn't seem to me as if it does. Sam's parking is one thing, but this is basically where Stickley's is. I'm having a hard time following....

Attorney Kleinman: Well, the applicant is not Sam's Club, the applicant is Realm Realty, which is the developer of the site, and part of Realm Realty's decision in terms of how to develop this site is, to take a look at that 6500 square foot building, that is part of the economics of how they are going to renovate that entire center.

Chairman Camilli: I understand that part, I mean as far as the parking requirement on Sam's, which they must have a parking requirement of their own.

Michelle Carlson: Yes, actually Sam's, in a perfect world likes five spaces per thousand, right around their facility, which would be directly in this lot here, right here, that lot proper, and they have four per thousand in that lot proper, which is to them, a minimum that they can accept. The

reason that they want to move out of Berlin is that they want their own facility, this is a little bigger than what is over there, and they want a better parking situation than what they have.

Chairman Camilli: Okay, as I said, I thought we were talking about the Sam's parking area. That is what I was alluding to. Ed, do you have any questions?

Ed Meehan: Nope, I understand what they are asking, and I think an interpretation of the water body and the associated green space around it as being part of the overall interior green space, and if the Commission is comfortable with that, they obviously meet the fifteen percent. You had another map, too, well all the Commission members have it, the map you delivered today, which, it's not in color....

Michelle Carlson: I didn't take out the pond though, but that could very easily come out.

Ed Meehan: The Commission members saw that in black and white, where you went through the calculations. That I think is a little clearer, I pretty much agree with the counting, and the interpretative question is whether you count that green area. Other than that, all the other green areas are typically what the Commission gives credit for, there is nothing out of the ordinary there.

Michelle Carlson: We could take the pond itself out, the water body, and leave the green around the water body, and be at fifteen percent.

Chairman Camilli: Okay, any questions from the Commissioners?

Commissioner Pruet: This is unique with that pond in the middle of a retail area. How deep is that pond, and also would there be any fencing around it for safety or security reasons.

Michelle Carlson: First of all, you know they are man made ponds, right? They were made a long time ago by the State of Connecticut. They are roughly twelve feet deep, okay, they don't have a twelve foot working volume obviously, for detention, that is a lot less, but they are at a depth of twelve feet. The intent is to put fencing around them, Conservation Commission said that we had to put some sort of fence that would let wildlife get in, but keep people out, and I haven't quite seen one of those. Ed had mentioned kind of like an eight by eight kind of farmer's fence, and when I started looking into that, I started to get worried about durability and people climbing on it, bending, and you know, wood posts and mesh in the middle, so what we are proposing is just black vinyl chain link fence set up off the ground a little so that turtles and animals can get underneath, but people won't go in it.

Commissioner Pruet: Thank you.

Michelle Carlson: Now do you want Patrick to talk about traffic?

Commissioner Ganley: I'm glad that you put that rendition up, because as I look at the black and white one that I have here, it does in fact show this T shaped pond that you have reconfigured, but it doesn't show the pond to the west, on the one that I have on my desk right here, which is the black and white one, so for all practical purposes one would seem to think the pond is virtually disappeared, but that is not the case.

Michelle Carlson: No.

Commissioner Ganley: But it doesn't show here, and so if I didn't see that I would think that we could do away with this pond right here....

Michelle Carlson: If you would like, I can get you a copy....

Commissioner Ganley: I can see it now, that's okay. The other question I have, not of you, but as a general observation is, there are hardships to property, we know that we can't authorize a hardship to a person petitioning something to do with a piece of property, but if there is land that has particular hardships connected with it, such as ledge, could be a waterfall, could be some other thing that is a concern to the property that would cause the Commission to consider that because of some of the unique properties of a particular parcel, that some things on that property might be a hardship. These ponds, which are there through no fault of the developer, particularly in this instance, are there, and what we are confronted with now is, to look at the pond, the surface area of the pond, the green around the pond and see if it, only for conceptual reasons might in fact qualify as a hardship, as it relates to the property, and therefore consider whether or not the pond, plus the green space would meet our requirements for the aesthetic purposes as it relates to the property. That is just an observation I have as I look at this. Thank you.

Ed Meehan: I would just encourage you not to use the word hardship because this is not a variance situation. I think Attorney Kleinman mentioned, this is more of an interpretative issue of, does this water body with the associated wetland plantings meet the intent and the spirit of the landscape requirements because hardship would be unique to the property, as you are saying, but it would be the purview of the Zoning Board of Appeals, and I don't think you want to get into that with a brand new site. I mean, that would not be something that I recommend that you get into.

Michelle Carlson: Traffic would be the last point on this.

Patrick Baxter: Good evening, I'm an engineer with Fuss and O'Neil as well, I work primarily in traffic and transportation. I'm here this evening to present the findings of our traffic study which was submitted with the application for the site. The need for the traffic study is as was previously mentioned, dictated by the Zoning Regulations for this type of a development. The purpose is to determine the impact to the roads and the intersections in the area of the site.

In general, the site has already been approved by the State of Connecticut, the State Traffic Commission which is part of the Department of Transportation. It was originally approved in the early 1990's for the Caldor store and it was just recently approved as a change of use for the Stew Leonards. As part of their review, they reviewed the traffic study that we had prepared for this development as well, both developments were analyzed as a single traffic study with two separate phases.

The State Traffic Division reviews traffic for any developments which have over 100,000 square feet of gross floor area, or two hundred parking spaces, which this project has. As part of their application they do a thorough review of all the traffic issues and the project cannot move forward until the State Traffic Commission approves it.

I have a map of the study area, the site has very good access from the roadways in the area. Route 5 and 15 is the principal arterial, provides access to Route 91 to the north, and to the south goes into the Town of Berlin. The roadway is four lanes with signals at each of the major intersections and turn lanes provided for people wishing to turn onto the local roadways. The site is bordered to the north by Pane Road, and to the south by Rowley Street. There is a total of four access driveways in the existing condition. The first one is located on the Berlin Turnpike, you can see here noted by this green car. That driveway is limited access, it is only for people turning right into the site, and right out of the site. The Berlin Turnpike is a divided road at that point, so no left turns in or out are possible. There are two driveways provided on Rowley Street. The driveways are not signalized and provide full access into the site. The fourth driveway is located on Pane Road as an extension of Maselli Road where it continues into the site.

Per our traffic study, we analyzed several intersections in the study area which included the Berlin Turnpike with Pane Road, with Webster Street and with Rowley Street, as well as the intersections of Rowley Street and Church Street and Church Street and Pane Road. In order to determine the existing conditions here, we performed turning movement counts on Friday afternoon, and Saturday, mid-day for two hours each. These counts were performed in 2005. We also performed automatic traffic recorder counts over twenty-four hours on Pane Road and Rowley Street in order to determine the speed of vehicles and the average daily traffic volume. We also performed a site visit in order to review any possible improvements to the study area, and measure the sight distance at each of the driveways to ensure people can safely enter and exit the site.

We obtained the latest three years available of accident data, from the Town of Newington and the State of Connecticut for the roadways. Basically we wanted to look at that and determine if there were any present safety issues or if we could observe any accident patterns that could be corrected by engineering measures. The majority of the accidents in the area were all on the Berlin Turnpike. Seventy-two percent of those accidents were rear end accidents, which is typical on a road such as that, especially at signalized intersections. Important to note that there were no fatalities in the study area, at least no fatalities were reported during the study area, during that three year period. Outside of the turnpike, there were only a total of five accidents. We were not able to identify any accident pattern in the area.

In order to determine the background traffic volumes just prior to the opening of the store in 2007, we contacted the Department of Transportation planning group, and they provided us with a growth rate that we were able to use to grow the volumes from the existing condition in 2005 to 2007. We also contacted the State Traffic Commission, and the Newington Town Planner in order to determine if there were any other developments pending or approved in the area that would significantly affect the traffic volumes. We did not identify any developments.

We performed capacity analysis based on these background traffic volumes, in order to determine if there was any deficiency expected in the background condition before the store opened in any of the study intersections. Capacity analysis is based on level of service, level of service rates the amount of delay that the average driver is going to experience at an intersection. Typically a very good level of service would be considered an A, with the worst level of service as F. F level represents a delay of more than eighty seconds at a signalized intersection, or fifty seconds at a stop intersection. In the background conditions, all the intersections were expected to operate at level of service D or better, which is typically considered the minimum acceptable operation by the Department of Transportation. We then added our site generated traffic to those background volumes. The site generated traffic was determined using the Institute of Transportation Engineers trip generation manual. The rates in the manual are determined based on empirical studies that are based on other developments around the country of similar types. The trip generation for the Stew Leonard's store, Sam's Club and the gas station as well as the smaller retail stores, were all added together to determine the additional traffic traveling to the site. Those calculations indicated that we are going to have a total of 1,645 trips during the afternoon peak hour, and 2,373 trips during the Saturday peak hour. We then applied a seven percent capture rate which represents the vehicles that enter the site and travel to more than one of the stores. The trip generation rates are calculated for each store separately and do not take into account the fact that a lot of the people in one store have come from one of the other stores. Also, a fifty-five percent rate was used for the gas station, as a majority of the customers purchasing gas will also be visiting Sam's Club as members.

Pass by credit was taken on local roadways surrounding the site which accounts for vehicles that were already driving through the area, and stopped to visit the development. Those trips are captured on the driveway, however, since they are already in the area, they are not expected to impact the intersections. That pass-by rate is ten percent of the adjacent traffic.

We performed an analysis for the combined conditions which are, background conditions and site generated traffic, and we determined that each of the un-signalized intersections which include

the three site driveways, on the south side of the site, and the intersection of Rowley Street and Church Street, are all expected to operate efficiently in the combined condition during peak hours. The intersection of Pane Road and Masilli, was expected to decrease slightly and we have recommended that the signal time be modified at that intersection. With the modified signal timing, it will operate acceptably at level of service D. The intersection of the Berlin Turnpike and Pane Road is also expected to operate poorly during both peak hours as a result of the additional traffic. We've recommended that the phasing be changed in order to remove the separate phase for Circuit City driveway which is located east of the turnpike, vehicles exiting the site there are only allowed to turn right and so we have recommended that phase be combined with the southbound left turning phase of vehicles entering Circuit City. Those two phases do not conflict with each other, so they should be safely entering and exiting the site at the same time. The entire intersection should operate much more efficiently.

Chairman Camilli: What is the level of service there?

Patrick Baxter: The level of service, with the improvements is expected to be D, without the improvements, is expected to be F.

We also have recommended a left turn storage lane on Pane Road be extended in order to accommodate the queues. In the background condition, the queues already extend well beyond the available storage, and after performing some analysis of the road, we were able to determine that the storage lanes on that road can be extended without any physical modifications to the road. The roadway is currently approximately 28 feet wide, which, I believe is forty feet wide, which provides sufficient room for three lanes, allowing for one lane heading westbound, and two lanes heading eastbound, approaching the signal.

Chairman Camilli: I just want to interrupt you for a second. There are a lot of recommendations by the traffic engineer here, do they still have to present this to the State Traffic Commission?

Ed Meehan: Yes.

Chairman Camilli: It kind of leaves us out of it, but what happens, they recommend this, but you know the State Traffic Commission, they want to keep the green time on the Berlin Turnpike going, and so forth and so on, how will that affect this project?

Ed Meehan: Well, going through the State Traffic Commission review, the staff down there will call us, and they will ask about some of the concerns from the local planning commission, Newington Police and myself, and then before they present a report to the State Traffic Commission they give us the opportunity to review the draft and sign off on it, so if they recommend something, say the intersection of Maselli and Pane Road, where the traffic signal is, which I don't know how many trips you assigned to that intersection, but it might be a popular route for local folks, if they were going to substantially change the timing on that, or recommend a widening for lane arrangements, now those are both town roads, the town would want to look at that carefully and see what it does to our right of way, does it require acquiring property, those are the things we look at at that intersection.

Chairman Camilli: So what is the process, when do we look at it.

Ed Meehan: Well, we are hearing tonight, the example there, tonight he is telling us that they don't have to make any physical changes to that intersection, other than timing. On Pane Road, the queue line, my experience and observations is it backs up now sometimes to the front of Mr. Sparkle, the car wash there. So any additional left turn lane, which would be northbound certainly would be an improvement. I wasn't sure, are you talking about an overlap coming out of Circuit City, in other words, they would be moving at the same time.

Patrick Baxter: Yes.

Ed Meehan: Now they move individually. So you are going to take that amount of green time out of the signal, which should improve it.

Patrick Baxter: It will improve.

Ed Meehan: When Stew Leonards I think was presented to us, as a phase one, and went to State Traffic, maybe you haven't gotten to this point yet, they are going to put a double left northbound into Rowley.

Patrick Baxter: Yes.

Ed Meehan: Okay. Well, did that answer your question?

Chairman Camilli: Well, the traffic impact there is going to be great, so I was just wondering when, our say so, versus the State Traffic Commission will turn around and do what they want to do, anyway.

Ed Meehan: They will, but they will do it with consultation with the local communities, and Berlin owns Rowley Street. I don't know if you guys know that, but that's Berlin. So, I don't know if, I hope that they talked to the legal traffic authorities, or local traffic authority in Berlin. Is there any widening on Rowley Street?

Patrick Baxter: There is no widening on Rowley Street. Actually yes there is, the State Traffic Commission has responded with comments to our proposed plan and they are recommending some widening, but it is in the right of way, so

Ed Meehan: Okay, you know our neighbors down in Berlin would have to sign off on that.

Patrick Baxter: All these improvements will be ultimately subject, all the improvements on the state road will be subject to review by the State Traffic Commission.

Ed Meehan: One other thing, when this development was originally conceived, back in '92 or '93, as Dan mentioned, the previous square footage here had gone to a certificate permitting already with STC, so that is when there was improvements to the deceleration lane on the Berlin Turnpike, traffic signal at Pane and Maselli went in, and so those changes were made at that point.

Chairman Camilli: Of course the traffic has increased quite a bit since then.

Ed Meehan: Sure. Another intersection, what is going to happen at Kelsey, Church and Pane? We recently did some lane changes there where we have a left turn lane now, and protected left turn. Are there any changes or impacts to level of service at that intersection?

Patrick Baxter: No, that intersection is expected to operate pretty efficiently. We don't have very many vehicles turning at that intersection, and so the additional through lanes, we didn't determine any effect and we did do a full analysis on that intersection.

Ed Meehan: That is the crest of the hill, and the timing of that light has always been a little bit fussy. It was changed a couple of years ago.

Chairman Camilli: Okay, sorry to interrupt.

Patrick Baxter: No problem. So, you have heard the recommendations for the turnpike at Pane Road. At Rowley Street, that intersection is also expected to operate below the minimum accepted threshold for ConnDot, so we proposed that the Berlin Turnpike itself be widened to provide a second left turn lane. Currently the northbound approach to that intersection provides two through lanes and one left turning lane. We're recommending that the roadway be widened partially to the median and partially to the right side in order to provide a second left turn lane. That will significantly increase the vehicles entering the site.

As part as that, Rowley Street will have to be widened slightly, in order to accommodate the double left turn lanes, and that is actually two lanes in the west bound direction however as required that it be a minimum of thirty feet wide for a double left turn lane, in order to accommodate trucks that are turning that way.

We are also recommending some modifications to the signal timing, however they are not as significant as they are at Pane Road.

The final part of our traffic study, we analyzed the intersection sight distance at each of the unsignalized site driveways, which included the one on the Berlin Turnpike, as well as the two on the south side of the site on Rowley Street. We determined that from the driveway on the turnpike, you are able to see over six hundred feet, looking left, to the north, which is more than acceptable for the ConnDot standards for the speeds of vehicles moving on the turnpike. We did determine at the drives at Rowley Street clearing will be needed for the brush on the east side of the east driveway, and the west side of the west driveway. Currently from fifteen feet back from the road, the sight distance is limited due to that brush. Clearing that brush will provide more than sufficient sight distance, people will be able to make a decision to safely exit the site.

In conclusion, it is the professional opinion of Fuss and O'Neil that with these improvements that I have outlined here, the traffic should be accommodated safely and efficiently. I'll say again, it was previously certified, for 315,000 square feet by the State Traffic Commission and the State Traffic Commission has recently approved the change for Stew Leonard's and will be reviewing this as well. With that, I'll take any questions.

Commissioner Ganley: The widening of Rowley Street will take place on the north side or on the south side.

Patrick Baxter: That will take place on the south side.

Commissioner Ganley: Okay, so that is going to take place in the Town of Berlin.

Patrick Baxter: Yes it will.

Commissioner Ganley: Okay. I'm looking at two driveways, on this here, which driveway is going be the access driveway to the site? The eastern most, or the western most?

Patrick Baxter: Both driveways on Rowley Street will be full access to the site.

Commissioner Ganley: Which one?

Patrick Baxter: There is a driveway there....

Commissioner Ganley: That is the western most, yes.

Patrick Baxter: And there is also a driveway right here on the eastern side, as well as the limited access driveway on the turnpike. Each of those will remain in use.

Commissioner Ganley: Okay. Thank you.

Chairman Camilli: Any other questions? I think we are all set. As far as 60-06, do you have anything else you want to say at this time. We are just going to continue it.

Michelle Carlson: I was just reading through Section 5.2.6 and one of the, item C says that you know, the size and type of character of the buildings in relation to the other buildings in the area, and we believe that the proposed Sam's Club is of the same type of character of the bigger box of the Stew's and the Stickley's and it's not something that is out of character with what is happening in that development. Then the one other Section F, they talk about display signs, lighting, we are going to match the existing lights as best we can, that are out there, we will work with Ed to do that. We aren't going to add any more pylon signs, there are currently three pylon signs for this facility, Sam's will add their signage to that sign. We are not asking for any special waivers for that, as it relates to signage. Then, just that there is going to be a buffer on the western side, as you can see on the plan, there is green and ponds to the west, to buffer the adjacent properties, and then the rest is the east of the Berlin Turnpike, to the north is Maselli and Pane, and the properties there that are industrial, commercial, and then you have Rowley Street which is the town line.

Chairman Camilli: You used the word, ditch, which is I don't know, not politically correct, some people like to call wetlands, swamps. In this case, this ditch, could you describe what this ditch is going to be?

Michelle Carlson: Well, if you have been out there, there is an existing ditch, it's an intermittent water course that was man made, it's a man made storm water, you know, conveyance, some people in the town would love to see it filled in, and piped. We tried, the DEP wouldn't budge. When this site was originally approved in '92, '93, they developed it, and they moved some things around, and among that I think was the ditch, and they never got a diversion permit from the DEP, and the DEP slapped them on the hands and they fined them, and they did what they needed to do, but the DEP for some reason is very adamant that that remain open. It does have some functional value for plants and little critters and birds. It's a man made....

Chairman Camilli: A man made habitat, or whatever.

Michelle Carlson: Right. Over time, build it and they will come, right? And the little critters have come. Nothing endangered or anything like that, but it's just, they didn't want it filled it.

Chairman Camilli: Okay. There's just something about ditch.

Michelle Carlson: Intermittent man made water course. It's a ditch.

Commissioner Ganley: What is interesting is that across the street at the Taco Bell, that ditch, swale, continues across the street southerly, and they put a pipe there.

Ed Meehan: It's a boxed culvert. All the way under the highway.

Michelle Carlson: Oh yeah, I know that. We analyzed this because I know that there were some down stream flooding problems in the past in Berlin, but we meet all the requirements with our drainage, we conform to all the rules and regs, but yes, they wouldn't, I can attest to that, we went round and round and I must have asked the DEP the question five or six different ways, can we pipe that, and no.

Chairman Camilli: I guess the ditch remains.

Commissioner Pruettt: Trench.

Chairman Camilli: Okay. Are you through now, because this is a public hearing, yes...

Ed Meehan: One question, maybe you overlooked it, could you explain the internal traffic control, I, there is going to be a fair amount of traffic going in and out of this site, and through this site, particularly when you get up near the intersection where Sam's and Stew Leonard's have a three or four way stop. Would you explain to the Commission how that is going to work.

Michelle Carlson: At the intersection of where Stew's and Sam's and the ditch, the man made water course, right in here, where there could be some traffic, we are going to have a four way stop, and it is going to be a clear four way stop. We actually had parking all the way to the end here, and Ed, we took that out, Ed was concerned about that, so we added an island in here and so there will be a four way stop here, you'll have to stop here, we added an island here, and there is stripping so it is very clear which way cars go and trucks go, and there will be a sign in here, truck traffic this way, all other traffic that way.

Chairman Camilli: Since we are doing that internal, I was going to do that on the site plan, but the, if you were a Sam's customer and you got gas, how would you go, there is quite a stretch there from the gas station to Sam's, and I'm thinking now how safe, is that going to be a safe run through.

Ed Meehan: There are a couple of routes.

Commissioner Fox: Can we use the larger, I think we would be able to see it better.

Chairman Camilli: Say you went in on Rowley Street, and say you got gas first.

Michelle Carlson: The gas station is such that you will come in Rowley Street here, on the western entrance and the islands, the pump islands are situated this way, and it's one way traffic in. Then you will come out, and you are actually going to, Ed asked us to work on this, and this inadvertently got left in, this island, we are going to take this island out, and the cars will then come out this way, and they can either go out to Rowley and leave, or they can come up through and into Sam's, they can come out here and go right between the two ponds and into Sam's. There is more than one route of how they can go to get to Sam's Club and conversely, if they are in Sam's and they come here to get gas, they can come through here, and right in to get gas, or if they are parked out here, they can come down this way and cut through and come in and get gas.

Chairman Camilli: If you were a Stickley's customer, and you were walking into Stickley's, you are going to be going right through that traffic, how safe is that?

Ed Meehan: Well, that has to be looked at, to see if people start to blast through there, across the front of Stickley's. There may have to be some internal stop signs or speed bumps, because that is a good point, pedestrian walking back to their car, into the store....

Michelle Carlson: What would probably be a good idea would be to put a couple of stop signs on each side, in both directions, ahead of where the entrance is, and then put a cross walk across the entrance, so it is clearly pedestrian friendly. If we have to, we can even raise the table up a little with a walkway, so that you stop, and go up and over and back down, not a speed bump, just because of plowing and maintenance and safety reasons, but we could clearly make this so that people slow down before the entrance to the building. That's not a problem.

Chairman Camilli: I think you have to work on that a little bit.

Michelle Carlson: We can work on that.

Chairman Camilli: Any other concerns?

Ed Meehan: Nope.

Chairman Camilli: Okay, we want to hear from the public, unless you have more to say. Are you all set for now? Okay. Anyone from the public wishing to speak in favor of this application?

Rich Merlino, 660 Church Street, Newington: We are abutting land owners, for the parcel that is right over here, the parcel that we own is right in here, and there is an additional three acres out in this area. It is all zoned PD, which mean, I guess that it could be used for a residential use in the future, if necessary. We have a right of way granted from Maselli Road, the turn around here, across the Sam's Club parcel, right in through here, and I have two concerns. One was that the right of way, if it could be made usable while the equipment is in there doing the grading, because right now it's kind of tough to get in there, and if we go in after this grading is all done, our grading that we do may not agree with what is already there. So the best time to do it would be right now, if that makes sense.

The other concern was the evergreen plantings, the buffer zone. In here I assume that there would be some plantings, as well as this area over here. I'm asking if we could use evergreens only because if there ever is a residential use in this area out there, because this also adjoins residential property on Church Street, that the evergreens would sort of block the view of the loading docks and the back of the building. We notice that you have access through here, that's another question, in order to get into Sam's Club from the north, I'm assuming that is going to remain open for traffic flow through there. But the grading was my main concern about the right of way. It's kind of steep, it's kind of bumpy, there are some trees in the way, if you go out there and look at it, you will see that it is clear for about thirty feet, bumpy, on a slight angle, and the thirty feet from the center of the right of way to the property lines here is, has trees on it, some pretty hefty trees. It's a right of way, and if a road does go through there that's all going to have to be removed and leveled off, so if anybody could address that, sometime before the grading is done, I think that is all I have for comments.

Chairman Camilli: Thank you. Anyone else wishing to speak in favor?

Beth White, Willow Lane: Willow Lane borders the wetlands, over here, behind the Sam's Club and I just want to just make sure that a couple of our concerns are addressed. I know that we talked about also, evergreens and a fence along the wetlands, I just want to be sure that something is going to be put in there, behind the Sam's Club, because our neighborhood, with the wetlands, in that area, when that treed area through the fall and winter months, we can see through there, we don't want to be looking at a lot of glaring lights and you know, we are hoping it will at least buffer some of the noise perhaps, so that was one concern that we had. I know it was brought up in a couple of the previous meetings when we were here. The other thing is, the trucks, I thought that we understood that the trucks would be coming into the north area, they are not going to go behind that area, is that correct?

Chairman Camilli: We will have the applicant answer.

Beth White: Okay. The other thing is, one concern also that we had with the Rowley Street traffic, because we live off of Rowley Street, and we're concerned at times that the traffic does back up in front of our street, it's not often, but we are concerned that there is going to be a lot more traffic and I think I understand that there is going to be a light at that corner, I just want to know a little bit more about that because it is only a single lane there, I thought that Newington

owned half of that road, and Berlin owned the other half, but I guess I'm understanding that Berlin owns the whole thing, I don't know, but I just want to understand how the traffic flow is going to be through there. I don't know how it is going to impact us getting out of our street, but at times now, getting out and making a left hand turn is a little bit challenging at different times of the day, so I guess I'm a little concerned that there is going to be a lot more traffic going through that residential area, and that is all residential right there, with children on the street, so I'm a little concerned about that. I think that was all the points. I just wanted to have those addressed. Thank you.

Chairman Camilli: We're still doing people who are in favor, I'm not sure that's where it is, but anyone else wishing to speak in favor?

Jim Tye, 6 Deming Road, Berlin: You talked earlier about green space and percentage, twelve or fifteen percent, I'd like to have that issue cleared. I also would like to know what is the percentage that you have right now, as far as the plan that is being submitted. I'm a little concerned. I'm the person who owns the piece of property over here, and what I'm concerned about is, you have a sixty foot right of way here, and I want to know, is that sixty foot right of way part of the green space. That would be one question that I would like to have answered. You talked earlier about the Town of Berlin traffic study was made, I just was concerned and also as to why the Town of Berlin people are the ones that are going to be losing their front lawn, rather than both sides of the street. I'm not in favor, or opposed to your proposal here, I just thought I would have the chance to speak before the majority of people who get up, who are opposed. I would like those questions answered. Thank you.

Chairman Camilli: Anyone else? We're still in favor, I haven't asked if anyone is opposed yet. Anyone want to speak in favor of this application. Okay, we'll go to anyone wishing to speak against?

Domenic Pane, 638 Church Street: Good evening Mr. Chairman, Commissioners, not necessarily against this, but I have a lot of concerns. Start with traffic, down onto Rowley Street, they said they were going to trim the brush back, I would hope that after them trim the brush back that they don't plant anything that is going to grow too big and take the roots out far enough back, and put some low plantings in, because I have noticed that to be a problem. As far as the traffic up on the corner of Berlin Turnpike and Pane Road, it's probably a G, it's bad there. The traffic consult has made this seem kind of a simple fix for some of these intersections and I think it is a little bit more involved than just the timing, and I would ask the Commission to really look into that, because the traffic is backing up quite a bit there, and there is a lot of confusion with the car wash and the Circuit City and the whole mess there. As far as the intersection of Pane Road and Maselli Road, I think he said it was a D, that's probably an A or a B, there's....

Chairman Camilli: I think he said D was Pane and the Berlin Turnpike.

Domenic Pane: Okay, I'm not sure....

Chairman Camilli: When I asked him, that was at the turnpike, that was the D that, that's why I understood it to be.

Domenic Pane: Okay, maybe he didn't rate the intersection for the Maselli Road and Pane Road intersection.

Chairman Camilli: We can get that, if you wish.

Domenic Pane: I would like to know what that is. There should be no problem there, the traffic is not big there. The other problem further up the street would be the intersection of Church Street, Pane Road and Kelsey. That is a disaster up there. Quite a few periods of time during the day, that traffic is backed up almost to Maselli Road. There is supposed to be a left hand turn lane and a straight lane, going to Kelsey Street, going south, not south, going toward New Britain. The road isn't, it's not lined for the two lanes, and it might not even be a large enough area, there might be some widening needed. The guard rail over on the same side as the industrial park is all down, and there are definitely some problems there. Sometimes the traffic backs up so far, that people who want to get into the left lane, to turn, they can't get into the left lane for quite a few period of light changes, so I would ask that the Commission really look into the intersections of Pane Road, Kelsey Street, and Church, and the Pane Road and Berlin Turnpike, those are the two main intersection problems that I think that this project is going to have.

Coming in onto the site, I'm a little concerned with the traffic coming by here, with the pedestrians coming into Stickley's. I don't know if it can be rerouted. I would also like to see this complex to be a little bit more pedestrian friendly. Maybe an area that is safe, for people that are shopping here, at Stickley's that might want to walk over to Sam's or people who are at Stew Leonard's that might want to walk over to Sam's. I know down in Westbrook, they do, at a large complex down in Westbrook they have crossing bridges, they have pedestrian areas all marked to make it pedestrian friendly since there are multiple box stores here. I would ask the Commission to look at that.

I'm also concerned at the end of Maselli Road, of the elevation change. I would like to know what it is, whether or not the elevation is going to be a problem for this right of way, and how the elevation matches the abutting property, which is my property there.

I also would like to see some better buffering in certain areas, and I would like to know if there is going to be any work done on this Conservation area here. If there is anything planned there. I'm concerned if they are going to do any digging or anything up here, since I have been told that some of this property might be contaminated.

There is a sixty inch pipe that comes through here, and there is a right of way here, I would hope that this property line doesn't interfere with the right to the pipe line. That pipe, that sixty inch pipe drains everything up north, CL&P property and farther up.

I would also like to know if this has been designed to take some of the flow from CL&P and other property up north that hasn't been developed yet. If there is going to be additional flow down here, does this have an excess to take care of that flow, or have they used it up?

I'm sure there are a few other things, I haven't looked at the plan completely, and I would ask the Commissioners to keep the public hearing open. Thank you very much for your time.

Chairman Camilli: Is there anyone else that wishes to speak against this application? Any questions from the Commissioners. We are going to keep Petition 60-06 open, and go on to Petition 61-06, and a lot of this is going to be redundant, but we will just kind of have you go ahead with the gas station part.

Attorney Kleinman: Mr. Chairman, would you like us to respond to any of the comments, since the individuals are here?

Chairman Camilli: Yes.

Attorney Kleinman: We might be able to do that and clear up a few of the questions that they have, with the understanding that we will keep it open. We may need to revise slightly some of the items on the site plan.

Michelle Carlson: As to the easement, the sixty foot easement, on the northwest portion of the property, the intent is that that will remain accessible for the property's right to pass through that

easement, we have to make sure that is maintained. We have looked at the grades, and softened them a little bit, we can grade that out if we need to, such that a road is going to go through there, but we wouldn't be able to do anything you know, beyond the property line unless Mr. Merlino had a permit and obtained a permit for that work, and then that could be done, but we can make sure that it is, no more than five percent for a lot of the width of the area, in here as it's graded now, it gets steeper up in the last fifteen feet of that area, but that's accessible.

We can put evergreens along the property line, right now the intent is you know, cut as little as we need to, to the wood line, and leave the woods intact, and we can put some more evergreen trees, at the time of construction, in there. We can add those to the plans for a buffer.

The fence right now, we have a fence along the back, from this point to here, and then we have the fence around the ponds. We'll make the connection here, from this piece of fence at the edge here, to this pond, so that effectively from here, all the way down and around the pond, there will be a fence, so nobody can get through here. There is currently nothing behind Stickle's and we wouldn't intend to put anything there, but we can make sure that there is a contiguous fence along the rear of the property, and we can again, put in some and I'll update the landscaping plan for the next meeting, we can have some evergreen trees along that area for screening in the winter.

I'll let Patrick talk to the Rowley Street traffic. I'll go through my items and he can get up and talk about the couple of traffic items. The right of way, the sixty foot right of way, this is not included in any green space calculations. That is not part of our interior landscaping calculations, so in the future, if a driveway or a road does go in there, it's not going to have any impact on our interior parking lot landscape calculations. Just to reiterate, I believe that I said that with the pond, it was twenty-six percent interior landscaping the way that we were looking at it, if you were to take the water out, we met the fifteen percent requirements for the regs. That does not include that right of way. Also, just to let you know, we did submit copies of materials, the Town of Berlin does have this application. They do have the plans, they do have the traffic study.

I will let Patrick speak more about the improvements on Rowley Street, but my understanding is that it is at the intersection where there will be a little bit of widening, at the intersection. I don't think the intent is to widen all of Rowley Street, but Patrick can clarify that.

As far as pulling out roots and everything on Rowley Street, between the two driveways, the intent is to take out all the brush, take out the roots, and we will put low lying plantings in that area, and that will be along frontage screened parking area.

The intent isn't to make this pedestrian friendly. These are big stores. People aren't going to park at Stickle's and then walk over to Sam's Club to do their shopping. If you have been in a Sam's Club, you go in there to buy bulk items, you are not going to walk all the way, or push your cart all the way across to Stickle's with your purchase, nor are you go to Stew Leonard's and buy all your groceries and then walk over to Sam's or visa versa, I mean, really the stores aren't small service shops that you can walk in between, picking up a small item here, a small item there, at all of these stores, they are large items for the most part that you are getting and you don't want carts going in between all the parking lots and in the middle of the drive aisles and try to maintain it as clean as possible that way.

Conservation area, up in here, is going to be truly a conservation area. There is a portion of this land now that the Conservation Commission, the Newington Conservation Commission has as conservation land. If you read the approval language, there can be modifications in here or improvements subject to their approval. As part of our permit that we will be receiving from the Army Corps pretty soon, I've been having conversations with the Corps and they were actually working on the language of the easement that the Town Attorney is going to review, that is going to be forwarded to him. It was forwarded to him today, if it wasn't, it will be tomorrow by our attorney. This will be truly conservation land and nothing will ever be put in there. It will supercede the language of the Newington Conservation Commission per our Army Corps permit we will be able to do nothing in here. That sixty inch pipe that is coming out, will not be touched. We are not changing the easement that is there, nothing will happen on that property. That will truly be conservation land.

These ponds service, I think it's over a four hundred acre watershed, upstream, up to the north. Water coming through here, is for about a four hundred acre watershed. We did take into account when we were analyzing this, some future development in the industrial park, and the system still works. Keep in mind that theoretically if there is any more development up there, they should be detaining, and it really shouldn't affect what is happening here, but there is capacity in this system to handle some of the development up stream, and this system was also designed back in, when the State put these in for detention, retention, for some of the Berlin Turnpike. When Newington Fair came in, these were also looked at, and it's sized accordingly for this development.

Maselli road grades, existing Maselli Road is about somewhere between six to eight percent in grade right now, we are not going to make that any worse. What we are going to do is, we have talked to Ed, and we have re-worked the grade to make it come in at three percent down in here as you approach the site, and then it is six to eight percent going back up the hill as it exists today.

The last question was about trucks. Trucks are going to come in through Maselli, they are going to come into the loading area here, and there is a big enough area in here so that the trucks can turn around and they will go back out Maselli Road. That is going to be the pattern for the Sam's over the road large delivery trucks. They are going to come in and out of Maselli and come to the back of the loading area here. I think that was all of the site questions, I'll have Patrick just answer the couple of traffic questions.

Patrick Baxter: I just want to respond to a couple of these traffic questions. The widening of Rowley Street, is only expected to be about 150 feet back from the intersection, just to accommodate the double left turn lanes entering Rowley Street. It will then taper back, it will be approximately 150 feet which is entirely along the frontage for the Taco Bell property. As far as additional traffic on Rowley Street, we only expect that about five percent of the traffic is going to enter and exit the site through Rowley Street west of the site driveways. The majority of the traffic coming from west of the development is expected to come in on Kelsey Street and will use the north driveway off of Maselli Road. The existing volumes on Rowley Street are pretty low, our counts indicated that we had approximately 150 to 200 vehicles in each direction, and that is during the peak hour, so with our site traffic, we're expecting no more than 200 to 250 vehicles in each direction which is well below the capacity of the road such as Rowley Street. For the intersection of Maselli and Pane, there was a question about the level of service. The background of level of service there is level of service B, on Friday and level of service A on Saturday. With the combined condition however, we expect that it would decrease to level of service E, without some modifications to the timing, so we suggested a slight change to the signal timing there, which will allow us to operate at level of service D. With regards to the intersection of 5 and 15 at Pane, that intersection presently does operate at a level of service D. The change that we have recommended to the timing will remove that Circuit City phase, which currently is about ten percent of the time, for that signal, which would allow all the additional time to be used to move vehicles through on 5 & 15, and allow vehicles to exit Pane Road. So with that change, it will actually allow the intersection to operate as well as it does today.

Chairman Camilli: Did you look at the corner to the west, further up at Pane, at Pane and Church and Kelsey, up at that intersection?

Patrick Baxter: We did review that intersection, I can give you the level of service for both existing and what we are expecting, right now we are saying the background condition that intersection operates at level of service B, we're expecting that it is still going to operate at level of service B in the combined condition, for both the Friday afternoon peak hour and Saturday peak hour. That is based on the existing counts that were performed in 2005 and the generated traffic that is coming through that intersection.

Chairman Camilli: You say that only five percent of the traffic is going to come through Rowley Street?

Patrick Baxter: From west of the site, yes.

Chairman Camilli: And how much from the Berlin Turnpike, do you know?

Patrick Baxter: I can tell you that right now. Hold on a second. From east of those driveways, we're expecting approximately thirty percent. From west of the site, Kelsey Street, we're saying fifteen percent coming from Kelsey Street, and five percent coming from Church Street north of Kelsey Street, and we are assuming that all of the vehicles will be entering through Maselli Road.

Chairman Camilli: Does that add up?

Ed Meehan: Well, you should, your cordon line around should equal one hundred percent.

Chairman Camilli: It should, but I don't think it does.

Ed Meehan: Five, twenty, how many people are coming off of 5 & 15 south bound.

Patrick Baxter: We are also showing that forty percent are coming from 5 & 15 south bound, and of those forty percent, ten percent will enter via Maselli Road, and the other thirty percent will turn into the site driveway on the turnpike and then there will also be a small three percent coming from Webster Street that will turn onto the turnpike and then turn into the site.

Ed Meehan: So you have thirty percent of the traffic coming in Maselli, you have twenty from the west, and ten from the east, thirty going in the site drive and then another forty percent 5 & 15 south bound, that's seventy, five from Rowley is seventy-five, and how many people going north bound, taking a left?

Patrick Baxter: North bound coming left from the turnpike?

Ed Meehan: Yes.

Patrick Baxter: We have thirty percent, and then we also have two percent coming from Seldon Street.

Ed Meehan: Okay, now you're over one hundred.

Chairman Camilli: I was just trying, you know so that we would get an idea of where most of the traffic was going to be entering the site.

Patrick Baxter: This information is also detailed in the traffic study so you can take a look at the figures and that will show you the percentages.

Chairman Camilli: Any questions from the Commissioners? Ed?

Ed Meehan: Could you quantify the number, say thirty percent came in Maselli, how many, in your combined, how many cars is that? At your peak hour, say Saturday afternoon.

Patrick Baxter: We are showing, turning right into Maselli Road, on a Saturday, 228 vehicles and turning left 114 vehicles. That is on Saturday, which is the higher of the days for trip generation.

Ed Meehan: So the 114 would be going west, taking a left, and 228 coming from Church and New Britain area taking a right. At peak hour on Saturday?

Patrick Baxter: Yes. Which is, I believe we show that was....

Commissioner Schatz: When you say peak hour, I'm thinking seven, eight o'clock. Sam's Club has, the commercial people can get in there at seven o'clock, and everybody else can get in there at nine, so is it seven o'clock the peak hour, or nine o'clock. On a weekend, in Berlin, I can't go near that place, it's packed.

Patrick Baxter: The traffic counts were performed for the typical peak time for a store, which is eleven a.m. to one p.m. on a Saturday, and four to six p.m. on a typical weekday. In this case it was Friday. That is when you have the highest adjacent traffic and the highest traffic entering the site. That is typically what ConnDot recommends for retail developments. We do not analyze the morning, because there would be very little traffic entering, so the impact from the store should not be significant.

Commissioner Schatz: So nine o'clock would be included in the peak hours?

Patrick Baxter: Nine o'clock in the morning was not counted as part of this traffic study.

Commissioner Schatz: Well, I think it should be. They get bombed at nine o'clock. The commercial people are out of there because they are out early with the big carts and the little carts come in at nine o'clock, and that parking lot is filled.

Chairman Camilli: The people who spoke against, we had the applicants answer a lot of the questions anyway. Is there anyone from the public who wants to ask a question again, of the applicant, you can certainly come up again, and ask something else.

Domenic Pane, 638 Church Street: Not misunderstanding, he said the Church Street, Pane Road, Kelsey Street was a level B. He said B was for Maselli Road, too. Now, there is no way, there is absolutely no way Pane Road, Church Street, Kelsey Street is a level B at peak hour. The traffic is way backed up, due to the traffic coming out of the industrial park. It's a serious problem up there. We have some serious things that have to be done to that. As far as a level of service on Maselli Road, and Pane Road, he's saying that it is a level A and B, and it's going to be an E. Absolutely unacceptable to drop down to E. They are going to have to do something for that.

Ed Meehan: He said E without changing, D if they change the timing.

Domenic Pane: Well, to drop down that far, from an A to D, I have some serious concerns with that. I also, I'd also like to know how close the roadway is to my property line, I'd like to know what the elevation is at the road, compared to the elevation at my property, I'd like to know if they are using any of the dirt that is over here. There is a large pile of dirt right here, that from 1970 they piled up here, part on my land, and part right here. That pile of dirt is unstable ground and top soil mixture, cannot be used anywhere in this development. So I'm concerned about that, still some buffering along here, the actual road height compared to my property, and those traffic problems. As far as pedestrians, people exiting out of Sam's, I really still have a concern with traffic coming directly across Stickley's. It's not a safe condition, and even though it's a big box stores, you still have to have safe places for people to walk. Thank you.

Chairman Camilli: Is there anyone else? You can rebut, if you wish.

Attorney Kleinman: Mr. Chairman, I think we have heard some of these comments, rather than go back and forth, on this, we know it's important to the Commission, you are going to keep this public hearing open, we certainly are sensitive to the comments made by the public and we will have more definitive responses to them for you when we continue the hearing, which I think will make everybody more comfortable.

Chairman Camilli: Thank you.

- C. 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. Continued from October 11, 2006.**

Michelle Carlson: Michelle Carlson, professional engineer licensed in the State of Connecticut. I work for Fuss and O'Neil, located at 146 Hartford Road, Manchester, CT. We want to say that the gas station conforms to the requirements, all of the requirements, applicable requirements of Section 6.11, 6.11.2 and 6.11.7 are not applicable. This is not going to be a full service station. There is not going to be any repairs, it's strictly just the dispensing of gas. The gas station is in excess of one hundred feet from any residence and it is in excess of fifty feet from any residential zone line. I think that answers all the questions. In addition, 6.11.1, the dispenser shall be at least thirty feet from any street line, we are in excess of thirty feet from the street line.

Chairman Camilli: Ed, do you have any questions?

Ed Meehan: You put your turning template on this, you can get a tanker truck in there okay?

Michelle Carlson: Yes, we can. I can send you a copy of that so that you have it for your files.

Ed Meehan: Okay, I know that you moved it to make that happen.

Michelle Carlson: We moved it approximately forty-two feet, or exactly forty-two feet farther to the north.

Chairman Camilli: Does the gas station have the same hours as the club.

Michelle Carlson: No, typically the gas station is open an hour before, during the week, want me to run through the hours? Sam's Club hours, Monday through Saturday the store itself, 7:00 a.m. to 8:30 p.m., that is the store hours. Gas station is open from 6:00 a.m. to 9:00 p.m., Monday through Saturday. On Sunday the club is open, the store is open from 11:00 a.m. to 6:00 p.m. and the gas station is open from 9:00 a.m. to 7:00 p.m. on Sunday. The store is closed on the major holidays, Christmas, New Years, Thanksgiving, the gas station however, is open on holidays, 6:00 a.m. to 6:00 p.m.

Chairman Camilli: So it isn't open all night?

Michelle Carlson: No. The latest it is open is until 9:00 Monday through Saturday.

Chairman Camilli: Any questions from the Commissioners? Anyone from the public wishing to speak in favor? Against? We will just continue this as well, because they are companion applications.

- D. PETITION 53-06 Assessor's 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. Public hearing extension granted to October 25, 2006.**

Withdrawn.

- E. 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); 1.2.2 (D); 4.1; 4.3.1; 4.4.4; 6.14.2 and 6.14.9 Purpose of proposed amendments is the clarify the design requirements for a Residual Lot, Section 6.14 Referral to Capital Region Council of Governments and Central Connecticut Regional Planning Agency required.**

Chairman Camilli: I will just let the Town Planner explain that to the Commission, why he is doing this and we can move this forward.

Ed Meehan: The purpose of the amendments to Section 6.14 which is called the residual lot section of the Planning and Zoning Regulations is to address a court decision which was handed down back in August which over turned Section 6.14 which was originally adopted by the Planning and Zoning Commission in January of 2002, and made effective February 13, 2002. At the time of its adoption, the intent of the Planning and Zoning Commission was to try to address a fair number of parcels which were not legal non-conforming lots, but which were slices of property that really didn't have a designation, for all intents and purposes, they were basically illegal lots but by combining them with adjacent property, at least a buildable area could be created and the intent was to make this available specifically for residential areas, and the Commission in addition to adopting the ability of the property owner to combine these pieces by Special Exception the Commission required architectural review and that the property meet the side yard setbacks in effect for that zone. There was a court case, as I mentioned on one particular lot which was granted a building and zoning permit at 43 Vivian Street. The property owner and builder received the permits and went ahead and built the house, and when the time came for the Zoning Enforcement Officer to issue the zoning permit of compliance, it was appealed by abutting property owners. The appeal was taken to the Zoning Board of Appeals which upheld the town zoning enforcement officer, and the subsequent appeal was taken to Superior Court. The Superior Court case over turned the town zoning regulations. In working with former town attorney Peter Boorman, the regulations, which are the subject of tonight's public hearing were revised and advertised for public hearing. The intent of the changes are to clarify and to make sure the regulations are consistent with other cross reference standards, in Sections of the Zoning Regulations. The intent is specifically to clarify the frontage issue which was the issue that the court found absent in the prior regulations. As I mentioned, this has been advertised, it was referred to the Capital Region Council of Governments and it was referred to the Central Connecticut Regional Planning Agency. We have reports from both of those organizations and they should be entered into the record, and I also have a copy of a resident's report that he asked

to be entered into the record if he is not here, I don't see him in the audience, Mr. Robert O'Connor, handed a report in this afternoon at 2:30, with his comments relative to this section, so I will make that part of the public hearing record if he is not here. I'm available to answer questions.

Chairman Camilli: Is there anyone from the public wishing to speak on this? Any Commissioners have any questions?

Ed Meehan: The two RPA comments should be acknowledged and reported in the record.

Chairman Camilli: Okay. Do you want them read?

Ed Meehan: No, I can just read, from Capital Region Council of Governments, dated October 20th, their comment is the finding of no inter-town conflict and no conflict with the regional plan or the neighboring plan zoning regulations. From the Central Connecticut Regional Planning Agency, their report is dated October 10th, they found that this referral matter was in conflict with the regional plan, their reason was that there was a concern that the regulations lacked sufficient minimum standards and additional clarification was needed. I did ask for a clarification from staff, at Central Connecticut RPA and he was basically unavailable, well he was available, but he was unable to provide me with what type of clarification his board was looking for. So, those are both advisory comments. They are not mandatory or anything like that, they are advisory comments.

Chairman Camilli: Any questions from the Commissioners. This is just language to clarify the residual lot regulation.

Anyone from the public wishing to speak on this matter, either for or against? I guess we can close the hearing. We will close Petition 63-06.

F. 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 September 27, 2006. Extension granted to November 3, 2006.

Attorney Wise: Thank you. Good evening, Mr. Chairman, Members of the Commission, as you know, my name is Lew Wise, I'm the attorney for the applicant and I'm with the law firm of Rogin, Nassau of Hartford Connecticut. We're here for a very limited purpose tonight, since you obviously already had several lengthy sessions with us, and the hour is late. We are going to respond to the lingering issues, the issues that were discussed at our last hearing session two weeks ago, also we are going to respond to the written comments, the engineering comments we received just over a week ago, and we also are going to present to you tonight, some, Alan is going to present to you tonight, some changes to the site plans that have been made in response to various comments that we have received, and we will also be presenting something that you requested at the last hearing session, which is basically blasting procedures and a proposed truck schedule and truck routes and we have Dr. Dimmock here tonight who will talk about the blasting procedures and Alan will talk about the truck routes and the times of operation and so forth. We are going to try to be brief, because we realize that it is getting late, as I said and we have discussed many of these issues before.

One of the issues that came up again, at the last session, had to do with the interpretation by this Commission of your regulations and I just want to very briefly respond to that issue again. Obviously this Commission has the right and duty to interpret the zoning regulations and the subdivision regulations that you have to apply. But you have to be consistent in your application of these regulations in your interpretation, if you are not, if you apply one interpretation to one application and a different interpretation to another application, then that is really the essence of what the courts call an illegal, arbitrary decision. And that is what you can't do, you've got to be consistent. Here we have a subdivision regulation, Section 3.2 that we have talked about before and it defines what land is unsuitable for development, and what it says, quite clearly, is there are three types of unsuitable land, one, flood hazard, we don't have any flood hazard areas; two, wetlands, we are not impacting or we certainly are not disturbing any wetlands; and three are land which have slopes in excess of fifteen percent gradient. Two weeks ago, we pointed out to you that in several situations, where the fifteen percent gradient issue came up, the Commission has basically interpreted that regulation to mean, fifteen percent gradient from the toe of the slope to the high point of the land. As we explained to you why our proposal, or why this land, under that interpretation cannot be considered unsuitable for development. Two weeks ago there were some questions raised, about where on our property, which we don't have up there, but where on the property, or what constitutes the toe of the slope on this property. Tonight Alan is going to show you that no matter where you define the slope to be, it does not exceed fifteen percent and therefore this land cannot be deemed unsuitable for development. And, in connection with that, I just want to reiterate again, that the comments that we received from staff, from Ed, basically took, which concluded that we had several areas that were in excess of fifteen percent, basically took spot slopes and were not slopes measured from the toe of the slope to the high point. The second issue that we discussed during the last session was the meaning of the word incidental as used in your zoning regulation governing the removal of earth products. In the first instance, we're not really talking even, about the interpretation of this regulation, what we are talking about is a simple matter of grammar and I just want to review for the Commission, since this is our last public hearing, this will be the last time you hear this, at least from me, I just want to review for you what this regulation says. It's Section 6.4 of the Zoning Regs, and it says, except as otherwise provided in this section, there shall be no removal in any zone of soil, sand, gravel, stone or any earth products, except excavation for basements of structures to be erected on the land forthwith, and, and this is the important part for us, and except for the grading or landscaping incidental to the development of the land or to grading for public improvements. As we pointed out to you, as that word is used in that paragraph, incidental can only mean occurring, and I'm quoting again from the dictionary, occurring or likely to occur at the same time or as a result. Clearly, what that means is, any excavation, grading, that is basically required for the development, or is necessary for the development, or results from the development, is exempt from this regulation. I think it was Commission Ganley during the last session who said, well, incidental can also mean, minor or insignificant, and I agree, it can, in certain context mean that. But if you apply that definition, if you insert those synonyms, whether you call it minor or insignificant the sentence no longer makes any sense, because it would read, except for grading or landscaping minor or insignificant to the development of the land. It just, it doesn't make grammatical sense. And secondly, if you read through the rest of 6.4, which sets forth various conditions having to do with the removal of earth products, it is quite clear that this section was never intended to apply to excavation necessary for a development that has already been approved by the town. I mean, you can look through the conditions, Section 6.4.3 requires that the applicant shall submit a site plan of the area where the removal is proposed, well, if there is already a development approved, you have already seen and reviewed the site plan. It says you've got to show finished grades, at the conclusion of operations, you already will have that, provisions for drainage, you will have already gone through all the drainage issues in connection with your approval of the development, proposed landscaping, it goes on and on, and all of the things that would be required will already have been submitted, reviewed and approved in

connection with the development. It also talks about for example, at the conclusion of operations of an earth removal operation, the whole area, where removal has taken place shall be covered with not less than four inches of top soil, and seeded with a suitable cover crop. Well, that provision normally wouldn't apply if a development was going to follow the excavation, you are going to have, in our case, parking lots and buildings, you are not going to reseed the land, and restore it as contemplated by this regulation. If you take a look at 6.4.4, the approval, the regulation sets forth the issues that you are supposed to consider, and one of the issues that you are supposed to consider is the future usefulness of the premises when the operation is completed. Well you would only be considering that if there was no development to follow the excavation. Here we know what the future usefulness of the property is going to be, it's going to be an office park. So clearly, 6.4 on the removal of earth products was never intended to apply to a situation where the removal of the earth products is part and parcel of, or necessary to, a development that has been approved by this very body. So, as a matter of grammar, and as a matter of common sense, Section 6.4 does not apply to this application, or to this proposal. If you approve this development as we have said before, we have no objection to the imposition of reasonable conditions on the excavation that will be required, and I believe that you have done that in prior instances. Also, two weeks ago, we discussed, in connection with the whole issue of truck access to the property for the purpose of removing the material, we proposed that one of the possible routes would be Old Highway, and the reason we proposed that was because we were trying to respond to your expressed concerns about the use of East Cedar Street for that purpose. There was some concern expressed about these trucks utilizing that road, even though that is a state road which will be regulated by the state. So that is why we proposed using Old Highway for perhaps some at least of the truck trips, in order to lower the number of trips on Cedar, and at the last hearing session, there was some suggestion by Commission members and I think Mr. Meehan, that is why we suggested Old Highway as a possible access for at least some of the trucks. Oh, I know, I was saying that some members of the Commission and I think Mr. Meehan expressed some question about whether we really had the right, I guess, to use Old Highway. I submitted a legal analysis, a letter to the Commission, right after that meeting, and I hope it's in the record, in an overabundance of caution, I will submit another copy of it, thank you, and let me just tell you basically what it says about our use of Old Highway. During the public hearing on October 11th, the applicant indicated that one of the possible routes for trucks to use in removing excavated material from the site, is Old Highway. This was questioned by Commission members and the Town Planner and the purpose of the letter is to set forth the legal basis really, for our use of Old Highway. It's undisputed, I believe, that Old Highway is a public highway. It's recognized as such by the Newington Town Council back in '64, 1964 I believe. It's well established that a public highway consists of two separate easements. The first is an easement of the public to travel over the highway at will, the second is a private easement of access that permits owners who abut the highway to have access to it. Even if a public highway is abandoned or discontinued by the town, and I don't believe that Old Highway is a discontinued road, I think it is still a public road, but even if a public highway is abandoned or discontinued by the town, abutting owners continue to enjoy the right to access the highway and to use it for travel to and from their abutting property, and I cite to Fuller, which is the land use treatise in Connecticut, the so-called land use bible. More over, it is clear that, and I quote, owners of property along the public highway, have the right to make improvements to the road, as long as they do not interfere with use of the highway, or the public easement for travel, and I again cite Fuller and several cases, which stand for that proposition. We believe therefore that we have the right to access Old Highway, we believe we have the right to make improvements to it, if necessary, and we believe that we have the right to use it as a means of travel to and from this property, and it is a right that we intend to utilize. If the use of Old Highway and East Cedar Street for truck traffic will obviously reduce the number of trips on East Cedar Street significantly, and therefore address the concerns expressed by several members of the Commission about the number of truck trips on East Cedar Street. So, that is the essence of my letter to the town, if,

you know, if the Commission would prefer that Old Highway not be used for this purpose and that East Cedar Street be the sole means of access by the trucks, then that is certainly a condition that we would accept. But, I just wanted to make sure that the Commission understood that there is an alternative that can be used.

The final issue, and this I think has been covered before in a sense. Several of the engineering comments really are a response to the fact that again, we will be utilizing some of the abutting property for some of the improvements, and the Town Engineer indicated some interest in making sure that we had a right to do that. Again, I want to emphasize that the owner of the abutting property has signed our application and under your rules, that is enough. That is, at this point, an expression of the owners consent. Obviously if we don't have those rights, then certainly those aspects of the plan would never be built, and we would be back here for some kind of a modification, but we have the owners consent, we have an agreement with the Hunter people who have an option to purchase it, if their project gets approved, and that should be legally sufficient.

Finally, there was an engineering comment seeking, I guess, our Department of Transportation encroachment permit, and as we have explained before, the DOT permits that would be necessary for this will be obtained after local approval has been granted. They will not issue these permits until the local authorities have granted all of the local permits.

I think that pretty much does it for me, Alan is now going to talk a little bit about some plan revisions, that respond to various comments, he is going to show you, not necessary in this order, I guess, is going to show you the various ways that you can measure the slope, or at least the various points to consider for the toe of the slope, is going to respond to some of the technical engineering issues that were raised recently, in the engineers report, and talk a little bit about truck routes and times of operation and so forth that we would propose, and then Dr. Dimmock will very quickly go through the blasting conditions and protocol basically that we are proposing. If you have any questions for me, I would be more.....

Chairman Camilli: I have one clarification, the Commission didn't actually make any decision on where the slopes should be measured from, I think that came from staff.

Attorney Wise: No, no, I accept that. All I remember....

Chairman Camilli: I think you said that the Commission made that judgment, at this point, and we haven't. I think it was a staff comment that you were responding to.

Attorney Wise: If I said that, I misspoke. What I mean was, that the issue was discussed, two weeks ago, that is where you, where is the point where you measure the toe of the slope from, and there was some discussion about that, and what we want, what Alan is going to show you is, it doesn't really matter what you consider the toe of this slope to be, because no matter where you measure it from, it's well under fifteen percent. So it's sort of an academic exercise....

Chairman Camilli: It is an academic exercise, but it is an interpretation. Go ahead, Alan.

Alan Bongiovanni: Thank you Mr. Chairman. For the record, my name is Alan Bongiovanni, licensed land surveyor in the State of Connecticut, president of the Bongiovanni Group here in Newington, and author of portions of these plans. Couple of things that I would like to submit for the record, at previous meetings, and at the request of the Planner, per your regulations, a letter from the Metropolitan District stating the sewer and water is available, there is an original and several copies.

There is one interesting note in there, in the first paragraph, this is written by Jennifer Alacoda, P.E. Engineering Services Supervisor, dated October 17th, '06. Dear Mr. Bongiovanni, in response to your request, we are confirming that the Metropolitan District has facilities located in

both East Cedar Street and Old Highway which may be used to service the above referenced property. I think that speaks to Mr. Wise's earlier comments about it being a public right of way. Along with that we have, per my conversation with the Planner, two sets of revised plans dated today, that address, for the staff review, staff comments and drainage and plan review, primarily engineering. Prior to our last meeting, we had addressed the previous Town Planner's comments. Along with that, two sets of supplementary water quality calculations and storm drainage calculations that were requested.

The next thing that I would like to talk about very quickly is the slope analysis. In our last meeting, several questions were raised, whether we took it at the proposed intersection, which is in front of Cedar Mountain LLC property, or our property corner, and our interpretation was that it was insignificant where you took it, because you have a maximum percent of grade of fifteen percent. We've taken several scenarios and I have, for the Commission a written copy of our analysis. If I take from the proposed intersection existing grade to the highest point of the site, we have 6.91 percent, if I take a straight line from our property corner to the highest point of the site, we've got 6.96 percent, if I take it where the proposed road is going to intersect, the highest point of the Cedar Mountain LLC property corner is 7.63 percent; the worst grade, if you take aggregate slopes, is from the highest point of the peak, to a line in the northeast that comes up to be 8.89 percent, and those are all measured on existing grades. Existing grades of all these points to the highest point of the site, and I think that it is very clear that your regulations talk about existing grade and not what is being engineered and designed and hopefully built as the measurement for that slope. I think we have put enough information on the record about that. I'm not going to go through each and every comment from the engineering staff, I'm going to highlight a couple of things that transpired through the Wetlands Commission and then some of the major adjustments that we made to the plan to address the Town Planner's comments. Three large things that were done for the Wetlands Commission, and I know it was a concern of this Commission, the retaining wall, that is proposed along, or south of the wetland on Cedar Mountain LLC was initially thirty-nine feet away, we've moved it to about fifty feet away and the Town Engineer had concerns that it was in the town right of way, it would be a town problem or a town maintenance issue forever. In talked with them, we have the opportunity to create or to reduce this to a sixty foot right of way, that allows us to leave that retaining wall on private property, would not be a liability to the town in the future. This sixty foot right of way from Corporate Row to the cul-de-sac is still within your subdivision regulations for a commercial development of this style.

Chairman Camilli: Excuse me, you said on private property, is it on your property or on the Hunter property?

Alan Bongiovanni: It's on both our property and the Hunter property. This wall though is not solely for, their plan had also called for this wall, so it's a merger of our design and their design. Again, it is on property that we have a signed application by that land owner, which we believe is sufficient evidence that we have the right to do that.

The next issue, the sediment chamber was moved in this location during construction so that we wouldn't affect the wetlands here if there was any failure of that system, we're directing it all in this area, during the construction phase, or removal of material phase, and then the end product, it would go back into this wetland. The last major thing that we addressed for the Wetlands Commission is the excavation in this area has been reduced about fifty feet, the tree line has been brought back, the sloping has been brought back, based on recommendations from our environmental design professionals.

The other issues, I think for the most part are fairly basic. A number of drainage computation issues, technical in nature that A-N Consulting Engineers, and has provided copies, addressed. That is a summary of their actual responses to each one of those drainage concerns.

The other design criteria, major issue was the radius of this road, minimum center line radius required by your regulations for this type of development, a commercial development, is 300 foot. We did make an adjustment to the Hunter Plan, and subsequently to ours to accommodate that 300 foot. It was substandard in the previous submission, but it now meets your regulations, and this you will see through their plans will have no effect on their development. As a matter of fact, at this point, and at this point, it is in the same location, it's just the length of the curb changed, and the center line of road, center line intersection moved a little bit to accommodate that radius. Again, one of the major modifications to the plan, is that this was reduced to a sixty foot right of way, to accommodate the retaining wall not being on the town property, or within the town right of way, numerous other comments that were received and I believe addressed, some are not typical of what we receive from the town staff, I think because we have new people reviewing them. One request was to remove the drainage easement on the corner of Lot #1, because the town is, has been developing a policy of not maintaining detention basins. This is going to become a town road, so it will be town drainage, you have to have, the Town has to have a right to drain across this property, to get that water to exit the site. We did notate on the plan, that maintenance responsibility would go with the landowner of that lot, if you owned that lot, but the town would still require the drainage easement across that property.

We did try, at least Thursday, Friday, Monday and Tuesday, through Joe Perraginni to contact the engineering staff to review some of these things in person, I know Chris Greenlaw of the engineering staff did most of that review, was unable to meet with our staff, so again, we believe we have addressed all of their comments in the plans and computations that we have submitted, without having the benefit of meeting face to face, and going over this I think we've accomplished the task desired.

Chairman Camilli: Speaking of that, I know that you said you gave us a new set of plans?

Alan Bongiovanni: Yes.

Chairman Camilli: The town can't really react to those until, why didn't we get those sooner?

Alan Bongiovanni: We did not get engineering comments until last Tuesday. Given the magnitude of those comments, and this has been on your agenda for several months, we required some time to, one understand them, and then address them. Now, under the Public Hearing process, as long as we submit the information within the open period, staff can review that and comment back to you, after the hearing is closed, so this should not be problematic that these come in at a late date. They are here at a late date because we had nothing to work with until a week ago. I did talk to Mr. Meehan when I found out these were available, and he said, Alan, get me two sets of plans as soon as they are done. We finished them today. I would have loved to have said we could have done it a month ago, but then I would be guessing at what you required.

Ed Meehan: I don't recall I said that.

Alan Bongiovanni: That we talked about the comments and that you required two sets of plans?

Ed Meehan: Nope. I will do my best to review them.

Alan Bongiovanni: Again, you have a period of time to which the Commission will act on our application. We have submitted a response to your engineering comments within the open period of public hearing, so I'm comfortable that we have met our obligations.

The next issue that I would like to talk about, I think one of our group has copies for the Commission, truck analysis.

There is one original so I will read from it Mr. Chairman, and then I will hand it to you. Proposed truck route analysis dated October 25, 2006. The approximate volume of material as we stated at the last meeting has been reduced to 775,000, has been reduced to 775,000 cubic yards. We're taking an average truck volume of 15 cubic yards, we have stated hours of operation Monday through Friday 5:00 to 7:00 a.m. and 9:00 a.m. to 4:00 p.m. avoiding the peak hours, and Saturday, 8:00 a.m. to 1:00 p.m. We have reduced the truck trips to twelve trucks per hour, leaving the site, at twelve round trips per hour. That comes out to be 1,980 cubic yards per day in a ten hour day. At 10,890 cubic yards per five and a half day week, it comes out to 391 days, or 71 weeks to remove the material from the site, and we think that is a minimum of trucks that should leave the site. We know that the traffic count is in excess of 30,000 vehicles a day along East Cedar Street and that route alone, if we doubled the truck would be insignificant with the amount of cars that travel that route.

We have also proposed truck routes going to and from the site, in both directions. Again, we have both options, we believe we have both options available to us, if the Commission sees fit to limit one of those options, then that is your prerogative.

I think now I would like to.....

Chairman Camilli: You said, on a ten hour day, how does that square away with the traffic engineer saying that during the peak hours.....

Alan Bongiovanni: If you see, we are going from 5:00 a.m. to 7:00 a.m., not hauling between 7:00 a.m. and 9:00 a.m., eliminating the morning peak hour trips, and then stopping at 4:00 p.m., which is prior to the p.m. peak hour traffic. We have a gap in the morning of two hours to avoid that traffic. Not necessarily that everyday you are going to have trucks available at that time, but we figured it would be more palatable.....

Ed Meehan: You are starting at 5:00 o'clock in the morning?

Alan Bongiovanni: Yes, that is the proposal.

Ed Meehan: You might want to square that with the town noise ordinance.

Alan Bongiovanni: My client has asked me to read in the proposed truck routes for incoming traffic, from points north, Berlin Turnpike south to Russell Road, entering via the Old Highway. From points south, Berlin Turnpike north to Route 175 west, entering the site at access drive at East Cedar Street, with an option, right off of Route 175, west on Russell Road, and then entering the site via Old Highway. The next option would be from points east on Route 175 west, to East Cedar Street, entering the site at the access road at East Cedar Street, or by-passing that location and going to Russell Road, taking a left, and then entering through Old Highway, and lastly, from points west, Route 175 east entering the site either at the access road, or going to Russell Road and then going in through Old Highway. Basically the reverse, trucks exiting the site, have the opportunity of leaving both the access road on East Cedar Street, taking east or west turns, left or right turns, coming out on Old Highway, taking a right turn on Russell Road, or taking a left turn on Russell Road, going down to the north toward Arrow Road and out to that signalized intersection on the Berlin Turnpike.

I would be happy to answer any questions before I give the podium to Dr. Dimmock to talk about the blasting recommendations that he is proposing.

Chairman Camilli: I just have one minor comment, right now, Attorney Wise gave us this letter on that you do have access to Old Highway, but how about if that isn't really the way that it should be. In other words, if you can't use that road, then what happens?

Alan Bongiovanni: We have legal access onto Route 175.

Chairman Camilli: That changes virtually everything that you said.

Alan Bongiovanni: Well, I think, given the modest number of trucks per hour, a total of twelve exiting the site, at two locations, if you confined us to one location, and called it twelve trips an hour, I think it is still considered insignificant and we could accommodate the same task.

Chairman Camilli: I heard that word, insignificant and incidental used. We will be talking later about that, but you are entitled to your opinion.

Commissioner Pruett: Would that be in conjunction with that traffic light being activated on Cedar Street, with the trucks exiting and entering?

Alan Bongiovanni: I think in an ideal world that is the best case scenario, whether that light is functioning, or whether the state requires a temporary traffic control measure of some sort, it's really up to their discretion. They do control that road. So, I can't guarantee you how that access is going to happen, but I'm going to tell you, it's going to be governed by an authority that has much more wisdom about it than probably all of us put together.

Commissioner Pruett: Thank you.

Commissioner Fox: Through the Chairman, Alan, when you were talking nine hundred and some odd thousand cubic yards, and just about a full work day, you were talking I believe, I think it was twenty round trips, something like, what did you say, something like sixteen, eighteen months?

Alan Bongiovanni: Could be, I know that we had a more aggressive schedule, with considerably more trucks per hour, we felt it more appropriate to take a more conservative approach in our analysis at this point.

Commissioner Fox: So what do you figure at this new schedule?

Alan Bongiovanni: At this new schedule, we're looking at 391 work days, or about 71 weeks, a year and a half.

Commissioner Fox: A year and a half. Doesn't sound right, but, that's all.

Commissioner Schatz: How did you reduce the, from nine hundred and ninety-five thousand cubic yards down to seven seventy-five. That a shorter street?

Alan Bongiovanni: No, the road configuration really didn't change. One of the things that we did, and this was working really more with the Wetlands Commission or in that presentation, in maintaining the drainage patterns, that we had to leave this Lot #4 elevated more, which in turn took out a large amount of material that would be removed. The second major area is the top of the slope around the central portion of the site, remained the same. We went down, about half way in the site, per recommendations of the town, and put a ten foot shelf, so we moved that slope out, necessitating lesser of a cut on the site. Those were the two major areas where the amount of material was reduced. The most being on number 4.

Chairman Camilli: Any other questions, Ed?

Ed Meehan: Question, at the last meeting, you said that you were going to provide to the Commission the calculations for the removal of rock within the state right of way?

Alan Bongiovanni: You are absolutely right, and that is 42,000 cubic yards.

Ed Meehan: Okay, and do you have improvement plans for Old Highway? You are proposing to use Old Highway, how are you going to get into that right of way, you've got a slope to go up and...

Alan Bongiovanni: We would create a construction ramp that would be you know, probably reviewed by the Public Works Department.

Ed Meehan: Does your revised plan have a cross section or profiles of how you are going to rebuild Old Highway?

Alan Bongiovanni: No.

Ed Meehan: No. Okay.

Chairman Camilli: Any other questions? You can have your expert....

Alan Bongiovanni: I'll turn it over to Dr. Dimmock, oh, one last thing, this is two copies of the design of the retaining wall, they have been submitted for the Wetlands Commission, I think it appropriate that they be part of this record as well.

Dr. Dimmock: Thank you. For the record, Dr. Charles Dimmock, certified professional geologist. I was asked the last time a few questions about the necessary blasting, and the client had asked me to work up a blasting protocol. The aim, obviously is to take care of what most people are concerned with, with blasting, the adverse effects that people worry about, or noise, shock waves, vibrations, dust, and so the protocol will reduce all of these, and because of concerns of the Wetlands Commission, we also want to reduce the excessive fracturing of any rock that is not going to be removed. That is also a safety concern, if you want the remaining rock walls to be as unfractured as possible, to keep from having failures later. Then the other guide line necessary is that while you want to minimize fracturing of the wall that you are leaving, you want to maximize the fracturing of the rock that you are removing because it is a lot easier to scoop up small pieces of rock than it is to scoop up large pieces of rock.

Now, I have set up these guidelines and provided you with a copy, and, with the caveat that they are not to supercede the judgment of a really, good licensed blaster. It's quite possible that a licensed blaster knows a few tricks that I don't but I have put in normally standard procedures to achieve these goals.

First of all, it is expected that all blasting will be in compliance with State Regulations and conducted by licensed and insured blasting contractors, licensed by the State Fire Marshal's and also in accordance with any Town of Newington standards. That is to be expected. Also, that any explosives that are being used are to be stored and handled and deployed in accordance with state and local regulations, or where those regulations might not be detailed enough, in accordance with the provisions of the manual of accident prevention and construction of the Associated General Contractors of America. That is a set of standards that normally covers any such procedure. You don't want a situation where someone is going to get access to these materials that shouldn't have access to them, just standard precautions.

Now, for the aims that I am after, to achieve the least undesirable effect. Blasting the massive rock, the excavation shall be designed to control the fly rock, fly rock are the pieces that go flying through the air when you blast if you haven't done things properly; to minimize the ground vibration and the air blast, that is what the neighbors complain about and result in loosened and fragmented in place rock of a size that can be removed transported or crushed to produce the desired process. Depending on where they are going to dispose of the rock, they might want it in

different sizes, and you can control the blasting to control the average size of the pieces that result. Where possible, these goals are going to be achieved by one, reduced drill hole spaces, the holes closer together, which is also going to minimize the creation of excessive fractures in the rock to remain, and will result in smoother rock walls. If you look at the part of East Cedar Street near the site, this is what the State did when they did blast that, they put the holes closer together, you can look at the spacing of the holes, and they got a nice, smooth face, that technique has been around for fifty or sixty years, of being able to do that sort of thing, rather than the jagged faces that you sometimes go by rock cuts and someone just tried to put in the largest explosive that they could to get rid of all the rock in a hurry and you end up with a jagged face, it doesn't look good, and it causes problems of various sorts. Then also will more drill holes you can minimize the amount of explosive that you have in each drill hole, and so I am recommending that you use the minimum amount that you need, in all of the blasting operations and also the use of what is called short interval delayed blasting, preferably with the use of what is called primacord, which is made right here in the State of Connecticut, at Ensign Bickford, and primacord ms connectors, as outlined in Dupont's Blasters Handbook. What this does it, when you set off your blast, rather than getting one big bang, you get the sound of someone opening a huge Velcro piece of some sort, it's a zipping sound, it sounds like a rather loud ripping rather an actual blast. It sound like, if you think of the Fourth of July, the difference between setting off a string of these lady bird fireworks, versus setting off an M-80 or something, so it causes a lot less disturbance because each blast is occurring a few micro-seconds after the previous blast, you rip off an entire face with a slight micro-second delay, it cuts down the total noise and vibration. It also does a better job actually of fragmenting the rock that is being removed into smaller pieces. Then, for protection of both the neighbors and the contractor, any structure, any off site structure located within two hundred feet of the excavation area will be inspected previous to blasting, if authorized by the owner. Now, some owners might not want you to do this, but this is a safety precaution in terms of seeing the condition of structures pre-blast, so if any complaints come in, well, your blast cracked my foundation, or something, there is a record as to what was the condition of structures before blasting, and you can compare it to the condition afterwards. That helps keep the lawyers unoccupied, because if the facts are in evidence then you don't get the lawyers fighting over, yes you did, no I didn't sort of a thing. The inspections would be photographed, video documentation, the contractor would also, if you had structures within two hundred feet, conduct a test blast for seismograph monitoring, you set off a small blast ahead of time, before your major blast and pick up the record of it on the seismograph at a certain distance, and see just what the transmission of shock wave is in the area, so that you have some kind of a standard against which you can determine any adjustment to your on-site blasting techniques. Also, if you are conducting any blasting within 200 feet of off-site structures, there would be seismograph monitoring of any blast through the entire period of blasting, and daily logs of seismograph data, copies of that data would be submitted to the Town.

So those are the protocols that I am suggesting. Any questions?
In my experience with these kind of protocols, no problems really arise.

Chairman Camilli: Anyone have any questions?

Ed Meehan: With the amount of blasting that you are anticipating up there require a magazine be set up there?

Dr. Dimmock: A storage facility for the explosives on site, yes, and that would have to be secure, as I said, to prevent vandalism, wait a minute, I'm hearing, I think he is going to tell me that the blaster can bring it site each day.

Alan Bongiovanni: Absolutely. There would be no necessity to store blasting materials on site, they would be brought to the site every day.

Ed Meehan: So a truck with blasting materials would be showing up every day. Okay.

Chairman Camilli: Let me just address what happened. The applicant has brought an expert in as far as blasting procedures, you recommend them to the town, this is what we have here, I say they should be recommended to the blaster. We've had other applications where an applicant had to fire a blaster because the blasting person did not, he did not go along I think, with what was recommended. In this case, I can appreciate from where you are coming,.....

Alan Bongiovanni: If I may, Mr. Chairman, to make it easier, we provided that to assist you in crafting conditions of approval, so that you can incorporate that language in a condition if you were to approve this site. We know that by Dr. Dimmock standing here and handing in a piece of paper, without a condition of approval nobody is likely to adhere to that, so you know, we provided you an expert's plan that you should be able to use in crafting your approvals, or conditions of approval. That way there is something.....

Chairman Camilli: Well, I don't want to get argumentative again, but the blaster has to follow the regulations.

Dr. Dimmock: The blaster also has to make sure that he or she doesn't lose their license by not following the rules, but you have the State Fire Marshal, you have the local Fire Marshal, both of these, there have been incidents that I am aware of in this state where you have some blasters who have taken a few shortcuts. This is proper oversight, but on the other hand, if the developer specifies these conditions to the blaster and is willing to pay for the extra cost, because some of these, more drill holes, and some of the other things like that, cost a little bit more, but if the developer says to the blaster, I want to pay for this extra, the blaster doesn't mind spending a little bit more money to get things done, as long as the blaster gets paid for it. I think where the accidents have occurred is where someone has decided to cut some corners to save a little bit of money. I know of one construction firm down in Fairfield County that had that problem. They were constantly trying to see if they could get more blast done each time, and in one case, they sent a rock into a trailer park there. But that was purely, that was a case of the blaster worked directly for the contractor, and the contractor said, save me some money. I think that is not what is going to happen here.

Chairman Camilli: Is there going to be any crushing on site?

Dr. Dimmock: If the rock comes out too large, you might have a problem. That is part of why I want to see the rock broken up with the closer drill hole spacing, when you put the drill holes close enough together, you are not have to crush on site.

Chairman Camilli: Any questions from the Commissioners? Ed?

Ed Meehan: No. I was just interested about the magazine.

Dr. Dimmock: I was thinking, and I had forgotten in fact, that some of these blasters have the....

Alan Bongiovanni: There are a couple of blasting firms, very local to this area that have magazines available. Being that this is a site that is not, basically secure, it's kind of out of sight, we wouldn't allow,.....

Ed Meehan: There's thirty thousand cars a day going by it.

Alan Bongiovanni: You're right, but you're going to have equipment and things like that in the site, you wouldn't put a magazine on the edge of the road, you would put it in the site, and for security reasons, the applicant would not allow the blaster to store that material there.

Chairman Camilli: Are we through with the blasting, for now.

Attorney Wise: I just wanted to emphasize that ultimately the blasting is under the control and supervision of the Fire Marshal and as we have said before, you had asked us, as Alan said, to propose certain protocols and conditions, we have done so, feel free to tinker with them, to add or subtract, but....

Chairman Camilli: I'm just going to make one comment at this point, again, the comment that I have is that even with all of the controls on blasting, some of the ambient rock that the professor alluded to, that might, even with the mats, sometimes rock travels after a blast. We have had that on occasion. We experienced that on some developments where there was blasting. One of the concerns that I have is, and it came to mind because it is close to 175, I mean, you have to be very careful in terms of the mats that go down to hold the rock back, otherwise you get a stray rock that could hit a car.

Dr. Dimmock: One of the factors that you might consider here is that none of these slopes where major blasting occurring face toward 175. The other thing is, what I have seen in fly rock, the most common cause of fly rock is not removing all the loose rock before you set off the next blast. So that is something that we could add to that, although I just put in, reducing the amount of fly rock. Most fly rock isn't a solid chunk before the blast, it's a piece that someone left loose on the surface, and didn't pull off when you blast. So if you put in an additional thing that all loose rock will be removed before the next blasting, that's, I'd say, ninety percent of the fly rock problems are that.

Chairman Camilli: Again, there is, in my mind a safety issue with the fly rock, if the blaster or whoever doesn't remove all the rock, it's possible that a rock could fly towards 175. That's all I'm saying.

Attorney Wise: But that would be true for any project involving blasting.

Chairman Camilli: Exactly.

Attorney Wise: It has nothing to do with the magnitude of the blasting, it's the fact of the blasting. So that could be true for any project.

Chairman Camilli: There is a proximity to the road.

Attorney Wise: Mr. Chairman, you or somebody had.....

Alan Bongiovanni: Mr. Chairman, I just have to add, and I think that everyone at this table, and probably everyone in this room is familiar with the site just north of Wendy's, which is immediately adjacent to the Berlin Turnpike. That slope that was removed over recent years which was blasted with, I believe no, complaints.

Chairman Camilli: I beg your pardon?

Alan Bongiovanni: Let me rephrase that, there may have been complaints, but no damage to neighboring properties that I am aware of.

Ed Meehan: I think the record should be corrected, the original blaster was relieved of his duties, and a new blaster came back for a new special permit.

Alan Bongiovanni: Right, I'm talking about the most recent special permit. To demonstrate the fact that it can be done properly with the proper individual doing the work.

Chairman Camilli: Exactly, everything can be done properly, but to make that gross assumption that it is, so we are just, for the sake of safety, I just brought it up, without trying to be argumentative. We don't know, I mean, we have the professor here, we don't know who the blaster is, and frankly, you hire a blaster like you hire anybody else, you don't know what kind of job they are going to do. You might get a good job, then again, you might have to fire the blaster. That's the only point I'm trying to make.

Attorney Wise: I have just a couple of quick comments, in response to some of the issues that you just discussed with some of our presenters.

Somebody raised the issue of the fact that we are now just submitting some revised plans, and as Alan pointed out, that is because we just got the town engineers comments a week ago. Just for the record, I have been requesting town engineer comments since before the first public hearing in this matter, which took place on July 26th, and as recently as a couple of weeks ago, in writing, asked the Town Planner where these comments were, because we had been promised written comments back in early in mid-September, in fact, that was one of the reasons why we requested a continuance of the public hearing, because we didn't want to resume the public hearing until we had something to respond to, so believe me, we have been trying to get those comments for quite a long time.

Mr. Meehan said that our proposed hours of operation might be in conflict with the town noise ordinance. He was talking about our proposed hours from 5:00 to 7:00 in the morning. I don't know if that is true or not, but if that is the case, then certainly we will address that schedule to comply with your noise ordinance or any other ordinance you may have. Alan said that he thinks that construction activities are exempt, but if that is not the case, then of course we would comply with the town ordinance, again, this was simply a response to your request for some proposed conditions of operation of the excavation procedure.

Of course it is true that we haven't presented any plans for the improvement of Old Highway, this matter just came up, and it's not a zoning issue. It's not for this Commission to approve, that would be something we would have to work out, if necessary, with public works, the superintendent of streets. That certainly is not within the jurisdiction of this Commission.

Look, we understand that this is a contentious issue and indeed an emotional issue, I guess for some, but again, I'm going to remind you all that this Commission determined that, back in 1991 that this thirty acre parcel was suitable for office park development. On three subsequent occasions, in 1997, in 2001 and 2006, this Commission turned down other developments that would have required far less excavation. One was for a mixed use type of development, in '97, it was multi family development that was proposed in '01 that was turned down, and of course, you turned down, just earlier in this year, a proposed town house development for this site. Indeed again, I will remind you that when we presented the town house plan to you, less than a year ago, we explained that it would be far easier to work with this admitted, I mean, admittedly difficult terrain, it's not the easiest site in the world, but that it would be far easier to work with the topography with respect to a residential type development than with any of the permitted uses for this zone, you know, in the CD Zone. We explained then that if you have an office development or any of the other of right uses in this zone, you are going to, by necessity you are going to acquire larger pads and you are going to require large parking areas, which will, and I think that I am the one that stood up before you and said it would involve far more excavation. No question about it, but notwithstanding that, you turned it down, and said, no, we meant what we said. We want office parks for this site. We have given you a very reasonable office park subdivision. It

easily complies with all of your regulations, at least if you apply them the way they have been applied in the past, to other proposals, and therefore this proposal really should be approved. As we have said over and over again, we have no objection to any reasonable conditions that you might see fit to impose with respect to the blasting activity, with respect to the truck routes, or with respect to the hours of operation. And of course, I remind you, this is merely a subdivision application. There will have to be future site plan approvals for any development on any of the four proposed lots. If this plan is denied, we will be back again, with some other proposal, because this property, like it or not, sooner or later, is going to be developed. We'll be back with another proposal it will be a permitted use, it may not involve a subdivision, it may be simply a straight site plan approval, it will not require wetlands approval, the only reason that we are even before the Wetlands Commission is because it is a subdivision application and there is a subdivision rules say that if there are any wetlands on the site at all, you need a Wetlands application. So, you have to understand that this property is going to be developed, one way or another. And I'm not saying this, please do not take this as a threat, it's just a reminder that what you have before you, may be, at least to some of you, preferable to the dwindling alternatives, because they are dwindling. This is now the fourth proposal for this property since the re-zoning, so what you are seeing here may be preferable to the dwindling alternatives that are available. As I said, we will be back, I'm sure with some other proposal that you may not like as this, we could even include an affordable housing type of project, which as you know, far more difficult, legally, to turn down. So, we are asking you for an approval, both because we clearly comply with all the rules and regulations, and because you may consider this to be a preferable plan than some of the few alternatives that remain under your rules. So thank you very much for your attention, and I think that we have responded to everything that came up two weeks ago.

Chairman Camilli: Mike, do you want to read this into the record? This is a letter from the Conservation Commission.

Commissioner Fox: October 17, 2006. To: Vincent Camilli, Chairman, Town Planning and Zoning Commission, 131 Cedar Street, Newington, CT 06111 Re: Town Plan and Zoning TPZ application number 38-06 by Reno Developers.

Dear Mr. Camilli: Whereas the Newington Conservation Commission is charged under the Connecticut General Statutes Section 7-131 A (b) with advising the town as to proposed land use changes, therefore upon the deliberation and consideration it has been resolved: 1. Whereas the Cedar Mountain ridge line is the gateway to town from the east, and the background vista from the west, it has been determined that it is a major factor in defining the character of the town. 2. Therefore if the Town of Newington desires to keep its present character as a suburban community with a substantial greenway, then it is of great importance that the present appearance of Cedar Mountain ridgeline and hillside be kept in a green and natural condition. 3. After consideration of the development proposed by Reno Developers, TP&Z application 38-06 it has been determined that the extensive quarry operation and terraforming required of the site will forever degrade and alter the hillside to the detriment of the community. 4. Therefore, it is the recommendation of the Newington Conservation Commission that the application now before the Newington TP&Z be denied. 5. It is further recommended that the Newington TP&Z join with the Conservation Commission in recommending to the Town Council that every effort be made to purchase the development rights to all available properties on the Cedar Mountain ridge way, utilizing whatever grants, tax incentives, and other enticements that might be available.

Sincerely, John Igelski, Chairman,

CC: Rodney Mortensen, Mayor, John Salomone, Town Manager, Conservation Commission members, Stephen Nassau, Town Attorney, Edmund Meehan, Town Planner, Anthony Ferrera, Town Engineer, Shirley Amenta, Administrative Officer.

Chairman Camilli: Before we go any further, is there anyone from the audience wishing to speak in favor of this application?

Attorney Wise: Mr. Chairman, I hate to interrupt, but could I just respond to that? We didn't know that this letter had been submitted.

Chairman Camilli: Well you said you were done, that's why I, I'll give you the chance, afterwards.

Attorney Wise: But I didn't know the letter had been submitted, so I did not know there was anything to respond to, but I would appreciate it.

Chairman Camilli: You will get a change to respond.

Attorney Wise: Thank you Mr. Chairman.

Chairman Camilli: Anyone from the public wishing to speak in favor? Anyone from the public wishing to speak against?

Ryan McCain: Good evening, for the record, my name is Ryan McCain, I'm an attorney with Shipman and Goodwin and represent the Connecticut Humane Society which is the neighbor to the east. I will be brief, although I'm sure I'm not the first attorney who has ever told you that. I do point out that the zoning regulations allow an office use, not an office park at this site, and much has been made about the suitability of the land requirement in the subdivision regulations. Seems to have focused on the slope calculations and a brief passing mention of two other criteria that would render land unsuitable. I forget what they actually were, they are not applicable here, flood plain and wetlands, I believe. I would like to point out though, that your subdivision regulations cull these out as examples. There are, undoubtedly other examples of unsuitable land and I would (inaudible) that this is one of them. Regardless of whether there are fifteen percent slopes, or not, regardless of whether there are wetlands or not, regardless of whether there are flood plains or not, your regulations, your subdivision regulations Section 3.2 does not limit what is an unsuitable piece of property, it merely just gives some examples, and those are some of the examples.

Again, I want to remind you of something that Mr. Bongiovanni said, at the prior public hearing, this relates to the question of whether the earth removal is incidental, and I quoted him last time and I think it bears, is worth repeating. Mr. Bongiovanni had said that Lowes and Target moved exorbitant amounts of land, this is no different. So I question if you can have exorbitant amount of earth removal and still basically call it incidental. I'm not sure what the impact will have on this Commission, but I do know that the Wetlands Commission denied the application of the Hunter Development property, which is the property which they are proposing to use for access, so while that has certainly no impact on this proposal, it does question the viability of the project, gaining access through that adjacent piece. What this really boils down to though is your decision, your interpretation of your regulations, your evaluation of the facts, as in every case, you are the ultimate arbitrators here. What you need to decide is, whether this is a four lot subdivision, or whether this is a major earth removal project, with in excess of fifty thousand trucks headed through the center of Newington with what seems to be very little forethought, very little planning. Thank you.

Chairman Camilli: Is there anyone else from the public wishing to speak against?

Albert Magnoli, 275 New Britain Avenue: I'll be very brief. I'm been following this application through the newspapers with great interest. Based on the subterfuge and perpetuated by the applicant, I'm opposed to this application. The attorney, Mr. Wise wants the council to believe that the excavation is incidental to the project. It's obvious that the project is incidental to the

excavation operation of an actual stone quarry operation and worthy of a separate special exception and hearing. Based on this alone, I think the application could be denied. Also without a specific plan of development, also I think are plans for denial. That is all I have to say. And by the way, did I say that my name is Albert Magnoli and I approve this message.

Chairman Camilli: What are you running for? Anyone else wishing to speak against?

Gary Bolles, 28 Burdon Lane: One of the papers, and I believe it was the New Britain Herald, got it right. Stop, danger ahead, with a beautiful picture of greenery. I feel that this proposal is just too dangerous. With 53,000 give or take a few truck loads coming down our town streets, and it doesn't matter which street you come down, I just think it is too dangerous. Then, the other situation is, the wear and tear on the town streets, who would actually be responsible for repairing any damage that might result. This whole scenario sounds to me like something that maybe people should maybe board the starship Enterprise, and go to another galaxy, and maybe do this. It's just too dangerous folks, thank you.

Chairman Camilli: Anyone else wishing to speak, yes sir.

Jack Bolles, 1692 Main Street: Mr. Chairman, Commission Members, I'd like to mention a couple of points, first of all, the petition before you folks is really for a quarry, not a four lot subdivision, and based on that, it should have been denied. Some time ago I spoke about radon gas. Prior to coming before this Commission, I had spoken with a registered geologist, because I was not going to come before this Commission and shoot from the hip, not knowing my facts. Everything that I stated at that time was true. I said, granite and other materials of which the mountain is composed, and granite is mixed with other rock, porous rock, which contains radon. Talking about the, I'd like to talk about whether this is Reno or Hunter. An entrance/exit and light on Cedar Street does not cut it. My brother referred to this article in the New Britain Herald, and I think we are creating a second Avon mountain. We saw the traffic pattern analysis a couple of weeks ago, but what you didn't see was the backup on the Berlin Turnpike. The backup would be so dense that people on the west side of the Berlin Turnpike, and I'm referring to the businesses, people would not be able to enter or exit. One other thing, I'd like to mention, talking about blasting, I don't know if the Children's Hospital still has a school for special needs children or not, but many years ago, when I worked at the Children's Hospital, and they were putting through the new road, we had to go on emergency power every time that they blasted. If someone was to bring blasting material into town every day, I'm sure it would have to be under guard, if someone rear ended that truck, or car, we'd have a serious problem. That's pretty much it. Thanks again.

Chairman Camilli: Is there anyone else wishing to speak against. You have your opportunity to respond to everything.

Attorney Wise: Well, we aren't going to respond to everything, except that I just want to make sure that the Commission members understand that the letter you received from the Conservation Commission was from the Conservation Commission. They wear two hats, they are the Conservation Commission and they are the Wetlands Commission. In the, because there are wetlands on the property, they will have to give you their wetlands report, which they have not done. This is not their wetlands report. This is their recommended report, in their capacity as the Conservation Commission. So, this is not the Conservation Commission acting as the Wetlands Commission. I just want to make sure that everybody understands that. Thank you for your attention, and above all, your patience and good humor.

Chairman Camilli: This is the last chance, anyone from the public wishing to say something else, otherwise we're going to close this Petition. Petition 38-06 is closed. Thank you.

III. **PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.)

None.

IV. **MINUTES**

October 11, 2006 Regular Meeting

Commissioner Kornichuk moved to accept the minutes of the October 11, 2006 regular meeting. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with six voting YES.

V. **COMMUNICATIONS AND REPORTS**

None.

VI. **NEW BUSINESS**

A. **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. Continued from October 11, 2006.**

Christine Hedberg, 120 Northwood Road: Good evening everybody, or almost good morning. This is what I would like to have here. We were asked to put some plantings between 944 Main Street, we were asked to put some greenery between our property here, 2-14 East Cedar Street and the 944 Main Street property, as well as take a look at the dumpster area that you can see from Main Street. What I propose to do is to put in five arborvitae, the emerald green arborvitae, one plant every three feet, it's about a sixteen foot area right there. What I would like to propose here is to put Euonymus plants, starting with right at the end of the dumpster area, bringing it over, there's about twelve feet right there, so I propose about three bushes there, and then the area that runs the length of the parking lot, in between 944 Main and our business here, is about a hundred and seventy feet, and what I am proposing is to continue these Euonymus all the way straight down. It would be one plant, every four feet, it would be a hundred and seventy feet, and then another three over here, just to kind of make a U shaped area, make it a little more uniform. The plants grow eight to ten feet tall, eight to ten feet wide, so they would keep a hedge that would block the area. It's green in the summertime, and it's nice bright red in the fall. I brought this for you. We already have, existing right here, hosta at each section.

Chairman Camilli: Are you going to leave that.

Christine Hedberg: I'm going to leave that with you. There you go.

Chairman Camilli: Thank you. Any questions from the Commissioners? Okay.

- B. 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. Continued from October 11, 2006.**

Attorney Kleinman: Good evening Mr. Chairman, Members of the Commission. For the record, Attorney Daniel Kleinman land use attorney with the law firm of Levy and Droney, 74 Batterson Park Road, in Farmington. I think the Commission which has now sat through considerable testimony in the two public hearing before you, is familiar with the site and if it's appropriate Mr. Chairman, could I ask that the testimony that was placed on the record for the two previous public hearings be at least incorporated into our testimony for the site plan, so that we at least have a record of it, and should there be a need to resort to the record, at any time in the future, at least that testimony would be made part of whatever we are going to speak to tonight.

Chairman Camilli: That would be acceptable.

Attorney Kleinman: Thank you Mr. Chairman. Having said that now, I think that unless the Commission objects and has other questions, I think I will ask you to chime in at that point, what I would like to do is to ask Jeff Wagner who is our architect to come up and to speak to the issues of the design of the building, architectural issues surrounding the building, signage, lighting plans, things of that nature which really have not been addressed in previous testimony and then we will then open it up to questions I think that the Commission may have from anybody else who hasn't spoken in this regard, if that works, okay?

Jeff Wagner: Good evening, my name is Jeff Wagner with WP2 Design Consultants. I will be talking about the architectural designs tonight. Offices in Quincy Massachusetts. Just walking you around the building a little bit, I'll use the site plans over here. This is the front elevation, which is the east elevation, on this side here, what I will do is just walk you around the building real quick, and give you an overlay of what the different elevations are and their uses. This is the primary entrance right here. You can see it's outlined right here on the elevation. Really what we try to do here with the elevation was to incorporate what the clients needs are as far as for signage and building structure and so forth, and also bring in something that would fit well on this site, and an overall good design. So, here is the entrance right here, the primary right here. On this side, you can see, there is just more articulation on the building. What we did here was to break up the façade, was to add different CMU on the higher level, the mid level, and the low level, and then the branding of the Sam's Club with the blue stripe is also incorporated into the overall design. So the different colors and materials, you can see the front elevation, are incorporated to the other sides too, for a comprehensive design. As you look on the north side of the building, which is this side right here, this is actually the truck loading side. As you can see, as you look at the site plan, this is where the trucks will come in, as we have already talked about, under site plan review, the trucks will come in and load in here. Right here is actually the CMU wall, which is shown right here. It is actually an eight foot high, sorry, ten foot four high CMU wall, which acts as a screening element. So it screens from over here, onto, from this road right here, so you don't see the truck loading. Also on this side, we

have a compactor which is located right here, so we also have on this side an eight foot high CMU wall on this side, so this is kind of a high traffic area for trucks and loading and so forth, so we added in screening elements in addition to the landscaping which also tied to the building design.

As you look at the other side, the south side, over here, which is the lower elevation, again, you can see the architectural elements that are wrapped around the side of the building, and carried through the design. This is tire installation, loading area right here, and this is actually, if you look back to that site plan, there is a customer pickup area, which has a canopy area on it, and what that basically is, is because this is a bulk sales store, customer's, if you look at the floor plan, customer's will come through here, to the cash registers and come out here and wait with their carts, and customers can go to the parking area and drive up with their pick-up trucks and whatever and load their goods under the protection of this canopy. So it is a convenience to the customer and it's also safety, because they don't have to truck their things through the parking lot. The final elevation at the rear which is the west elevation, you can see the truck loading dock doors right here. There is a screened wall right here, which is hard to see on this elevation, the truck loading dock here and then remainder of the elevations has the same elements wrap around and you can see the front of the building over here. That's pretty much it for the elevations and the design. I want to point out the signage on the building. I think previously submitted elevations may have had different signage. The client just actually implemented a new standard for signs. If you recall, some older Sam's Club used to have like a arrow that said something on it, this is more of a conservative approach, I actually like it a little bit better. It's actually a smaller sign, so square footage is actually less than previously anticipated, but regardless, we are going to be in compliance with the zoning regulations, and the signage is really just at the key points, the entrance, and some other signage on this side over here, and then the stripe to kind of tie it together.

Actually we have two boards, that kind of give a better picture of what the elevations are going to look like. The two boards have the elevations a little bit more photogenic, so to speak, so you can get a better idea of what it is going to look like. If you look at this perspective right here, it's actually looking, I guess you are over in this section here, looking at the corner of the building. You can see the front loading dock area that I was referring to earlier, customer's will come in, pull their cars up and so forth, and this is where they would access under this canopy right here, and wait for whoever is getting the car to pull up. Then it shows the Sam's Club signage, and then the elevation from this perspective. It shows customer traffic and pedestrian traffic and so forth. You can also see a little better on this what the materials are, primarily split base, CMU block, standing seam metal roof, some effus that is painted, and then you have this band right here, which is the band for the Sam's Club branding, and then a different colored effus and then a lower band at the bottom, so again, you can see how the elevations are broken up, so it's not just a plain façade.

This is just another perspective looking from, again just showing from another angle, as you would be driving in from this access road over here, across the parking lot, this would be your view as you drive up to the property and park and make your way to the entrance. Again, it just kind of shows what it is actually going to look like as opposed to the other two elevations, it just gives a better view, plus it shows some of the landscaping and vegetation on the site.

The last board that I wanted to show you is the gas station building and the canopy, which is down here. What we did here was wanted to integrate the building design into the primary building components of the Sam's Club, so this split face block is actually called a Pembroke color, it matches the primary building color and also has the standing seam metal roof on the structure. I think, as previously discussed, this is just a, primarily just an office, I think there is a rest room, supply closet, that's really all this is, just an attendant to service this gas station area right here. As far as the canopy, it just has the Sam's Club signage and the branding stripe to match the building elevations, and it's just painted.

I really think that's about it on the elevations. I just want to point out that I met with Ed Meehan a few times, and got his comments and tried to integrate some of his concerns as far as building style, color, materials and so forth for both the building and the gas station. I'd be glad to take any questions. I have a sample board, too. It was also requested that I bring in a color material sample board to review, and this basically shows, you can see here these are the primary split face CMU block, it's basically one, two, three as you go down the elevation on the main, primary building, and then the different paint color and so forth. This is basically just an elevation, and then the color material board, so I brought that in for the board to review. If anyone wants to see it, it's right here.

Chairman Camilli: Any questions from the Commissioners?

Commissioner Ganley: Just an observation, would you mind putting, any one of them, the front of the building is fine, that would be fine. From the entrance way, down to the north, okay, it just needs some dressing, that is probably the best word that I can think of, it looks like of stark, austere, plain, there's a lot of straight lines and it just needs a little dressing. I like that color to the left, where the sign is, but if you could put something, some other type of façade, maybe even using that same color. That's a nice color, as you go to the north, or to the right.....

Jeff Wager: Just break it up a little bit?

Commissioner Ganley: Yes, just break it up, some way or the other.

Jeff Wagner: I can do that.

Commissioner Ganley: Thank you.

Chairman Camilli: Ed, did you have any comments?

Ed Meehan: No.

Chairman Camilli: Where are the mechanicals going to be?

Jeff Wagner: For the roof top equipment? Well, they will be on the roof, and you can't see them here because they have the parapets that basically hide the equipment.

Chairman Camilli: So all the equipment will be on the roof?

Jeff Wagner: It's usually screened, it sits a few feet off the roof, and the parapets are brought up to a higher level.

Chairman Camilli: How does this square away, the total package here, with all the other businesses there? As far as the architecture, does it kind of square away?

Ed Meehan: No, it's a stand alone building, I mean, Stew Leonard's is completely different because they are going to use basically, Stew Leonard's is going to look like a barn, if you remember with a silo and rough cut wood on the outside, perhaps. So, no the shopping center is going to have probably three distinct looking buildings.....

Chairman Camilli: There is no continuity that we have to worry about?

Ed Meehan: It's not going to be like a factory outlet store like you would see at Clinton Crossing or Tangier down in Westbrook, or some place up in New Hampshire.

Chairman Camilli: Where are you going to keep your carriages?

Jeff Wagner: There actually is a cart corral, storage, right here, and then, I'm not sure if there are more on the site,

Michelle Carlson: The cart corral, well the cart storage is in the foyer, like he said, and then there are going to be cart corral's in the parking lot, and for some reason, I'm just noticing, they're not showing on that plan. I'll put in on the next rendering, they basically take up some spaces that you would see, actually they are right here, I lied. Two spaces here are taken up with the cart corral return, and the returns are here, here and here, and that is where the cart returns are. The carts are then brought in by Sam's employees and stored inside, but when they are out in the parking lot, they are put into the storage areas.

Chairman Camilli: And those parking spaces way up in the corner here, who is going to park in there?

Michelle Carlson: Employees. Employees there, and then back in here. It's employee parking.

Chairman Camilli: Has any consideration been given, I know that you've gone through these plans, this is quite a distance, has there been any thought given about breaking it up?

Ed Meehan: It was discussed. Normally in a parking lot field, you may have the third row going from the front of the building out, might be just a long island, instead of having that whole open field, and I discussed that at one of the staff meetings, but the design engineer felt that it took too many parking spaces away, because you would basically have a green island and you know, we talked about something like that, you know, maybe linking with some sort of side walk to Stew Leonard's. Again, the size of the buildings, because I raised the question of pedestrian connections, but they are pretty far apart. Those buildings are probably about 300 feet apart, or more, maybe five hundred feet apart.

The other question that comes up is, you are going to have to truck the snow, or move the snow from here and put it in the back corner? We had that discussion, there is no predetermined snow locations in front, it was going to be put along the back of the building in the southwest corner?

Michelle Carlson: On the revised drawings, we actually also dedicated this area in here as snow storage, and that is on the revised plans that you have.

Ed Meehan: Okay.

Michelle Carlson: We did get some more out front, we didn't put it all in the rear. Five hundred and forty feet, from there to the end. From front door to front door is almost nine hundred feet. But yeah, the question that you raised, I raised also.

Chairman Camilli: I know that I brought it up before and I hate to be a pain about this, but I'm still looking at that little building. I don't really see the functionality of that building....

Ed Meehan: The smaller building?

Chairman Camilli: Do something with, use that for, either put in islands or something or whatever you said, and taking out, that to me would solve a lot of that parking issue. I'm not quite sure, is this part of Sam's real estate, this particular, you have about 6000 square feet.

Michelle Carlson: It's 6500 square feet and that is actually part of Realm's Development. That is not associated with Sam's. Realm controls all of the property at the Newington Power Center and that is a separate entity. That is not part of Sam's but that is part of the proposed development. Dan Kirkland can speak to that on Realm's behalf.

Dan Kirkland: Quite simply put, when we started putting this project back together again, Humpty Dumpty, if you will, in order to do the Sam's and to do the Stew Leonard's, we had to have all the additional parking over here, and we had to make it one cohesive shopping center. In order to do that, we had to buy the land up here, which we are putting in Conservation, and we had to buy the Stickley property, which we did not control, so we put it under option, and quite frankly, in a manner of speaking, they put a gun to our head, so I know that it is not important to you what we paid for it, but it is very important to us what we paid for it. We had to pay far beyond market to do that, and in order to get our numbers to work, to even get them close, we had to find some way to get some more income into this thing, because this is a loss leader quite frankly with what we had to pay, but it was the only way we could make the project work. So we had to put in a little more here, we did address some of Ed's concerns before, we had traffic go around it, we put in dumpsters, we tried to make this friendly as we could, but even if we removed it, there would still just be parking here, I don't know what more greenery we could do with it, but we really did need it in terms of making the numbers work on this thing, as it is a tight, tight project, as you can imagine. You can see the engineering, what we are having to do with conservation and everything else.

Chairman Camilli: I know, but it kind of sticks out to be honest with you.

Dan Kirkland: Well, I think it sticks out more because it's not, it's only 6500 square feet, you know, there are homes here that are bigger than that. We can get a premium price for it because now that, because of this, because of Toys, because of Stew Leonard's, at least we can a premium and it will help us with our numbers. Quite frankly, that is why it is there.

Chairman Camilli: Well, you know, of course you are getting the gas station, which was another, I don't know what the Planner said, but this Commission was very concerned about gas stations at gateways, and that was one of the things that we will be considering, whether or not to have a gas station there, or not. To make that number work there, I'm sure the gas station is probably much more of a consideration than a 6500 square foot building.

Dan Kirkland: Well, I don't mean to interrupt you, but the part of the gas station is, we were negotiating with Sam's to come up here. They don't have a gas station now, and they have a horrible parking situation and especially because they are wall to wall with Home Depot. So in order for them to move up here, they have to have a better parking situation, than they have, and they have to have a gas station, if they didn't have a gas station, and better parking in both of them, it was a no deal and we have cut their parking back, quite frankly to the point that they are not willing to accept anything less than what we have, so we have pushed as far as we can, and that we can go, and that is the reason that we are trying to squeeze a little bit out to get, because quite frankly, what we paid for this is several times what it was actually worth.

Chairman Camilli: I can appreciate the business side of it. I don't know if that is our consideration, but we can appreciate it.

Dan Kirkland: Thank you.

Attorney Kleinman: If I could Mr. Chairman, let me just add one more thing and I urge the Commission to go back to the 1992 approval, which I'm sure Mr. Meehan can show you, and you

will see that when this Commission did approve the site plan, there was a building on virtually the same site. Now, this is a different time, and different site plan, and this Commission is free to make its own decision, as to what is appropriate and what is not appropriate, but I don't think there is anything on this plan that is radically different in terms of development that this Commission didn't look at the first time around in 1992, and I can appreciate such things as traffic, and such as circulation and pedestrian safety, and pedestrian signage and vehicular signage, and whatever and those are all appropriate and we certainly want to work over the next two weeks with the Planning staff to make some subtle changes here, that will give the Commission a greater comfort level, but I don't think and I think that Dan said it well, the inclusion of 6500 square feet in a retail space is going to have any market increase at all, in any traffic congestion or circulation issues what so ever. Because it was there earlier when we kind of looked at the overall site plan, we didn't think much of it, because we thought the Commission had seen it once before in terms of what it looked like. And, to reiterate the relationship with Sam's is very delicate because of the gas station and the building, that's a kind of a non-starter for them.

Michelle Carlson: Like Dan said, it's a completely different time now, but....

Chairman Camilli: Well, we just want to get it right.

Attorney Kleinman: Well, we want it right too, we want it right too, because quite frankly, and I think you have seen this with any project that you have, if this isn't laid out right, and the parking isn't right, and the traffic signage isn't right, and it's not a user friendly environment, people will come once, and they won't ever come again, and that's not in our best interest, so we want to get it right, and we are willing to sit down with the Planning staff and make some changes. We are going to meet with some of the neighbors who have raised some questions here tonight regarding buffering and other issues, and we plan to do that in the next few days, so you know, we want to get it right and have this be something that the Commission can take pride in, in having approved. We haven't really hit on lighting, would you like to hear some more about the lighting at all, or are you comfortable Ed, with what we have shown you on that, or would you like us to go through that briefly.

Chairman Camilli: I heard something about it, but I don't know if the other Commissioners....

Attorney Kleinman: Michelle, do you want to just touch on the lighting, the nature of the lighting, the height of the poles.

Michelle Carlson: The original plans submitted, the light pole heights were incorrect, so we revised the photometrics to take into account twenty foot tall poles. What we are going to do is to work with a lighting consultant over the next couple of days, because we found out finally the existing wattage and the fixtures that are out there, they are thousand watt metal halolight bulbs, so we are going to utilize that for running our photometrics here and the intent is to match the fixture look as best we can, so it looks like a center.

Chairman Camilli: Any questions from the Commissioners on that? Thank you. I know that you are cooperating with the Planner, I can appreciate that.

Attorney Kleinman: We want to get this right, and we accept all the comments here in the spirit that they are given, and I think in the end, with this collaboration we're working on here, we are going to have what this Commission would want.

Ed Meehan: One thing that I do want to continue to work with you on, and get the town engineer involved is the Maselli Road turnaround. The grading in there, and the landing area, and how we mutually coordinate the handling of snow plowing. Getting a piece of equipment in there to push snow and the safety of a truck trying to back out, in there, we have to talk to each other as to how that is going to work. Tony Ferrara will be working with it.

Michelle Carlson: Okay, so then maybe we can meet with him next week, because we are going to want to come in and go over some comments again when you have time, so we will call tomorrow and set that up.

Chairman Camilli: And when you are talking to staff, anything that would make it more pedestrian friendly I would be interested in, just because of the expanse there, of the parking. I know that you are limited by the space that you have, and I don't profess to know to do that, but if there is something there that you could do, we had somebody from the audience ask about making it more pedestrian friendly, even if it isn't used as much, because of the distance between the buildings, something that would just give a little glitz to it. Whatever, just to make it look....

Ed Meehan: One of the things that I said early on, one of our meetings was that, sort of that causeway that goes between the two ponds, which leads to Stickley, would be a pedestrian way, a fishing pier or something in there, it sounds ridiculous, but that could be an element of your green space, it doesn't, again, it may not address the pedestrian issue that you are talking about, but it

Chairman Camilli: Where are you talking?

Ed Meehan: See the narrow, see the road, we talked about people racing from Sam's. Right there, that could be a pedestrian open space element if it's not needed for internal circulation. I think that has to be looked at. Maybe you need it for internal circulation, I don't know. You have a connection from Stickley's to Sam's.

Michelle Carlson: You might want the connection just from a traffic relief there, so they weren't all going to.....

Ed Meehan: To the perimeter road.

Michelle Carlson: To the perimeter road, but we can talk about that.

Attorney Kleinman: Pedestrian safety is first and foremost what we are concerned about. Pedestrian access is a different issue, and the question is, are you going to try to make all these buildings accessible to each other, I'm not sure that really works, but clearly pedestrian safety is something, within the parking area, that we have a great concern about, as well as the signage that we have, the vehicular signage, so we will take a look at it Ed, and we will get together will you, and give us some suggestions and we will see what is available within the constraints of our ability.

Chairman Camilli: That would be good.

Commissioner Ganley: As long as you are working on the light poles, you are going to have to integrate the light poles and lighting with the avenues that pedestrians will be traversing, so you are going to have to integrate that piece of it also, so if you are going to be shopping around Christmas time, it's dark at six o'clock.

Chairman Camilli: I'm all set. Anyone else have anything?

Attorney Kleimman: See you in a few weeks.

Chairman Camilli: See you in a few weeks, thank you for your patience.

VII. OLD 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.**

Commissioner Pruett moved that 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 be approved based on plans entitled "JK Partners LLC Hotel Development, 2553 Berlin Turnpike, Revised dated 8-10-06, prepared by Dimmock Consulting Engineers, Sheets 1 to 11, Scale 1"=20' and building architectural elevations entitled "Preliminary Elevations Comfort Suites Hotel prepared by David M. Pokras, A1A sheets P-1 and P-2"

Prior to the Commission signing the plan mylars the detail sheets shall be modified to show design for the 36" and PVC fences and the detail for concrete curb standard.

Technical revisions required by the Town Engineer shall be incorporated into plan mylars.

The proposed hotel building elevations shall be modified to label façade materials and colors; the front elevation (east) facing the Berlin Turnpike shall be changed to provide windows on all three (3) floor levels.

The notes on Sheet 2 shall be changed to clarify automatic sprinkler system coverage for the entire front area and all planting beds adjacent to the building.

The Conservation Commission inland wetlands report is acknowledged and made a part of this approval.

Prior to the issuance of the Certificate of Occupancy the applicant's engineer shall certify that the storm water system has been installed in accordance with the approved plan.

The motion was seconded by Commissioner Ganley.

Chairman Camilli: I think the applicant here did what we recommended.

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

Chairman Camilli: Motion passes unanimously.

- B. 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.**

Commissioner Ganley moved that Petition 58-06 183 Louis Street, Aero-Craft, LLC, 179 Louis Street, owner, PDS Engineering & Construction, Inc., Attention Chris Eseppe, P.E. 107 Old Windsor Road, Bloomfield, CT 06002, applicant, request for site plan approval 27,676 sq. ft. industrial use building and waiver of buffer distance PD Zone District be approved based on revised site development plans dated October 11, 2006, entitled "Volvo Aerocraft – Louis Street" prepared by PDS Engineering and Construction, Inc., scale 1" = 40' sheets C-100 to C-104 and exterior building elevations, sheet A-200.

1. The approved development plan, in addition to the 27,675 sq. ft. first phase, also includes the future addition of 4,838 sq. ft.
2. The buffer setback distance along the west side of the property is reduced based on the development plan's supplemental landscape plantings and the placement of a six (6) foot vinyl fence adjacent to the building's mechanical equipment. In the event these mitigation measures do not adequately maintain the noise level in accordance with the Newington Code of Ordinances the property owner will be obligated to take corrective action to achieve compliance.
3. Prior to the chairman signing the plan mylar the location of the fire hydrant on Stanwell Road shall be reviewed and approved by the Fire Marshal.
4. The Inland Wetlands Agency's report has been received and is made a part of this approval.

The motion was seconded by Commissioner Fox.

Chairman Camilli: Apparently for item two there, there was some concern about the noise, the ambient noise to the adjacent property and apparently they are putting up this fence, and hopefully it works and there won't be a problem.

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

Chairman Camilli: Motion passes unanimously.

We will do, for the sake of brevity, since it is so early in the day, Petition 33-06, 34-06, 35-06, 36-06, 37-06 all together to be postponed if someone would move.

Commissioner Ganley: So move.

Commissioner Fox: Second.

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

Chairman Camilli: Those petitions are all postponed.

- C. **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. Public Hearing closed. Sixty-five day decision period ends December 1, 2006.**

- D. **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. Public Hearing closed. Sixty-five day decision period ends December 1, 2006.
- E. **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. Public hearing closed. Sixty-five day decision period ends December 1, 2006
- F. **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. Public Hearing closed. Sixty five day decision period ends December 1, 2006.
- G. **PETITION 37-06** 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, 3,000 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. Sixty five day decision period ends December 1, 2006.
- H. **PETITION 57-06** 426 Hartford Avenue, Rosario & Maria Giarratana, owners, Alex Kosovski, 444 Bloomfield Avenue, Bloomfield, CT 06002 request for **Special Permit Section 6.11 Auto Dealer Use**, I Industrial Zone District. Hearing closed October 11, 2006. Sixty five day decision period ends December 25, 2006.

Commissioner Schatz moved that PETITION 57-06 426 Hartford Avenue, Rosario & Maria Giarratana, owners, Alex Kosovski, 444 Bloomfield Avenue, Bloomfield, CT 06002 request for Special Permit Section 6.11 Auto Dealer Use, I Industrial Zone District be denied the Commission finding:

1. That the size of this property is too small to conduct auto repairing and an auto dealership at this location. Section 5.2.6 (C).
2. That the MDC sanitary sewer is within 200 feet. (Section 7.4.12) and the applicant proposes not to connect. Since public sewer is available this criteria should be complied with for the proposed change of use. Section 5.2.6 (E).
3. The Commission interprets Section 6.11.4 to mean that vehicles for sale can not be displayed in the required front yard set back area which for the I Zone District is 25'

The motion was seconded by Commissioner Pruett.

Chairman Camilli: It seems to me that there was just too much going on for this particular application, and I think that is summarized in number one, although it is something that I labored over, it would be too ambitious for this particular piece of property.

The vote was unanimously in favor of the motion to deny, with six voting YES.

Chairman Camilli: The motion to deny passes unanimously.

- I. PETITION 57A-06 426 Hartford Avenue, Rosario & Maria Giarratana, owners, Alex Kosovski, 444 Bloomfield Avenue, Bloomfield, CT 06002 request for motor vehicle dealer Certificate of Location per Section 14-54 Ct. General Statutes. Hearing closed October 11, 2006. Sixty five day decision period ends December 25, 2006.**

Commissioner Kornichuk moved that PETITION 57A-06 426 Hartford Avenue, Rosario & Maria Giarratana, owners, Alex Kosovski, 444 Bloomfield Avenue, Bloomfield, CT 06002 request for motor vehicle dealer Certificate of Location per Section 14-54 CT General Statutes be denied because the Commission denied Petition 57-06 Special Permit for auto dealership.

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

Chairman Camilli: Motion passes unanimously.

- J. PETITION 59-06 2909 Berlin Turnpike (former Krispy Kreme) Wek Tuck Realty, owners, Acnco Sign Company Inc., attention: Jeremy Waycott, 1133 South Broad Street, Wallingford, CT 06442 request for Special Exception Section 6.4.2 Free Standing Sign, Citibank, PD Zone District.**

Commissioner Fox moved that PETITION 59-06 2909 Berlin Turnpike (former Krispy Kreme) Wek Tuck Realty, owner, Acnco Sign Company Inc., attention: Jeremy Waycott, 1133 South Broad Street, Wallingford, CT 06442 request for Special Exception Section 6.4.2 Free Standing Sign, Citibank, PD Zone District, be approved based on the design submitted by Signcrafters, 1591 Fifth Avenue, Bayshores, NY dated 8-3-2006 revised to reduce total height to 15' with an internally illuminated cabinet measuring 4' 9 3/4" x 10".

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

Chairman Camilli: Motion passes unanimously.

K. PETITION 64-06 4 Hartford Avenue, former Gulf Service Station, Newington Gas Distribution, LLC, 1125 East Main Street, Meriden CT 06450 represented by Kevin Curry, Newington Gas Distribution, LLC, 1125 East Main Street, Meriden, CT 06450 request for Site Plan approval, 2660 sq. ft. gas station/convenience store redevelopment use, B (Business Zone) and R-12 Zone District.

Commissioner Pruett moved that Petition 64-08 4 Hartford Avenue, former Gulf Service Station, Newington Gas Distribution, LLC, 1125 East Main Street, Meriden CT 06450 owner and applicant represented by Kevin Curry, Newington Gas Distribution, LLC, 1125 East Main Street, Meriden, CT 06450 request for Site Plan approval, 2660 sq. ft. gas station/convenience store redevelopment use, B (Business Zone) be approved based on plans entitled "Proposed Gas Station/Convenience Store" prepared by BGI Land Surveyors and A-N Consulting Engineers, dated 9-19-06, Scale 1" x 20'. Sheets 1 to 8; and architectural elevations prepared by Dante J. Boffi, Architecture, LLC dated 9-18-06.

Prior to the Commission chairman signing the mylars the following modifications shall be made to the plans:

- A. The 5' sidewalk along Main Street shall be carried through the site driveway and extended to the corner of Hartford Avenue to provide access to the traffic signal's push button control. All sidewalk ramps shall comply with requirements for handicapped accessibility.
- B. The limits of concrete curbing shall be clearly shown and shall extend to tangent of the driveways along Main Street and Hartford Avenue.
- C. Design changes directed by the Town Engineer.

The placement of the pylon sign shown on this site plan shall be by separate Special Exception permit as required by Section 6.2.4 of the Zoning Regulations.

This approval is limited to the sale of gasoline as regulated by Section 14-321 and Section 14-322 of the Statutes. Prior approvals authorizing auto repairing and dealing at this property are terminated upon the signing of the site plan mylar by the Commission chairman.

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

Chairman Camilli: You have on the table somewhere, Barb's Pizza, outside dining. They requested some outside seating. Do you want to comment on it?

Ed Meehan: They already have a Special Exception for a dining, which they received when they moved into town, and at the time of presentation they had talked about outside seating, but they wanted to see how the business was going to progress. They are now coming back for this outside seating, it's about a 300 foot area, just a little bit north of Starbuck's has their tables and chairs, so it would continue where these shrubs are, they would continue with the brick pavers, and they have, I think it's five tables, four seats at each table and the street furniture would match what Starbuck's is using.

Chairman Camilli: I have no problem, but my only question is because we have waived the parking there several times, on that whole complex, putting five more tables, that's probably four

or five more cars, what do you think of that, just from a parking perspective, not the fact of outside dining.

Ed Meehan: I'm a little surprised that the parking is working much better than I had expected. There is no one in Brooks. There is no one there. Along the north parking, next to the dumpster, it's pretty vacant.

Chairman Camilli: So it wouldn't be a problem. If we had a very active...

Commissioner Fox: If you had an active Brooks Pharmacy, it would be tough.

Chairman Camilli: That's what I would think. I just wanted it on the record. I hope Brooks stays.

Commissioner Fox: So do I, but while Brooks is empty, the rest of the, from the driveway east is always full.

Ed Meehan: You have Grove Hill and Starbucks. In the corner there, it's always full.

Chairman Camilli: Okay, as I said, I don't have a problem with it, but obviously right now, it's probably okay, but in the future, it may be a little tighter.

Commissioner Ganley: Can I read it now?

Chairman Camilli: Sure, I wanted to see if we could make it till 12:00.

Commissioner Ganley: Okay, I'll read slowly.

**Barb's Pizza – Outside Dining
995 Main Street**

Commissioner Ganley moved that the request to expand the patio area in front of Barb's Pizza by approximately 360 sq. ft. be approved. The expanded area shall be constructed of brick pavers to match the adjacent patio. Outside seating will be limited to five (5) tables, each with 4 chairs.

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

Chairman Camilli: Motion passes unanimously.

**Bond Reduction
133 Louis Street
Gold Star Medical**

Commissioner Schatz moved that the bond for 133 Louis Street, Gold Star Medical site improvements, be reduced from \$68,000 to \$7,800 based on the Town Engineer's cost estimate dated October 18, 2006. The completion date for the remaining work is extended to June 1, 2007.

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

Chairman Camilli: Motion passes unanimously.

**Bond Reduction
Sunrise Estates – Waverly Drive
Subdivision Improvements**

Commissioner Kornichuk moved that the bond held for Sunrise Estates Subdivision development be reduced from \$550,836 to \$239,525 based on the Town Engineer's cost estimate dated October 18, 2006.

The completion date for the remaining subdivision improvements is extended to June 1, 2007.

The above bond amount includes \$58,000 for the traffic signal at the intersection of Waverly Drive and Griswoldville Avenue. The bonding for this signal shall not be released until the design traffic engineer certifies its "as built" construction and operation in accordance with the approved plans, dated 11-08-2005.

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

Chairman Camilli: Motion passes unanimously.

**711 Willard Avenue
Site Development Bond
Reduction**

Commissioner Fox moved that the bond amount for site development completion at 711 Willard Avenue be reduced from \$45,900 to \$23,700 based on the Town Engineer's cost estimate dated October 18, 2006.

The completion date for site improvements shall be June 1, 2007.

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

Chairman Camilli: Motion passes unanimously.

VIII. PETITIONS FOR SCHEDULING (TPZ November 8, 2006 and Monday November 20, 2006.)

- A. Petition 65-06 300 Fenn Road, Fenn Manufacturing Company, Division of United Dominion Industries, owner and 33 Commerce Court, 33 Commerce Court Realty, LLC owner; TRC Environmental, Inc., 21 Griffin Road, North Windsor CT 06095, attention Carl Stopper, applicant, request for Special Permit Section 6.4 Removal of Earth Products, I Zone Schedule for public hearing November 8, 2006.
- B. Petition 66-06 2640 Berlin Turnpike, known as JDC Trucking, Aldi Inc., South Windsor, CT 06074 applicant, Joseph D. Carey, 2640 Berlin Turnpike, Newington, CT 06111 owner, represented by Phil Woodyatt, WD Partners, 1000 Winter Street, Suite 2900 Waltham, MA 02451, request for Special Exception Section 6.2.4 pylon sign, PD Zone District. Schedule for Public hearing November 8, 2006.

- C. Petition 67-06 2640 Berlin Turnpike, known as JDC Trucking, Aldi Inc., South Windsor, CT 06074 applicant, Joseph D. Carey, 2640 Berlin Turnpike, Newington, CT 06111 owner, represented by Phil Woodyatt, WD Partners, 1000 Winter Street, Suite 2900 Waltham, MA 02451, request for Site Plan approval to redevelop property and develop 16,400 sq. ft. retain store, PD Zone District. Schedule for presentation, November 8, 2006.
- D. Petition 69-06 68 Maple Hill Avenue and 80 Maple Hill Avenue, Green Associates, LLC, c/o Vincent F. Sabatini, One Market Square, Newington CT 06111, Donna DiMauro and Hollis Kobayashi owners, request for 10 lot subdivision, R-12 District. Schedule for Public Hearing November 20, 2006.
- E. Petition 70-06 57 Church Street, John A. Amaning applicant and owner, c/o Attorney Vincent F. Sabatini, 1 Market Square, Newington, CT 06111 request for Special Exception Section 6.7 Interior Lot R-20 Zone District. Schedule for Public Hearing, November 20, 2006.
- F. Petition 71-06 256 New Britain Avenue, Bel Air Manor Associates owner, A-L Consulting, LLC, P.O. Box 863 Essex, CT 06426 attention: Alvin Wolfgram, request for Site Plan modification, CD Zone District. Schedule for presentation November 20, 2006.
- G. Petition 72-06 19-21 Eighth Street, Katherine Crooks, Executrix and Gail Byr applicants, Estate of Patricia Crooks, Gail Cyr and Leonard Daigle, represented by Attorney Edward G. Pizzella, 81 Market Square, Newington, CT 06111 request re-subdivision, R-7 Zone District. Schedule for Public Hearing November 20, 2006.

Ed Meehan: There is one petition, item G, Petition 72-06, 19-21 Eighth Street, Attorney Pizzella sent a letter in asking if the Commission would consider placing that on for November 8th, he has a client who because of a probate situation and closing, would be beneficial to her a couple of weeks earlier. It's up to you.

Chairman Camilli: I told Ed it would be okay with me.

Ed Meehan: It's a simple re-subdivision.

Chairman Camilli: So that would be okay then.

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

Domenic Pane: Domenic Pane, 638 Church Street: I just want to thank the Commission for all their hard work. I see that this Commission still gets very difficult applications and I understand how hard it is to deal with them and I just want to commend the Commission. Also, one other thing, with all the new development coming into the Pane Road area, if you could keep in mind the S curve on Pane Road, if it's possible that we could get some minor improvements on that for safety purposes, on that S curve, it would be greatly appreciated. Thank you very much.

Chairman Camilli: Is there anything on that alignment there?

Ed Meehan: It would be a lot of property taking, but maybe better with chevron signage and reflectors, or something, pavement markings, we've tried different things over the years.

X. REMARKS BY COMMISSIONERS

None.

XI. STAFF REPORT

A. Request for seasonal outside dining – Barb's Pizza

Discussed under Old Business

B. Subdivision Regulations – Bonded Improvements – Section 3.12 street trees – Premier Building and Development.

Ed Meehan: One item under B, subdivision regulations, bonding improvements, we had on-going discussions with the developer of Rockledge, and New Britain Avenue and Waverly, Pat Snow, Griswoldville LLC or Premier Building and Development regarding the issue of street trees not being planted, and the Commission went on record that you wanted the trees, and then there were some requests from residents that they didn't want the trees, and the Commission was getting bounced back and forth. I did share it with the town attorney, Steve Nassau, turned it over to Dave Griffith, and the report I get is that the performance bond requirements remain in place, notwithstanding any contractual arrangements between the developer and the lot owners. As you recall, the developer in his sales contract, put the responsibility for paying for the trees on the property owners, the new buyers. What Attorney Griffith is saying here is that, that doesn't relieve the developer from putting the trees in. He cannot contract away a public requirement. I did report this to Pat Snow, we were changing voice messages for the last couple of days, he was going to try to be here tonight, he said that he would make a commitment to try to get the trees in and if he was here tonight, he said he would give it to you verbally, or he will put it in writing, so I will try to get that in writing before the next meeting. That is his first hope, he does not want the bond to be called, and so it's probably almost \$40,000.00 worth of bonded landscaping improvements between the three subdivisions. They are making pretty good progress at Waverly of putting the street trees in, I would say most of the lots, a couple of the lots that have like ornamental plantings, in front, we have to talk to those home owners about, that's where we are with this right now.

Chairman Camilli: We're still not certain though that that absolves the home owner, from Snow going after him, his money, based on the contract?

Ed Meehan: Right, but the one problem, and it's not maybe even resolvable, legally, if these homeowners refuse to let the developer on the property, and we are forced to call the bond, and then the Town is in the position of trying to get permission to go on private property, to get hold harmless agreements and releases from people who may not want trees. Basically, there is no legal answer to that. At this point, they have established lawns, have irrigation systems in some cases, they may not let Mr. Snow or the town on. It's unfortunate, because I think it enhances their subdivision but, that is what we are trying to work out.

Chairman Camilli: I just have one comment and I'm feverishly looking for Ed's letter that was sent also to the town attorney, to give us some direction on the Hunter Development, which we postponed tonight, because the Conservation Commission denied that application, where does that leave us. From what Ed's research has showed so far, that we would take it into

consideration, and we can still vote the way we want, but I have concerns about, you know, if we, just by way of example, if they also deny Reno property in terms of Conservation and we say approve the Hunter and deny Reno, as you know Attorney Wise is very, very much a stickler on, that we judge everything appropriately. As I said, these are questions that are going through my mind, and I just wanted you to know that, where does that leave this Commission? That is part of our record, you know, on both of those, they are so close together and I think we probably should be consistent if you will, whatever way we go.

Ed Meehan: Well, it's important to be consistent, because these two developments share a common wetland area that straddles the property line, and both applicants have talked about a common road going through, and a common traffic signal, but from the wetlands point of view, they have a very narrow responsibility and focusing on the impact to the wetlands, and what other feasible way can a developer design their site so they don't negatively impact the wetlands or the upland review area. Apparently in the Hunter case, there wasn't enough members convinced that the applicant had met that test. So, if they chose to do the same thing with the Connecticut Children's Medical Center piece, this review by the town attorney will be beneficial in that case also.

Chairman Camilli: So that is where we are with that, I just wanted a heads up.

C. Bond Reductions

133 Louis Street – Gold Star Medical
Sunrise Estates – Waverly Drive
711 Willard Avenue,

Discussed Under Old Business

XII. ADJOURNMENT

Commissioner Pruettt moved to adjourn the meeting. The motion was seconded by Commissioner Kornichuk. The meeting was adjourned at 11:50 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary