

NEWINGTON TOWN PLAN AND ZONING COMMISSION

October 26, 2011

Regular Meeting

Chairman Pruet called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL

Commissioners Present

Commissioner Anest
Commissioner Camerota
Commissioner Lenares
Commissioner Pane
Chairman Pruet
Commissioner Schatz
Commissioner Turco

Commissioners Absent

Commissioner Hall
Commissioner Aieta

Staff Present

Ed Meehan, Town Planner

Commissioner Turco was seated for Commissioner Hall.

Chairman Pruet: If it meets with the approval of the Commission, I would like to move Petition 30-11 up to public hearings to coordinate with 28-11 and 29-11 due to their similarities. Is there a problem with that? Okay, good.

II. PUBLIC HEARINGS

- A. **PETITION 28-11** – 3573 Berlin Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner, contact James Brown 59 Cove Road, Lyme, CT 06371 request for Special Exception Section 3.19 and 3.15.4 restaurant use with drive through window service, PD Zone District. Continued from October 12, 2011.
- B. **PETITION 29-11** - 3573 Berlin Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner, contact James Brown 59 Cove Road, Lyme, CT 06371 request for Special Exception Section 3.19 restaurant use PD Zone District. Continued from October 12, 2011.
- C. **PETITION 30-11** – 3573 Turnpike at corner of Rowley Street, known as Maguire Sports Bar, Brown Realty LLC owner, contact James Brown 59 Cove Road, Lyme, CT 06371 request for Site plan Development, Section 5.3 for multiple building commercial plaza and waiver of front yard green space setback, Section 6.10.4 (B) Inland Wetlands Agency Report required. Continued from October 12, 2011.

Chairman Pruet: Thank you. Okay, would the petitioner step forward please, state your name and address for the record.

Ozzie Torres: Mr. Chairman, Members of the Commission, my name is Ozzie Torres, I'm an engineer of record, I work with Jim Brown, the owner who is making this petition to this Commission for the items noted on the agenda. Number one is for a restaurant use with a drive through window, the second would be for a restaurant use in the PD Zone, and finally for site approval in the third portion of 30-11. On the first portion of the restaurant use with a drive through window, the restaurant is proposed as 1,840 square feet, as I have shown on the plans, and plans submitted to you recently. It also has the drive through window shown here, with ample stacking space in accordance with the coffee shop itself, it would be Starbucks, and we do have a letter from them, and it's in your package, from their engineers, basically saying that this is exactly what they are looking for as far as stacking and the amount of room required. Now as mentioned last time, by Mr. Meehan, the entrance to the stacking, the drive through window is far enough away from the intersections so that we comply with the town regulations of being far enough from that. We are also serving only one restaurant in the, there are two restaurants there shown, at least a restaurant next to a coffee shop, but only one is served with a window which again, complies with your regulations as I understand. Now, the second use would be, the second petition is for the restaurant use, a sit down restaurant, which is next door to it. We have provided ample parking, the size of the restaurant is 2440 square feet as shown on the plans or as revised on the plans that you have. Again, they will be provided with a small patio area and I failed to mention that the coffee shop also has a small patio area in the front. There is parking shown around each of these two buildings that will comply with the requirements for those restaurants as well as the bank. Now we have provided on the site plan within the parking area over ten percent of green which again is a requirement by, for the site plan approval, which is the third petition shown here. What we are planning to do is, in the corner, just outside the property line, the street line to Rowley Street is where there will be a proposed sign and that sign will, we will come back to the Commission for approval for that sign, a pylon sign. Presently we are just looking for these other three petitions.

As I said, the parking requirements were shown on the plan, and complied with again, we are in conformance with the regulations, and we were requesting the grass area in the front to be a five foot strip instead of thirty-five feet beyond the building line which is your regulations, so there is a waiver there for us, we're asking for that. As you can see, in the proposal, if you look at existing conditions, you can see the amount of grass area around the parcel now, and we're talking about the limits of the property line, and then the edges of the curbs around there, and if you look at this plan here, again, the property line, the edges of the curbs, we can see that we added quite a bit of green to the front of the whole parcel and it and we've included ten percent green within the parcel which again is in accordance with your site plan regulations. We have had both the bank and the restaurant look at the layout and they feel very comfortable with the traffic movement for their services as well as any of the trucks that would come in to supply them with their supplies. For the restaurant and the coffee shop, they will be small type vehicles, UPS type, smaller than that, and they would stop during non-busy hours, most likely at the front of the side of the building, you don't have to drive through the drive through and there is plenty of room just to stop, drop off their small packages and go on. They do not receive tractor trailers and neither does the bank. The bank again just gets envelope, paper work, that kind of thing so the only area where we foresee any traffic for tractor trailers would be around the back of the retail building, and that has been made very simple, very easy turns which would not require the larger turns that we are showing here. Finally what we would like to say is we will comply with whatever the State of Connecticut Department of Transportation will require of us for the entrance to the parcel here on the Berlin Turnpike. If they say we need a deceleration lane, if they say we need to do one way

only, we will comply with all that, so we have no problem with those issues. As I understand it, this Commission must approve it first before they will look into it anyway as a final way. Again, they are going to be the final direction as to how that entrance is shaped. I think I've covered pretty much the things we missed, that we may not have touched on last time, and I do have with me a copy of the letter from the Conservation Commission submitted to the Commission for the record, even though I'm sure you will get a copy directly from them most likely, but if not, that shows that we have received approval from the Conservation Commission with conditions of course, and we will comply with all those conditions as noted. So at this point, I do believe that we have a staff report from the Planning Department and we would be glad to answer if you would like to read that into the record as you normally would.

Chairman Pruet: Okay, before I turn it over to Ed, we have some major concern last time with the snow removal, the shipped off site, the payload, that's good. You mentioned about the limitations of tractor trailers coming into the front. I'd like to see that restriction, in the form of your lease maybe, that these people don't, bring it to their attention, and maybe some signage out there too, about truck prohibitions, because that could really snarl things up if a tractor trailer takes the wrong turn in there.....

Ozzie Torres: Right, we're willing to put signs up, I'll note that, that we will have signs up, truck traffic and we will direct it to the rear of the parcel for that.

Chairman Pruet: Ed, comments from our town planner?

Ed Meehan: Thank you. The Commission members have the staff report which summarizes essentially three important components of the site. It has also been shared with the applicant and their professional engineer. Mr. Torres touched on one of the components, it has to do with traffic, access to this site from the Berlin Turnpike, southbound lane. I had a preliminary discussion with District One's traffic engineer about the project. He's seen the plans, he hasn't started a full review and evaluation of it yet, but the staff report mentions the issue of the multiple decision points of the main driveway coming in, with the stop bars for the two pad sites and then obviously the stop bar for the major internal driveway, so as this goes through the review, if you approve this, with the Department of Transportation, we will have to stay in touch with their staff to see if they do require just one way in, and prohibit turns out, and see how that affects, if it does at all, how it affects the internal design as Mr. Torres has presented it.

The second area of internal circulation is the issue with inter-site to connections to Newington Fair, along the north property line. Two are shown, and I'm suggesting that the westerly driveway cut, which is shown as thirty feet wide, be moved slightly to align with the driveway that is on the south side of Toys R Us, actually the west side of Toys R Us, so that we have ninety degree alignment. That's a safer alignment because opposing drivers have good vision of each other. I think that alignment would discourage people from having a straight cut through, a short cut around the back of the retail building which would not be good for traffic safety and circulation. A fair amount of traffic comes out of that driveway now from Stew Leonard's, they go out past the driveway that serves L.A. Fitness and then they come around and go out to Rowley Street, so that's a small change. It would affect a couple of parking spaces on the north side of the building, but I feel that those spaces are, location wise and count wise, are not a detriment to the site. The driveway out to, on the north side, going also into Newington Fair, is both shown as two way, and I think that should be looked at a little bit, because, for two reasons, first, cars exiting there, they could go back to the Berlin Turnpike or also, if there is a vehicle that wants to go straight across into Newington Fair, there is a chance of a car coming in very quickly from the Berlin Turnpike, broadsiding it. There's only about 180 feet between that driveway and the turn in from the Berlin Turnpike, so one of the staff suggestions is to extend the island so that people wouldn't cut across.

That will push cars wanting to get in here to the westerly driveway. That may not be too bad, because if they are coming back to go to Starbucks and they would get right into the queue line, just take a right turn into the queue line, or if they are going to the bank, for drive through purposes, take a right turn into the bank. The other way if, these are off site issues, so you know, I don't know how well the applicant can make these happen. The other way is just to post it, Do Not Exit, so cars would not go out that way, or another option is to design the driveway so that it forces right turns out to the Berlin Turnpike, and discourages people from going straight across. These are a couple different ideas that should be looked at. The other staff comments that you should keep in mind, is that the applicant is asking for a thirty foot waiver for the front yard green space, that's a substantial waiver request. This is a corner site, which with two front yards, these setbacks do consume a lot of the real estate of the private property owner. Two of the reasons that the Commission can look to for potential waiver consideration relate to this internal site access with neighboring properties. We call these access management measures where for the convenience of the patrons coming here and traffic circulation, we list these in our site plan review, examples of access management, so that is one benefit that the Commission can look to and the other one is enhanced landscaping on the site. It's been mentioned about the green space in the front, I would recommend that the landscape areas, to the extent possible be all irrigated across the front and around the pads of the buildings. There is a lot of pavement on this site, so irrigation I think is going to be important.

The third component is very briefly listed as site plan design modifications. I have already spoken to Mr. Brown and Ozzie about these, this is really intended to be used as a check list, as they finish up the plans. There is nothing here that is a deal breaker I don't think. Details for curbing, lighting, I know that you have to provide the Inland Wetlands with a detail on the back dumpsters, so we will coordinate with that agency, and then just some, I just got tonight the building elevations, for all four sides of the building. They are now from concept to line drawing stage, so those will be available for the Commission to look at, so these types of minor changes are something that staff can work with the applicant over the next couple of weeks. We are still reviewing the storm water drainage, Town Engineer Chris Greenlaw is working with Mr. Torres on that.

Chairman Pruet: Any comments on Ed's.....

James Brown: If I can comment for the record, my name is James Brown, I live at 59 Cove Road in Lyme, Connecticut. We've spent a lot of time working with Ed on this plan and, in fact I'd like to thank him. I chew up a lot of his time. I'd be more than happy to make the changes that Ed has requested. With regards to the, it's no problem making a cut here, moving it over, and in so far as this intersection is concerned, we'll sit down with Ed at his earliest convenience and work out something that he feels works well with the plan. I have no problem what so ever. We planned on sprinkling the property anyway, that's no problem. We planned on putting concrete curbs, bituminous just doesn't last, it gets torn to pieces. We spent a lot of time on design for this particular thing. I think, well, in my opinion, which is rather self serving, it may not be the largest plaza on the turnpike, but I think it will be the most esthetically pleasing plaza on the turnpike. I think what we have designed here has some character. It's commercial, but it's warm, so, and a lot of thought went into the plaza design itself. It's not a cheap building to put up, but I expect to be around for a short period of time, my son will take it over, and it will pay for grandkid's educations. So, everything we have done here, I would like to think we have taken a long term look at this thing, and I don't know whether I mentioned it here, or mentioned it at Inland Wetlands, but Ed made a good point, it's a legacy thing, this is the last thing that I'm going to build. I want it to be right. We are even going for LEED certification on this, which means as much as possible the project will be green. I'd like to think that the last thing that I did in the Town of Newington left a better mark than what is sitting there now. It is what it is. Now, when somebody says, what

do you do, I own the plaza. It's a lot nicer thing to hand your hat on. So, we're not short cutting, I don't think we are, anything in this plan. It had to be economically viable, it had to be esthetically pleasing, and to a certain extent it had to work with any environmental concerns. I mean, I can get into how we are going to compact the trash, this, that, and every other thing, but I think as a whole, again, self serving, when you look at what is there now, I wouldn't hang my hat on that, and what we are going to deliver, and the type of tenants that we are going to put on the property, I think it's a win for us and a win for the town. Again, I've had no problem working with Ed, he's put a lot of time and effort into this, for that matter, so has the Town Engineer, and I've always considered his input insightful and I'm sure on that one particular, this is a given, I can't make a promise for the abutting property owners in so far as extending this, but I can have my attorney contact them immediately and see what we can work out so that we have a safe, efficient traffic flow on the site. If anybody has any questions they would like to ask me, I'd be more than happy to answer them.

Chairman Pruet: Okay. Commissioner comments?

Commissioner Anest: Ed, I have a really quick comment. You are proposing that they eliminate five parking spaces?

Ed Meehan: Yes.

Commissioner Anest: Okay, and on the front it says that the required spaces are 149 and there is 153 shown. Does that 153 take into consideration the five that.....

Ed Meehan: No, it would be 153 minus five.

Commissioner Anest: So it would be less than what is required.

Ed Meehan: Well, they haven't taken any credit for shared parking on this site which I think, looking at the uses such as the bank, or a retail use, some consideration could be given to.

Commissioner Anest: Okay, thank you.

Commissioner Pane: Ed, you talked about Section 6.10.5 on the buffers, and that Section, (C) describes what this Commission can and cannot do?

Ed Meehan: Right.

Commissioner Pane: And there is a little discrepancy?

Ed Meehan: Well, it requires a two thirds vote....

Commissioner Pane: Besides that?

Ed Meehan: Besides that being what? I don't follow you.

Commissioner Pane: It says the buffer may not be increased more than double, nor decreased less than half the requirement herein and such action shall require a two thirds vote.

Ed Meehan: I'm not sure that refers to the front yard buffer. I know when the Commission has waived it in the past, the reduction to one half has been applied to your fifty foot buffer for auto related uses, or your twenty-five foot buffer for commercial/residential.

Commissioner Pane: It says, front yards must comply with Section 6.10.5 (C).

Ed Meehan: I don't think it has been applied that way Domenic, but I will look back and see if I can find some other properties that have gone through this waiver provision.

Commissioner Pane: You mentioned one farther up on the Berlin Turnpike.

Ed Meehan: I believe it is now where Pier One and Bond Dinettes was a tenant in there I believe, and a vision store, those two big commercial buildings in that area. I can check those records out.

Chairman Pruet: Any further comments from Commissioners?

Commissioner Camerota: For the restaurant use, do you know what type of restaurant is going to be in there?

James Brown: You can ask my real estate agent sitting in the back there. We just spoke to another prospective tenant, and the problem with these large multi-national chains is there is confidentiality, and we are finally at the point where I can say, Chase Bank is going in there, and Starbucks in going in here, which were probably two of the worst kept secrets in the world, but you have to sign these confidentially agreements, I don't know why.

Commissioner Camerota: I guess I'm more looking for what kind of hours of operation they are going to have for the restaurant.

James Brown: I would imagine, and again, it's conjecture on my part, this would probably open about eleven and I would imagine close at nine or ten. Starbucks does the bulk of their business, needless to say in the morning, and the good thing about the bank is, they open late and close early. I know there were some concerns about Starbucks, but the fact is, when they do most of their business, the rest of this plaza, there won't be anyone, they start early. The retail space won't open up until nine or ten o'clock, by then, they have passed their peak. For what it's worth, the nature of the tenants that we have been dealing with, they have taken an incredibly long hard look at this. We've been negotiating with Starbucks now, it seems forever. They are nitpickers, it's a little thing here, a little thing there, Chase Bank, they have sixteen different committees to get through. Everybody has to look at something. They are all fairly cognizant of parking, how they want their business to run, what might conflict with their business, and there is no end to the questions that they ask and the feedback that you have to get for them. It's the nature of the beast. As a matter of fact, the real estate agent said to me, some of your best tenants are going to be the biggest pain in the ass. Because he said, they are going to run you through a very long process. The good thing is, when you get this type of a nation tenant, you've got a long term tenant that I would like to think, it brings up the property. It's not just a, and no deference to mom and pop stores, it's just not a group of mom and pop stores, it's a group of national tenants, you can depend on their leases, you don't have any problems with them, and they have a corporate image that they worry about too. So, once you finally get through all of the nonsense, they are the best tenants that you could have. But, it's a very long arduous process getting through this thing.

Chairman Pruet: Thank you. Thank you, gentlemen for your presentation.

James Brown: Oh, if I might, I've got a letter here, I don't know if it makes any difference, from Stew Leonard's, an abutting property owner and their thoughts on the project. Thank you for your time.

Chairman Pruet: Thank you. This is a public hearing, and members of the public are encouraged to come forward and render their opinion. Anyone wishing to speak in favor of this petition, please come forward. Anybody wishing to speak against this petition? Okay, seeing none, how does the Commission feel about moving this forward? Okay, good. We are going to close the public hearing and move it forward.

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

None.

IV. **MINUTES**

October 12, 2011 – Regular Meeting

Commissioner Schatz moved to accept the minutes of the October 12, 2011 regular meeting. The motion was seconded by Commissioner Camerota. The vote was unanimously in favor of the motion, with seven voting YES.

V. **COMMUNICATIONS AND REPORTS**

A. 8-24 Referral Report – Street Acceptance Barkledge Drive and Sterling Drive.
Continued from October 12, 2011.

Ed Meehan: This is the 8-24 Referral for street acceptance for Barkledge and Sterling Drive as continued from October 12th. The Commission asked for a site inspection. We did a walk through yesterday. Mr. Pane, Carol Anest were present with two members of the Woodland Condo Board and a resident of the Association. I won't speak for the members that were present, but I did take notes for the walk through. A couple of follow-up items that I agreed that I would contact Pulte Homes about. They are outside the public rights of way, but never the less, I have been in contact with Pulte and they said that they would address these items. A couple of these items have been on the list for Pulte to do prior to the 8-24. Two of them have to do with changes to grading behind buildings on Sterling to address water issues as far as flowing the water away from foundations. Another one has to do with the accumulation of water coming off the back of driveways which is causing very soggy conditions. I talked with the project manager for Pulte this morning, he is going to address both of those. Both will require equipment to be brought into the site to create the swales or hopefully they don't have to get into any shallow bedrock to take, one suggestion is to put a yard drain in one of these areas. There's also an area where they are going to come back and look at either what they call slice seeding or just hand seeding and loaming. Some tough areas where spotty grass is growing, next to Unit 196. It's pretty evident that we can see the demarcation of where they sodded and where the natural soil was used to try to grow grass, and the soil was rocky and it's not coming in that well, so they agreed to look at that. I also was asked by the homeowner's treasurer, he was the board member who walked with us yesterday to provide information on when Pulte Homes grubbed out the drainage basin, which is their drainage basin for maintenance, but Pulte was supposed to turn it over clean to them. According to the person at Pulte this morning I spoke with, it was done in early April, 2011 and he is going to provide me with a copy of the invoice from his landscape company. There were a couple of items on the town's list that they took care of at the front entrance with the MDC water gage shut off, and a former pedestal for the mailbox. So on the whole, we will continue to monitor the site. The work within the public right of way, I think has been well done. There are sidewalk cracks that we will monitor. The Town Engineer will go out and inspect those, actually after the winter season, and he will develop a punch list for any items in the street

right of way which our maintenance bond covers. So I believe that Pulte will address these issues. They are very eager to have a definitive end to the list, let me put it that way. I think on the whole, the site is in very good shape, and I think with these items being addressed the homeowners association will be satisfied.

Chairman Pruet: Very good. Dom, anything you want to add to that?

Commissioner Pane: I feel exactly the way, Ed covered everything very well, and all in all it is a nice looking site and there's just a couple of little areas that, I didn't think anything major, just a couple of minor things and it would be nice to get this done with.

Commissioner Anest: I agree with Ed and Domenic.

Chairman Pruet: Okay, consensus to move this into Old Business where we can vote on this tonight.

VI. NEW BUSINESS

VII. OLD BUSINESS

- A. Petition 12-11 – Toll Brothers, 53 Church Hill Road Newtown, CT 06460 applicant, Balf Company owner request approval for open space subdivision development, 71 lots single family homes, 73.7 acres for property north of Old Highway and west of Russell Road, Assessor's Map Block Lot No. 11/329/000, R-20 Residential Zone District. Public Hearing closed August 24, 2011. Sixty-five day decision period ends October 28, 2011. Continued from October 12, 2011. Inland Wetlands Report received.**

Commissioner Lenares moved that Petition 12-11 – Toll Brothers, 53 Church Hill Road Newtown, CT 06460 applicant, Balf Company owner request approval for open space subdivision Zoning Regulations, Special Permit Section 6.8 development, 71 lots single family homes, 73.7 acres for property north of Old Highway and west of Russell Road, Assessor's Map Block Lot No. 11/329/000, R-20 Residential Zone District be approved based on revised subdivision plan dated July 27, 2011, showing 64 lots, as modified by drawing dated August 16, 2011, sheet SP-1 Alt showing 62 lots with the following reasons and conditions.

A. Reasons

1. The Commission finds that the applicable Special Permit Standards of Section 5.2.6 have been addressed.
 - The development of the property for residential use fulfills a need and demand for single family housing.
 - The residential use is compatible with the probable future character of the area and the 2020 Plan of Conservation and Development land use recommendations.
 - The subdivision will be served with Metropolitan District water and sewer utilities.
 - The subdivision's traffic circulation and impact on existing streets can be adequately accommodated.

- The subdivision development plan provides landscape buffers to protect adjacent parcels and the Old Highway Greenway.
- 2. The Commission finds that the Zoning Regulations Special Permit Open Space Requirements Section 6.8 will be satisfied by the donation of approximately 44 acres of land to the Town for preservation as public open space use.
- 3. This 44 acres of new protected open space abuts Balf Park, together these two parcels will preserve 50 acres of Cedar Mountain for public use and scenic vistas enjoyment.
- 4. The dedication of 44 acres for open space use is consistent with and furthers the 2020 Plan of Conservation and Development Natural Resources and Open Space and Greenways Strategies, (pages 15-19).

B. Conditions

1. Pursuant to the Zoning Regulations Special Permit Open Space Requirements, Section 6.8.5 no final approval of the single family lot subdivision shall be granted and no permit shall be issued, until all documents required by these regulations have been submitted and accepted by the Commission.
2. Prior to the Open Space Subdivision become effective, the single family lot subdivision design modifications required by companion Petition 13-11 shall be completed and re-submitted to the Commission for its' approval.

C. The Newington Conservation Commission Inland Wetlands report.

1. The Commission acknowledges the receipt of Inland Wetlands Agency report, Application 2011-02 dated September 27, 2011.

The motion was seconded by Commissioner Pane.

Chairman Pruet: We'll do both of these Ed?

Ed Meehan: No, I think you should do one, you have a second, maybe you want to discuss this.

Chairman Pruet: I just want to put a highlight on, in the past we discussed both of these motions together, but we are going to discuss them separately and vote on them. We have a second, discussion on this motion?

Commissioner Schatz: With the conditions that are on here, I like the idea of the 44 acres coming to the town, which later on, we might not receive that. There are a lot of conditions here that they have to meet. I feel that the 44 acres, I want the 44 acres for the Town of Newington.

Chairman Pruet: Thank you. Other comments?

Commissioner Camerota: On this petition, I do think that it complies with our 2020 Plan of Conservation and Development. Getting the 44 acres with the proposed purchase of the other piece of property preserves a majority of the mountain for public use. It is currently

zoned residential and I think it protects the fifty percent slope as well as one of the other plans objective of maintaining open space.

Commissioner Pane: I'd just like to say that I'm in favor of this. I think that this was the best method for achieving the maximum open space possible, and I think that was all because this Commission earlier took a lot of the strategic strategy from the 2020 Plan and implemented them into our regulations, and I think that had a big part on saving the open space. If, I know that there are a lot of residents that felt that we should just have R-20 houses up there, instead of this open space, but if we did that, then we would have zero open space available to the public. So I believe this would be the best method to provide open space for the public. Thank you Mr. Chairman.

Chairman Pruet: Thank you. Anyone else?

Commissioner Lenares: Not to reiterate what I said at the last meeting, I thought I was pretty clear, where I gave a lot of explanations, reasoning's and conditions and inputs, I can't stress enough with this Petition in front of us, by approving it, it achieves as Domenic just mentioned, the maximum allotted open space for this town, but it's not because of any of us why we are here and we are achieving this much, it's because of the residents that had come to this Commission at the prior meetings, upon meetings, upon meetings that had expressed their concerns for open space and all the conditions that needed to be met in terms of protection of their homes and blasting and erosion control and water runoff and all of that, that we have to take into consideration, I believe this is the best fit, with their needs and for the town. It's not my personal feeling whether I want it to be open space or whether I want development, but it's more or less the appropriate decision, what's best for this town. It's not personal, our job here as Commissioners is to be as open minded as we could and decide what's best for this town, and I think by approving this and getting those 44 acres, that decision is going to allow the town to be in a better spot than it would be by denying it, and potentially allowing them to come back with an R-20 development, which gains us zero. So, thank you.

Commissioner Anest: Well, I've listened to everybody's concerns and I agree that it does comply kind of with the 2020 Plan. I have a different view on this, so please let me state what I have to say. I feel the suitability of the land is not conducive to building. When we get to the next petition, you will see why, that there are so many conditions on the approval, how can we build on this property? Also this Commission has not taken due consideration of the Conservation Commission's denial and unfortunately we did not have much time to review it and discuss how much weight we should give this denial. In my opinion, there is not a need for these homes with the way that the market is so saturated. I still have major concerns on the traffic and any quick-fix remedy to make it work. The health and safety of our residents should be a priority, and weight should, we should weigh this heavily in our decision. I believe this Commission is being very naïve, if you think Toll Brothers is in the business of donating open space and being generous, you are mistaken. Because they cannot build on this land, they are "gifting" this to us. They do not want the responsibility of maintaining it, and there is a large amount of land for a homeowners association to secure, maintain and insure. Why do you think the more restrictions that we are imposing on them, the more open space we are gaining? I have other concerns that I have addressed previously, including the blasting and the drainage and I fear that my concerns have not been addressed adequately. Thank you.

Chairman Pruet: Okay, anybody else?

Commissioner Pane: As far as the Wetlands Commission, I just want to state for the record that I thoroughly read the minutes that were given to us, and I have taken due consideration of their minutes and what they came up with, in my decision making. I thought the way that that meeting was run was a travesty and that there's a good chance that they have put the town at, into litigation. As far as the open space, if you truly are for open space, I mean, truly for open space, you cannot be for anything but this. This gives us open space for the people. There's no other way that you could get this kind of open space for the people and I just find it amazing that people want us to deny this, yet they want open space, so I just want to state that for the record. Thank you.

Chairman Pruet: Thank you. Anybody else?

Commissioner Camerota: I was going to save this comment for the next petition, but in light of Commissioner Anest's comments, as far as the Conservation Commission's decision, I think in the next petition, you will see that the conditions that we're going to impose in these two motions, address the reasons given by the Conservation Commission members for denying the petition, and these conditions incorporate many additional recommendations in the CERT report that the applicant did not incorporate before when they were before the Conservation Commission.

Commissioner Schatz: I appreciate what Commissioner Anest says, and I understand where she is coming from. I had a lot of concerns with the blasting along with everybody else, and but I'm looking at it, it's 44 acres and with what the Council was taking about last night, they are adding 28 to it, which is a nice amount. And, the people will own it. It's as simple as that.

Commissioner Turco: I agree with a lot of the concerns that Commissioner Anest has on this petition, but I just wanted to state, however, I'm going to be voting in favor of the petition. It's been many months of reviewing this, it's a difficult decision, but I think we have done a lot with this petition and the next petition to protect this land as much as possible, and if we deny this, and then they came with just a standard R-20, we would lose some of that control from everything that I have heard and learned here, trying to protect the land. Also, we started out with zero acres dedicated open space, and I know a lot of the people that were here and I appreciate all of their comments and concerns continuously came to us and said, you know, I get to go up there hiking, and camping, and really enjoying the land, but in reality, it wasn't their land to do that on. After we pass this petition tonight, over half of this land, 44 acres will be the people's of Newington, and it's perhaps unfortunate that the other half is going to have some development, again there will be restrictions that we are requiring in here. They will have to meet Inland Wetlands decision, Conservation Commission's decision, and other restrictions that we are putting in here. But in some ways, this is a victory for the people in Newington. Not in every way, there are still concerns, like Commissioner Anest said, but in some ways we've gained 44 acres, and now the people can legally enjoy it here in Newington, so I will be voting in favor of this.

Chairman Pruet: Thank you.

Commissioner Lenares: Just to present something, and I know that there might be a couple of differences of opinions concerning something and what not, and never do I have any less of an opinion of any Commissioner that doesn't agree with what I'm saying, or anybody else and it's with all due respect to Carol's opinions as much as a respect of the Inland Wetlands Commission that I respect with what they came up with as well. I mean, you have to go a step further, that we took the efforts to hire a land use attorney that came in and gave us his recommendation, professional opinion about how to handle this denial on their end concerned with what we are supposed to do. If you don't remember, his opinion was you're

two separate entities and you have to treat it separately, and I took that, and as Domenic did say, I read that report that came from them, but I also remembered that he said that you have to look at this petition as your body, not considering what their body had already done, and I respected that opinion of the councilor that we brought in there and I factored all of that in, and you have to make a decision based on your Commission, not because what they denied, they are still going to have to, at some point go back and make good by them. Just because we give our approval doesn't mean they start digging tomorrow morning. They still have to go and make good by that respective board that we have in our town that denied them initially. So it's not over, but they still have to do their protocol and do right by that Commission. And if they don't choose to do that, that's their problem, if they choose to do that, kudos to them. I mean, but they still have to do their due diligence on their end, just as we are doing it on ours.

Chairman Pruet: Okay, further comments?

After a roll call vote, the motion passed 6 in favor, one opposed (Anest).

B. Petition 13-11 – Toll Brothers, 53 Church Hill Road Newtown, CT 06460 applicant, Balf Company owner request for Special Permit Section 6.8 Zoning Regulations for open space subdivision, 71 lots single family homes 73.7 acres for property north of Old Highway and west of Russell Road, Assessor's Map Block Lot No. 11/329/000 R-20 Residential Zone District. Public Hearing Closed August 24, 2011. Sixty-five day decision period ends October 28, 2011. Continued from October 12, 2011. Inland Wetlands Report received

Commissioner Pane moved that Petition 13-11 – Toll Brothers, 53 Church Hill Road, Newtown, CT 06460 applicant, Balf Company owner request for open space subdivision development, 71 lots single family homes 73.7 acres for property north of Old Highway and west of Russell Road, Assessor's Map Block Lot No. 11/329/000 R-20 Residential Zone District be approved based on revised subdivision plans dated July 27, 2011 showing 64 lots as modified by drawing dated August 16, 2011, Sheet SP-1 showing 62 lots submitted at public hearing August 24, 2011.

The Commission's decision to approve this subdivision is based on the following reasons and the submission of modified plans that bring the design into conformance with the Zoning Regulation. These modified plans shall be submitted to the Commission for its approval prior to the Chairman signing the subdivision mylars.

A. Reasons:

1. The use of this property for residential single-family homes is consistent with its R-20 Zone District designation.
2. The proposed lots frontage width, yard side backs and sizes comply with the Zoning Regulations to open space subdivision in the R-20 zone district.
3. The proposed roadway design complies with the Subdivision Regulation standards for residential streets.
4. The subdivision will be served with a full range of public utilities all placed underground.

5. The conveyance of approximately 44 acres of the property to the Town of Newington for public open space complies with the Zoning Regulations Section 6.8 Open Space Subdivisions, the Subdivision Regulations Section 3.9 and is in harmony with the 2020 Plan of Conservation and Development strategies recommending the preservation of the Cedar Mountain ridgeline.

B. Subdivision Plan Modifications

1. The five (5) Storm water Management Basin areas shall be relocated out of land to be deeded to the Town. Property boundaries shall be delineated around each basin area for ownership and maintenance responsibility by a homeowners association.

The Town of Newington shall be granted drainage rights to direct public street storm water into the basins. The limit of Town responsibility for each basin shall terminate at the Water Quality Structure located in the public street right of way.

2. Add notes to the grading and utility plan "Homeowners' Association shall be responsible for maintenance of the Stormwater Management Basins."
3. Submit to the Town Engineer for approval a draft stormwater management maintenance plan that will be the responsibility of the homeowners association to implement.
4. Relocate the proposed sanitary sewer line out of the Old Highway Greenway, no construction and no tree clearing will be permitted within the greenway and 50 foot buffer. Zoning Regulations Section 6.10.5 (B)
5. Relocate stormwater management basin #1, at the southeast corner of the subdivision, out of the 50 foot Old Highway greenway. Redesign the basin to eliminate retaining wall and achieve mowable slope within basin area.
6. Revise limits of clearing and grading for the backyards of lots #1 to #4, the area associated with the stormwater yard drains #7 to #10, to reduce tree cutting along Russell Road and provide replanting plan.
7. Relocate clearing and grading adjacent to lot #48 out of the 50 foot Old Highway greenway buffer. Zoning Regulations Section 6.10.5 (B)
8. Submit redesign of former lots #12 and #13. The redesign should eliminate the 4 foot to 10 foot retaining wall within the proposed street right of way.
9. Submit redesign for lot #11 which, because of elimination of lots #12 and #13, would abut wetlands and drainage areas on west and north sides. The suitability of lot #11 is further diminished by tree clearing and grading for construction of the sanitary sewer line along its easterly boundary. The clearing of trees and grading within the Russell Road right of way should be redesigned.
10. Submit redesign for Stormwater Management Basin #2 on Russell Road to remove tree clearing, grading and spillway out of the Russell Road right of way.
11. Submit revised grading plan for proposed lot #29 avoiding 15 percent slope area and retaining wall in rear yard.

12. Change proposed street name from "Cedar Mountain" to a name that does not sound similar.
13. Eliminate parking within cul-de-sacs adjacent to Old Highway greenway.
14. Add note: The developer's blasting contractor shall conduct their activities in accordance with State regulations and the requirements of the Newington Fire Marshal. The protocol for pre and post blasting monitoring, as outlined in BL Companies August 9, 2011 letter (submitted at August 9, 2011 public hearing) pages 10 to 13, shall be followed.
15. The developer's engineer submitted testimony that the proposed grading plan will result in a balance of cut and fill material. Add note to plans, "Prior to processing of rock on site, developer shall apply for Special Permit Zoning Regulations Section 6.4."
16. Add note to plans, MDC pump station building shall be designed and constructed in accordance with building elevation submitted to the Commission August 10, 2011.
17. Add note to plans, "MDC pump station at northeast corner of subdivision, "Not an approved Residential Building Lot – For Utility Service Building Use Only."
18. Proposed ground sign at entrance to subdivision (Sheet DN-10 is not approved and will require Special Exception petition. Zoning Regulations Section 6.2.4.
19. The developer's engineer shall certify to the Town Engineer that all stormwater management improvements have been constructed in accordance with the approved plans. The certification shall be submitted to the Town Engineer prior to the issuance of the first certificate of occupancy. The Town Engineer may accept drainage certificate for phases of the subdivision. The subdivision performance bond shall not be released until all stormwater management improvements are certified and stabilized.
20. Prior to the final revised subdivision plans being signed by the Commission Chairman the developer shall post a performance bond for the completion of all public subdivision improvements as required by Section 7.5 (B) Subdivision Regulations.

C. The Newington Conservation Commission Inland Wetlands Report

1. The Commission acknowledges the receipt of the Inland Wetlands Agency report Application 2011-02 dated September 27, 2011.

The motion was seconded by Commissioner Schatz.

Chairman Pruet: Discussion of the motion?

Commissioner Anest: I thought at the last meeting we discussed about having some parking spaces on the Old Highway. Should that be in there?

Commissioner Pane: I didn't see that either.

Ed Meehan: Do you want to give the applicant direction on what end of Old Highway you want parking, remember, Old Highway is a greenway.

Commissioner Anest: Right, but we had talked about having four spots right at the beginning.

Commissioner Pane: Closest to Russell Road, I believe.

Ed Meehan: That's in the public right of way. I just want to let you know, it's in the public right of way, there's always going to be the need to investigate grading issues, the area immediately adjacent to Russell Road in some parts of it, I'm not sure about that particular area, that's bounded by the Humane Society on the south, tends to, may have a sharp grade there, it would have to be worked out, so you know, if you are going to ask for that modification to the plan, I would suggest direction to investigate an area for public parking to be designed in, and again resubmitted back to you. Not just leave it open ended, but you want to see what is going to happen in there. I think that's an area where I have observed some people walking and I think some of the Humane property area, or the area that they maintain which is the lawn area, might actually be part of that right of way right now. So, it would need to be surveyed to determine where everything is right now. If that is what the Commission thinks, at that end of the project, within the greenway, you want four or five spaces, you should add it to your motion.

Chairman Pruet: Okay, can you come up with a suitable sentence?

Commissioner Pane: Can I, I'll add something.....

Chairman Pruet: Suggestion, Dom?

Commissioner Pane: Yes, I'll make it number 21. Toll Brothers should submit plans and work with the Town Planner for possible parking spaces adjacent to Russell Road on the Greenway area.

Chairman Pruet: Okay, how does that sound? Sound pretty good?

Commission: Fine

Chairman Pruet: Any other comments?

Commissioner Camerota: I think we discussed at the last meeting the improvements to the traffic island at Russell Road and East Cedar. I don't remember that being something that was on the plan.

Ed Meehan: Those are off-site improvements that would be the requirement of the applicant when they apply for their encroachment permit with the Department of Transportation. That's something normally, or that's something you should not, I would recommend, not do, is to require off-site improvements for this development.

Chairman Pruet: We will be protected when they further comply with the state regulations? Any other further comments?

The vote was in favor of the motion, with six voting YES and one Nay (Anest).

Chairman Pruet: Thank you very much. For the record, it's been a long journey on this, approximately four to five months, the public deserves high marks for their involvement, if it

wasn't for the public coming forward a lot of these things wouldn't be addressed, in my opinion. We relied on the Town and the Commissioners. They brought to our attention numerous items that showed improvement to this overall motion and plan. I just want to say that for the record, I want to thank the residents of the Town of Newington. I also want to thank the Commissioners, an awful lot of hard work on these two petitions. A lot of time went in there and yeoman's work to our Town Planner for working tirelessly on this with everybody involved. I just want to state that for the record.

C. PETITION 27-11 – Hayes Kaufman Newington Associates, LLC applicant, represented by Attorney Mark S. Shipman 20 Batterson Park Road, Farmington, CT 06032 request for Zoning Regulations amendment Section 3.11.7 to permit by Special Exception approval “Fueling Station.” Public hearing closed October 12, 2011. Sixty-five day decision period ends December 16, 2011.

Commissioner Anest moved that Petition 27-11 - Hayes Kaufman Newington Associates, LLC applicant, represented by Attorney Mark S. Shipman 20 Batterson Park Road, Farmington, CT 06032 request for Zoning Regulations amendment Section 3.11.7 to permit by Special Exception “Fueling Station” be approved based on the revised language changing subsection (A) requiring a shopping center with a supermarket grocery tenant occupying not less than sixty thousand (60,000) square feet and adding definition references for supermarket grocery store as defined by Section 30-20 Connecticut General Statutes and volume sales of at least fifty (50%) percent grocery items. (Submitted at September 27, 2011 public hearing.)

Reasons:

1. The Central Connecticut Regional Planning Agency and the Capitol Region Council of Governments have submitted advisory comment finding no inter-town land use conflicts with the proposed “Fueling Station.”
2. The proposed “Fueling Station” use is consistent with and furthers the 2020 Plan of Conservation and Development in the following manner:
 - “Fueling Stations” as an accessory use, present an opportunity to utilize already developed land. This is consistent with the vision statement to maximize our community’s limited land supply. Page 1
 - “Fueling Stations are a new commercial land use that will serve the public and enhance economic development that is essential to Newington’s quality of life. Page 2.
 - “Fueling Stations” would be located where public utilities and roadways are developed as part of shopping centers, whereby having little impact on traffic and adjacent property. Page 24.
3. The proposed Special Exception amendments, Section 3.11.7, provides for a public hearing process and standards that fairly regulate the size, location and traffic impacts of these accessory uses.

Effective Date:

The effective date of this amendment shall be November 9, 2011

The motion was seconded by Commissioner Schatz.

Chairman Pruet: Discussion on the motion?

Commissioner Pane: I don't know if I can really support this. I support possibly the idea, but the method that they are coming in, and implementing this into our regulations, fueling station, as you know, falls under our auto related uses. We discussed this briefly last time, I feel that if a fueling station is something that this Commission wants to add, since we took it out, that we should re-look at the auto related uses because it falls under that. I have no problem putting these in, in certain areas, but we need to put this into our auto related uses, because that is where it falls under. You could say that this doesn't because of the accessory use, but fueling stations are part of our automotive uses and this Commission for all kinds of reasons took fueling station and all other automotive uses out of our regulations for quite a few reasons. If the Commission has second thoughts on that, we should re-look at the auto related uses, in my opinion. This isn't the proper way of doing it. Thank you, Mr. Chairman.

Chairman Pruet: Further comments?

Commissioner Schatz: I'll be on the other side of Domenic. I was on the Commission when we did that. One of the main drivers of removing the auto related uses, we didn't want any more junk yards. We were tired of them, and had problems with the ones that we did have at that time. So, that's how that sort of happened. Fueling stations, I think, I don't have a problem with it personally and if we want to go back later and look at auto related, we could always do that. I don't think right now if someone comes in with an application, oh no, you have to wait six months and we will decide what we are going to do. I don't think that is fair. That's where I stand.

Commissioner Pane: So if someone wants to come in for a fueling station in a big box store, a grocery store, it's okay, but if somebody wants to come in for a fueling station on some other piece of property that doesn't have a big grocery store, it's not in our regulations so, see where the, that's why, see why we have to re-look at this, there's a lot of unfair things going on here, and it's not this Commission's fault that the applicant has presented it this way, but since they did present it this way we have we say to ourselves, do you want to create this separate or do you want to look at this in conjunction with our old auto related uses which covered fueling stations. I believe the correct way of handling it would be the way I stated earlier. Thank you.

Commissioner Lenares: Unfortunately, I don't know how I get into these situations, but I agree with both of them. I seem to always be walking on the fence, like a fence walker but I will take, as I always do, take a stand when I feel that it is necessary. I couldn't agree more with Domenic. I think that, you know what, on a side note, the regulations allowing auto related uses need to be look at, because why would this town want to limit itself on what it should or should not do business as. I agree. In another respect I agree with what Bob just said, in that maybe because of the accessory use and how it falls, it should be considered. I don't have the right answer, and I don't know what it would be. How to go about this, whether to approve it, or deny it, based on what we allow in our regulations. Because of the accessory use, I think it should be considered with hopes that this board will go back and look at what we allow and don't allow concerning auto related uses, which right now is none, which I think is imperative to this board that we do for the town, because we are limiting ourselves on how to do business. I think that is terrible. We have the right to control on how we do business, whether approval or denial with the petition that comes forward, but if we don't allow it at all, then it's hard to make those decisions, but with an accessory use it might be a little bit of a different situation.

Commissioner Schatz: Not to rebut anything, but if someone came in, as Commissioner Pane said, with a piece of land and they wanted to put a gas station in, then they are going to have to build a 60,000 square foot grocery store also.

Chairman Pruet: Yeah, or a shopping center.

Commissioner Anest: I'm leaning towards approving it, because what Bob said about the accessories, but with the caveat that I really think the Commission does need to revisit the auto related uses, that would be the only way that I would lean toward supporting this.

Commissioner Turco: I'll just simply say that I concur with what others have said, and Domenic's concern, so I will vote in favor of this petition based on everything that has been said so far, but we do need to go and look at those regulations and possibly amend them.

Commissioner Camerota: I do agree with Domenic, I think everyone has made their point. I don't know if it should be in the special exception section or in the auto related uses, I think it would fit in either. I don't think it's wrong to put it in either one, but right now we don't have an auto related use section, so I agree, I think Carol's suggestion is right on, that I would approve this, but I think we have to go back and look at, and I know we just did it, I think it was the beginning of the year, we should go back and look at the auto related uses, because it doesn't make a lot of sense.

Commissioner Lenares: Mr. Chairman, before Domenic, because I know that Domenic wants to talk, he's eager, but and we all are agreeing with you, but going against what you are saying, I can't give him enough credit for saying that this might not be the proper way to go about this.

Commissioner Pane: It's not, and I know that you all feel sorry for Rich Hayes, and I like Rich Hayes, I have nothing against him, and I think it's an excellent idea, I agree with it, but the method that this Commission is taking is improper. We should be, this very easily could be taken care of because this is a fueling station, it falls under our auto related uses. But we don't have auto related uses. So, right today, today you are not allowed to put any new gas stations in town, now besides fueling stations for big grocery stores, what about fueling stations for electric cars down the road, so this is why I said, we should look at this, as a complete package under the auto related uses, by making this a separate thing is wrong, and I know that everybody feels that they want to get it done for him, but this is not the correct method of doing it. We should be looking at our auto related uses, the fueling stations, and electric fuel and everything and coming up with something that works throughout the Town of Newington. It was only, not too long ago, that everybody disagreed with me and said, we're taking all the auto related uses out of the Town of Newington, and you guys all voted to take them out of the regulations, or wouldn't look at it again, wouldn't address it again. Now you agree with me, but, I don't know.

Chairman Pruet: I guess it comes down to it, and Domenic made excellent points as well as the others. I heard from the Town Planner, I heard from legal advice, technically this doesn't come under motor vehicle regulations. It comes under the Department of Consumer Protection. There is a fine line there.

Commissioner Pane: But it's a fueling station which is covered under our auto related uses.

Chairman Pruet: Unfortunately, we don't have any.

Commissioner Pane: So then it's not allowed.

Chairman Pruet: Because it's a separate, am I correct on that Ed?

Ed Meehan: Yeah, it's not allowed because it is not in your regulations right now, uses not listed are not permitted, and it's coming in as a special exception specifically not as an auto related use, they are presenting this as a fueling station, not as an auto related use.

Commissioner Pane: Circumventing it. You are circumventing the regulations that were taken out of our regulations for reasons, and I don't disagree with possibly putting it back in but the methodology of how you are doing it is improper. Thank you.

Chairman Pruet: Thank you. I think an appropriate compromise to this suggested motion would be to add a line that it is contingent upon the Commission reviewing our motor vehicle uses.

Ed Meehan: Mr. Chairman, I wouldn't put that on the petition. Make that covenant among yourselves, but not as part of the application.

Commissioner Anest: Can I say something? I just want to state that I'm not in favor of this because of who the applicant is, I'm in favor of this because of what it does.

Commissioner Pane: Then do it the right way.

Commissioner Anest: I'm in favor of it because of what it does as a fueling station, not because of who presented it.

Chairman Pruet: Okay, I think we reached a consensus that we're going to review our motor vehicle regulations.

Commissioner Camerota: Question for Ed on number three. What was presented to us at the hearing, the proposed Section 3.11.7, we were going to eliminate H, is that.....

Ed Meehan: Yeah, they took care of that. That's why I referred it in the draft motion, the version submitted September 27, Commissioner Anest asked about shopping stores, grocery stores, that was updated and.....

Commissioner Camerota: I don't think I saw that version.

Ed Meehan: I have copies if you would like it. I'm not sure everyone kept it in their package.

The vote was in favor of the motion, with six voting YE A and one NAY (Pane.)

8-24 Referral Report – Road Acceptance Barkledge Drive and Sterling Drive Report to Town Council

Commissioner Camerota moved that the Town Plan and Zoning Commission report to the Town Council its recommendation that the Town accept Barkledge Drive and Sterling Drive as public streets.

These street acceptances are based on the Town Engineer's report to the Commission July 27, 2011, that the public improvements were inspected and completed.

The project developer, Pulte Homes of New England has posted with the Town Manager a \$20,000 one year maintenance bond. These funds shall be used by the Town to repair defects reported by the Town Engineer.

The motion was seconded by Commissioner Schatz.

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

VIII. PETITIONS FOR SCHEDULING (TPZ November 9, 2011 and November 21, 2011.)

- A. PETITION 31-11 – 54 Pane Road Mike's Auto Service, Michael Gronski owner, Bianca Signs Inc., applicant 99 Newington Avenue, New Britain CT 06051 request for Special Exception Section 6.2.4 Ground Sign PD Zone District. Schedule for public hearing November 9, 2011.
- B. PETITION 32-11 – 256 New Britain Avenue, Bel-Air Maor, Dr. Robert Sbriglio owner, Bianca Signs, Inc, 99 Newington Avenue, New Britain, CT 06051 applicant, request for Special Exception Section 6.2.4 Ground Sign B-Business Zone District. Schedule for public hearing November 9, 2011.
- C. PETITION 33-11 – 2385 Berlin Turnpike Puerto Villarta Restaurant LLC owner and applicant, contact Juan Carlos Rodriguez, 2385 Berlin Turnpike, Newington, CT 06111 request for site plan modification parking expansion and waiver landscape buffer, Berlin Turnpike Business Zone, B-BT District. Schedule for presentation November 9, 2011.
- D. PETITION 34-11 – Request for Zone Regulation amendment to add Section 3.15.8 Crematoriums regulated by Special Exception Nutmeg State Crematorium, LLC applicant, represented by Attorney Vincent Sabatini, One Market Square, Newington CT 06111. Referral to Capital Region Council of Governments required for inter-town advisory review. Schedule for public hearing November 21, 2011.
- E. PETITION 35-11 – 151 Kitts Lane, Nutmeg State Crematorium, LLC applicant, represented by Attorney Vincent F. Sabatini One Market Square Newington, CT 06111 request for Special Exception for crematorium use at 151 Kitts Lane, Berlin Turnpike Business Zone, B-BT District. Schedule for Public Hearing November 21, 2011.
- F. PETITION 36-11 - Kitts Lane, Nutmeg State Crematorium, LLC applicant, represented by Attorney Vincent F. Sabatini One Market Square Newington, CT 06111 request for site plan modification for crematorium use, Berlin Turnpike Business Zone, B-BT District. Schedule for presentation November 21, 2011.

Ed Meehan: You can see the queue line for Petitions has grown, some of them are companion applications, but the first two are just ground signs, at local businesses, both suggested for presentation at Public Hearing on November 9th, Mike's Auto and Bel Air Manor. The petitioner is Bianca Signs on both of those projects. Puerto Villarta is a site plan modification. They are asking for expansion of their parking and a modest modification to the landscape waiver, and also changes to the drainage in the back of that site.

Petition 34, 35, and 36, actually the first one is the important one because that is a policy decision for a zone change amendment to permit crematorium uses which is not in the regulations at this time. So that first one is critical to the next two, because the next two are related. One is special exception, the other one is a site plan. The first one to deal with is the new use of a crematorium, and not listed on the agenda, but we talked about this, and we put this in abeyance is presentation by Balf Company to this Commission for their two year report on quarry status, as required by the stipulated agreement to come before you every two years and update you on their environmental and quarry plan.

Chairman Pruetz: Okay, any comments on the schedule? I think we can accommodate them according to the dates requested.

Ed Meehan: Do you want to do Balf on the 21st?

Chairman Pruetz: Yeah, that's basic.

Commissioner Anest: That's a Monday night meeting.

IX. REMARKS BY COMMISSIONERS

Commissioner Pane: I have a question for Ed. I see that last night that they talked about the Marcap piece and they have a public hearing scheduled and there was an appearance from last night's meeting that they wanted to get it done right away. Are they aware that they have to send that for an 8-24 to this Commission under the Connecticut General Statutes before they make a decision?

Ed Meehan: I'm sure they are aware of that. I think last night they discussed, I wasn't there, this is what the Manager reported at our staff meeting today, they discussed voting on it, but they would then authorize I believe the Council would authorize the Manager to negotiate further before they are ready to actually convey, not convey to refer anything to this land use body, for the fact that I think there is a lot of contract language which needs to be worked out between the prospective seller and the town.

Commissioner Pane: The town can't agree to it until it refers it to this Commission.

Ed Meehan: They can't purchase it.

Commissioner Pane: Right.

Ed Meehan: So that would have to be a procedural step along the way.

Commissioner Pane: Just wanted to know if they were aware of it.

Ed Meehan: I'm sure they are aware of it and my understanding is that it's a big decision for the Council. It was on their agenda for the first time last night. Their practice is to have it up at least twice, so they are having a special meeting on November 3rd.

Commissioner Pane: So they are planning on two public hearings?

Ed Meehan: I wouldn't call it a public hearing. Last night it goes, it goes from New Business last night to Old Business on November 3rd.

Commissioner Pane: The special meeting is going to be a public hearing on it?

Ed Meehan: It will be a public meeting. Under public participation you can talk on it.

Commissioner Pane: A real important item like that and they are only going to have one special meeting, one public participation? Okay.

Chairman Pruet: Further Commissioner comments?

X. STAFF REPORT

Ed Meehan: If you brought your zoning regulations, I've got three ring binders which will have Plan of Development, new zoning regulations recently re-written, adopted, and subdivision regulations, so I have those for you. I also have, Michelle asked a couple of meetings back, it's apropos in discussion of auto related uses, for the copy of the minutes and the record going back to 2007, so I can pass those out.

Chairman Pruet: What's nice about this binder that Ed put together is that, if we get any changes, we can just pop it open, delete it, put it back in without running, cutting more trees to get more manuals.

Ed Meehan: You saw these before when we discussed this relative to a court case with Firestone, but this is all the minutes related to the 2007, May 2007 TPZ discussion to eliminate auto related uses.

There are some other items I think I want to get, like the meeting dates, your roster with phone numbers, and some other items up front that are standard operating procedures for the Commission.

Chairman Pruet: Anything else Ed?

Ed Meehan: There are a couple of projects that I have been talking to businesses on the Berlin Turnpike, has actually been a little tick in interest in development projects in the last month. One is down near Wal-Mart, if you have been observing a lot of surveying going on down there, they are looking at expansion plans, opportunities at that site, and there is interest again on the Hunter project up on East Cedar Street. It looks like the project is under due diligence by a couple different prospective buyers.

Chairman Pruet: What kind of inquiries on Wal-Mart, do you know?

Ed Meehan: I think they are talking about coming in for a site plan to take over the Bassett Furniture store.

Commissioner Camerota: That's going out?

Ed Meehan: They want to take that over. I don't know if they are going to increase their pharmacy area, or their food area.

Chairman Pruet: I thought you said Food-Mart?

Ed Meehan: Wal-Mart.

Chairman Pruet: Okay, good. Any further questions for Ed?

Commissioner Schatz: I have one. Somebody asked me this, and I've been thinking about it, we just approved some houses for R-20. The question that I have, is that a normal thing

that we let people blast R-20 in the quarry? If Balf is eating into the wall, he is taking R-20, right?

Ed Meehan: The Balf site is zoned Industrial. The quarry site.

Chairman Pruet: The top part is R-20.

Commissioner Schatz: It's industrial, but where does the R-20 come in, the top of the mountain, right?

Ed Meehan: The R-20, the northern boundary of the R-20 zone district is the Cedarcrest Hospital.

Commissioner Schatz: Oh really?

Ed Meehan: Yes, so Cedarcrest Hospital is in the.....

Commissioner Schatz: Okay, it didn't make sense to me that they were putting houses on top of a mountain that was going to be blown up.

Ed Meehan: Cedarcrest Hospital is in the public land zone, so that piece is almost seventy-five acres, you have seventy-five acres between the quarry and the Balf Company piece that you approved tonight for homes.

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

Myra Cohen, 42 Jeffrey Lane, Member of the Town Council: We did not discuss the actual wording of what we would be voting on, when we vote on the Marcap piece. That will be something that, before it is put on the agenda the Town Manager would be discussing. My assumption was, which we did not discuss, is that we could vote on, the Council could vote on approval, if that is what our intent is, subject to an 8-24 approval from the TPZ, rather than going back and forth, would that be possible? In other words, if we approved it, then our approval would be subject to the TPZ approval rather than having to send it to the TPZ and then coming back to the Council.

Ed Meehan: That would make sense, one of the contract provisions is that the seller and the buyer, being the town, would have in the option or the contract, whatever the Council authorizes the Manager to negotiate, along with a lot of other details, closing date, and financing and interest rates and payout, the type of deed to be.....

Myra Cohen: My question is, can we do that subject, without going back and forth, subject to the TPZ approval of the 8-24.

Ed Meehan: I think you can. I mean, I'm not the final answer, but you know, if you aren't sure, I would ask that you get an opinion from the Town Attorney but the purpose of the 8-24 is for this land use body to provide input to Council as far as the acquisition of land in conformance with the Plan of Conservation and Development. That's a pretty narrow focus, but that's what this Commission would guide the Council on.

Myra Cohen: Right, so our approval would be dependent on your approval, rather than go back and forth, vote and say dependent on your approval.

Ed Meehan: Right, I think that's a way of doing it. I would be surprised if this Commission says acquiring 28 acres of steep slope and bedrock is not in conformance of the Plan of Conservation and Development, but the procedure of it has to be worked out.

Chairman Pruet: Anyone else from the public?

XII. CLOSING REMARKS BY CHAIRMAN

Chairman Pruet: Again, I want to thank everybody, I don't want to sound redundant, but I think we did a yeoman's job on this. Town residents, Commissioners, staff, and I want to thank everybody again.

XIII. ADJOURNMENT

Commissioner Pane moved to adjourn the meeting. The motion was seconded by Commissioner Camerota. The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary