

NEWINGTON TOWN PLAN AND ZONING COMMISSION

September 14, 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 the Town Hall Council Chambers at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL

Commissioners Present

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

Commissioners Absent

Staff Present

Ed Meehan, Town Planner

II. PUBLIC HEARINGS

- A. 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 approved “Fueling Station.”**

Mark Shipman: Thank you. My name is Mark Shipman and I represent the applicant. I want to start out by saying that there was an error in the initial material that I gave you. I presented a new amendment to Mr. Meehan. It was not major. I forgot to take into account your 2007 amendment where you have the approval of location, etc., in Section 6.11. That has now been substituted for H in the original application. What we are proposing really is an accessory use to a principal use. It doesn't, what we propose in this regulation amendment doesn't grant anything. The approval requires a special permit in addition to the requirements that are set forth herein, which I will go through with you. We also have made the approval subject to your conditions in Section 6.11 and your Special Permit conditions in 5.2.6, so we tried to do kind of a belt and suspenders where you really have the opportunity to look at a proposal and as you will see as we go through some of these special requirements, you have a lot of leeway in whether or not this is an appropriate use for the location that it is presented for. It's a generic regulation, it's designed to, in most cases assist the owners of supermarkets who tend to try to relocate it to where they can provide a service station. It's become almost as common as drive-up windows in banks and restaurants because they need it for their competition. I'm going to go through what we have proposed and then we can, I'll tell you how it meshes with the Plan of Conservation and Development. In this section we are requiring in order to be eligible the shopping center must have a principal building, one of at least 60,000 square feet. That whatever permission is granted, it

is granted to the principal tenant. These are not speculative stations that can be opened up by anyone who desires to move in. They will have to be operated by the holder of the special permit which will be the holder of the principal use. It's going to be subject to all of the provisions of Section 5.2 which is your special permit section. It's also as you will see in Section 8, going to be subject to all of the requirements of 6.11 which you passed a few years back. It's going to be in a small building, no greater than 200 square feet, it's not going to be for anything but fuel use. It's not going to be for a convenience store, it's not going to be for repairs, there will be as you see, no storage on any of these premises. The only thing besides petroleum products that can be sold, is that there can be some vending machines inside, not much space in 200 square feet. No outside storage of vehicles, no outdoor display of merchandise except fuel oil in specially designed racks. All of the storage tanks obviously have to be underground. No waste materials can be stored or dumped on the premises. No sleeping quarters if they choose to be open late and all of the sign conditions of your Section 6.2 apply. What makes these unique is that there will be no direct ingress and egress from any public street. If a principal use user decides to put one of these in, it must be entirely contained within the parking area, or in the site that is already serviced generally by an entrance and exit, serviced usually by a traffic light. It will not be something that sits on the public highway. In addition to the other requirements and in addition to your normal site plan requirements you will have approval of architectural style and design including but not limited to the canopy, the finishes and the architectural design of the primary buildings of which it is a part. We put some additional standards for you to consider in determining whether or not you should approve a use under this regulation. You will need to determine whether it will increase competition, improve the pricing of fuel to consumers, whether it will have a favorable impact on local street traffic by virtue of its internal location, whether the fact that most of the customers will already be entering and exiting the roadway for other purchases at other retail units within the center and not generating additional traffic, and whether there is a traffic signal at the intersection of the internal drive and the adjoining street.

In order to approve an amendment to your regulations, 8.3 (B) requires that you consider the Plan of Conservation and Development. If you determine that you wish to approve it, you have to state on the record that you find the action consistent with the Plan of Conservation and Development and you must state on the record the reasons for your decision. I've gone through the Plan of Development and I will, I'm going to provide you with a copy of the remarks with the references so that nobody needs to take any notes, not that I'm flattering myself that you will, but I've gone through the Plan of Conservation and Development. On page one you talk about the limited supply of vacant developable land which is limiting the growth of the grand list. As you will see in other parts of the Plan of Conservation and Development, utilizing already developed land where further development can be placed on already developed land is consistent with your Plan of Conservation and Development, and it is consistent with maximizing the additional benefit, the benefit of the limited land available. You specifically say the reuse of exiting commercial and industrial properties is essential to your grand list growth. On page 2, you indicate that the town continues to recognize the quality of life is influenced and enhanced by the non-residential land uses that support the town's grand list. This is consistent with that. They are the essential uses to a vibrant economically successful community. We think whatever enhances your mill rate is, as long as it does not harm, is a benefit. Similarly, the surrounding area for most shopping centers where this would be appropriate is developed consistent with commercial use. This change would not surcharge the areas in which they are located and generally will have little or no traffic which might impact any nearby residential areas if they exist. In your community character section on page 24 you say that it is appropriate that the goal to locate development and places and densities that support the desired overall character. Here you already will be dealing with a center with a principal tenant of at least 60,000 feet and a number of other tenants. If these centers are already in locations where they're, where the

additional internal development will not change any of the character of the neighborhood and the town. Enhancing and improving the quality of development at major commercial properties, major commercial gateways, this is one of your gateway areas, not one, there are the Berlin Turnpike, Fenn Road, other locations where there are shopping centers, this allows you to grant a permit and not clutter streets or roadways, visuals or traffic. It will enhance existing development in the Fenn Road, Berlin Turnpike areas particularly and that, those are the areas set forth on page 34 as Cedar/Fenn, Berlin Turnpike, Berlin Turnpike and Russell Road. Not all of them presently have these kind of shopping centers but they are places where they can be, might be, and this regulation might make it more attractive for one to relocate. On page 35 you again say for probably the third time at this point, that's it appropriate to reuse and redevelop existing properties to take advantage of good locations and services and it's particularly appropriate I would say to create additional uses in existing shopping centers. It will provide additional revenue, not impact traffic, not intrude on residential uses and likely benefit residents by providing less expensive gas and increased price competition.

In essence, because of the nature of the town, although these are shopping centers, you could really call some of them neighborhood business areas because there isn't really much substantial business around and you're trying to encourage existing neighborhood business districts to improve their appearance, certainly while the building itself might not act that way, the new location of a new user will generally result in the redoing of parking areas, landscape that you may require in existing lots that don't have it now, and this will allow you to develop guidelines and site plans to show how these can be enhanced under what you have. Those are the areas of the Plan of Conservation and Development. I would also like to indicate, from your standpoint, this is a win-win situation. Nothing is going to be visible from the street, if there is an opportunity provide increased competition, in a business where prices are controlled by so few, oil companies and distributors that often times the market does not reflect what is truly the price of fuel. In the situation where supermarkets are involved, generally what they do is they allow for every one hundred dollars that you spend you get a ten percent discount on a gallon of gas, or a ten cent discount on a gallon of gas. Ten cent discount on a gallon of gas. That means that a family of four, or a family of two, family of six, just doing their normal shopping will probably accumulate enough for a consistent ten cent discount over time on their gasoline purchases. Generally these internal stations are unbranded gas, and that also provides additional competition in the area. There are very few mom and pop gas stations left, they have kind of gone the way of mom and pop pharmacies and the like and most of what is out there is distributor or oil company controlled and they don't necessarily provide all of the benefits in every area where this might occur. You will also ensure that supermarkets in particular remain viable and open to the benefit of your residents. It's too easy for a supermarket as they approach the end of a lease to say you know, I can move five miles down the road and I can get a gas station. That may or may not be still in your community. It's probably still in the shopping area of the residents that are serviced by that facility now, but it may not be in your community. You end up with a store that goes dark, there're aren't that many supermarkets around to fill those stores, and as that goes dark, then generally the subtenants, or the smaller tenants around them leave, and pretty soon you have a relatively unsightly building without significant benefit to the town other than perhaps the taxes which generally will get paid. There are not that many supermarket options in Newington, and losing one to a nearby site that might not be as convenient as those that are out there, it's certainly not any benefit to the community. As I pointed out in reference to your Plan of Conservation and Development, these are centers where there is already substantial traffic control. You don't have to get involved in that right turn in, right turn out, they are generally controlled by traffic lights and substantial two lane entrances and exits on each side. It's unlikely to create additional traffic because frankly most of the users are those that are already shopping at the supermarket and want to take advantage of the benefit of the discount. It's not likely to attract transients, it won't be visible

from the street. In areas where there are multiple gas stations it's probably not going to take the transient traffic away, it may take users that are also shoppers. As I said before, most of the stations, if you look around, you look on the Berlin Turnpike, you look on Fenn Road, you look in other areas of the town, where supermarkets are or might be located, these are not local gas stations. Prices don't necessarily fluctuate with the market, if there is tough competition the price will go down, if there isn't, it doesn't, so you are really doing your residents a service, you are adding to the tax rolls, and you're not providing any additional traffic or burden, you're giving yourself the opportunity to enhance the appearance of shopping centers and there are so many controls that you are leaving yourself absolute discretion on, as to whether any particular application could be approved. An ordinance almost identical to this has been approved in Berlin, and they have found it successful. There's also an ordinance similar to this in Glastonbury, also proved to be successful and as I said at the outset, supermarkets are looking for these like banks are looking for drive throughs. I've got a copy of my remarks so they can be put in the record, you don't need to read them, you've already heard them with gestures, but they will be part of the record if I can approach and give them to Mr. Meehan. I would be happy to respond to any questions that the Commission might have.

Chairman Pruet: Thank you. Ed, staff comments on this petition?

Ed Meehan: Just an observation. This will be regulated by a special exception procedure as Attorney Shipman mentioned. Any of these uses that generate traffic have to be looked at carefully, for both internal factors as well as public street factors. A special exception review enables the Commission to request a traffic analysis of a use like this, so if you adopt it, make a policy decision on this, you could apply Section 5.2. Attorney Shipman has used the term shopping center supermarket pertaining to say a dry goods store over 60,000 square feet, doesn't have to be a supermarket.

Mark Shipman: No, that's correct. If there is a 60,000 square foot store, and it wants to be the operator of the station, we haven't found any who want to, but didn't want to limit it to that, but however, I would not refuse that as an amendment. I was trying to make it as generic as possible. But in truth, I haven't seen any that aren't shopping center locations, I mean, supermarket locations.

Ed Meehan: Those are my questions and I have the opportunity to put into the record also Capital Region Council of Governments report, inter-town review advised that they find no inter-town conflict with this use, as does the Central Connecticut Regional Planning Agency inter-town report finds no inter-town conflict.

Mark Shipman: I would say, as you raised the issue, that we would accept if the Commission felt that it should be more limited than we have made it, we would accept that it be a shopping center containing a supermarket, of not less than 60,000 square feet which would be the user, would be the principal operator of the station. I don't know whether the Commission feels that, as I say, rather than try to be as particular I tried to be as generic as possible.

Chairman Pruet: Anything else Ed?

Ed Meehan: That's it. Thank you.

Chairman Pruet: Commissioner comments?

Commissioner Turco: I have a question of Ed. Currently gas stations are allowed within the zone, and this is going to allow them to be in shopping centers.

Ed Meehan: Gas stations are not allowed in Newington at this time. They fall under the umbrella of auto-related uses. This particular proposed amendment would change that, and permit these types of accessory use gas fuelings, but gas stations were taking out of the regulations along with other auto-related uses, such as car dealers, and repair shops in 2007.

Commissioner Turco: So no new gas stations are allowed to be built.

Ed Meehan: Correct. It's our understanding that a traditional gas station or a larger gas station/convenience store combination, is not permitted at this time.

Chairman Pruet: I would be inclined, under Section 6.2 for a traffic study, (inaudible.)

Mark Shipman: I think in any application where ever the location may be, you would have the option, or the right to require that, and I would point out, that not only the provisions of 6.2 but the provisions of 6.1.1 which is where you put the service station, fueling stations, in 2007 gives you additional regulation and requirements, so this would be, it would have to be a site that satisfied you with respect to traffic, with respect to architecture, with respect to the use, with the respect to the benefit that it was going to provide, or it would not necessarily be anything that you would have to approve even if you have this provision in the regulations.

Chairman Pruet: So is there a consensus on the traffic concerns in that area?

Ed Meehan: If you put this into your regulations it becomes effective, the party comes back and has to apply for a special exception accompanied by a site plan, it would (inaudible) to the Commission how it is properly operating. It could be in the Berlin Turnpike area, but where ever it might occur, the Commission has the right to recommend and require the applicant to submit a traffic report. No matter where it is.

Mark Shipman: In addition to that, we have put into the regulations in Section Q, that one of the determinations that you make is whether it will have a favorable impact on local street traffic flow by virtue of it's internal location, whether the fact that most of the customers are already be entering or exiting the roadway for other purchases at other retail units and not generating additional traffic, whether there is a traffic signal, so in addition to your 5.2, traffic observations, you have additional ones that you can use to either grant or deny an application.

Commissioner Turco: Ed, where would you consider, what other locations could be....

Ed Meehan: Well, any one of our larger box stores since it's not limited to supermarkets, or food retailers. But one of our box stores and one that comes to mind that is a supermarket is Price Chopper. A large box store next to Dick's down on Lewis Street. Wal-mart might be one, Target might be one, the former Shaw's on Kitts Lane, Newington is pretty famous for big box stores and parking lots with five, six hundred parking spaces. So again, this would be an accessory use for that type of larger.

Commissioner Anest: I would like the Commission to consider specifically making it for supermarkets. If we starting doing this, we are going to have gas stations in every parking lot. (Inaudible, no microphone.)

Ed Meehan: Well, we know, we have started to observe, these other larger retailers are moving into the food areas,

Commissioner Anest: Inaudible, no microphone.)

Ed Meehan: We would need a definition of a supermarket, the ratio of retail sales to food sales, I don't know.

Chairman Pruet: Further comments?

Commissioner Turco: So for example, Target, they would have to have a Target gas station. They couldn't bring in like a Shell, a Citgo?

Ed Meehan: No, there is a clause in here that approval goes with the principal use. So they can't farm it out to XYZ Corporation. It has to be part of their corporate business.

Chairman Pruet: Okay, this is a public hearing. Any members of the public wishing to speak in favor of the petition please step forward and state your name and address for the record? Okay, anybody wishing to speak against the petition, please step forward and again state your name for the record.

Tom Trumbull, 1658 Willard Avenue, Newington: I'm the owner of the Mobil station in the northwest corner of the Stop and Shop plaza. Obviously I oppose, for selfish reasons, simply because I own the property next store. I've owned it for 41 years and operated it for over 20 years, and I am a mom and pop operation although I do lease it. I don't see any purpose in three gas stations within a thousand feet of each other, and another down the street, the Citgo on Cedar Street. If they are planning on building this as they are saying, where it is behind the building and not seen, then what is the point? Nobody is going to see it. They are going to be doing things to attract people into the parking area to pump gas. Very high traffic area. I'm sure you can check with the police department to see how many accidents are down there daily. There are no pedestrian walks up and down Fenn Road, other than in front of my building, which was required when we built. There is a lot of foot traffic on that street. There are a lot of kids coming down from the college, going to Stop and Shop and all of the other stores, so I just believe that there is really no point in having another gas station in that area at this time. Thank you.

Chairman Pruet: Anyone else wishing to speak against this petition? Hearing none, you have two minutes to rebut.

Mark Shipman: Without getting into the details, I would only say that Mr. Trumbull's comments go to a particular application, which we haven't made. Those would be germane I suppose if this applicant had come in and looked for that station at the Stop and Shop location. My understanding, and perhaps I misunderstood what Mr. Trumbull said and that is that he leases out the space to a distributor who operates that station, and I noticed today as I drove by that it's like eighteen cents a gallon higher than anybody else in the area. That would go to my argument, if we came for a particular use, but this is just to give us the ability to come before you and try to justify that we should have a station.

Chairman Pruet: Rebuttal by opposition is appropriate at this time. Okay, I think that we should leave this petition open and discuss it. Is that the consensus of the Commission. Okay, we will leave this petition open.

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

Rose Lyons, 46 Elton Drive, Newington: I don't know if this is working, but we moved from the back up to the front and we can still just about hear what is going on here, so if there is anybody in the building that knows how to fix the microphone, can we do it? Thank you.

IV. **MINUTES**

August 24, 2011

Commissioner Camerota moved to accept the minutes of the August 24, 2011 regular meeting. The motion was seconded by Commissioner Anest. The vote was unanimously in favor of the motion, with seven voting YES.

V. **COMMUNICATIONS AND REPORTS**

None

VI. **NEW BUSINESS**

- A. **PETITION 25-11 - 1095 Main Street, New Center Corp. 1095 Main Street owner, Farmington Bank applicant represented by Dale Bertoldi, Tecton Architects, Inc. One Hartford Square West, Hartford, CT 06106, bank use with drive-up window-service B-TC Zone District request for Site Plan Development and Section 3.12A Town Center Village Overlay District. Continued from August 24, 2011.**

Chairman Pruet: Is the petitioner here? Would you state your name and address for the record please?

Jim Haig, Tecton Architects: I will be presenting to you this evening. This is a follow up meeting, we presented the plans before you at the last Commission meeting three weeks ago, on the 24th. Since then we have had meetings with Ed and he had a list of issues to address and we went back and addressed those issues on these drawings that we are presenting to you. Were there any specific ones that you wanted us to focus on?

Ed Meehan: No, I think all of the Commissioners have a set of plans in front of them, those are dated today with the revisions that I had requested, that the Town Engineer has requested. Just to give you an overview, the Commission saw essentially the same plans. The issues that staff brought back to the applicant were more technical details, things such as snow storage, some issues on the outside lighting, consistent with the streetscape project, coordinating the curb cuts on Main Street with our streetscape paving project, and then there are some uses, the correct word is coordination with the Congregational Church to the north. Because this building is going to be demolished and a new building going to be built, it loses its existing non-conforming setback. So where we take down the existing cleaners and garages there and reconstruct the bank, the Congregational Church and New Center Corporation which is the one and the same, needs to negotiate filing in the land records, the zero lot line agreement, which is permitted in the Business Town Center to basically erase the whole thing. The other details again, the sample, Mr. Pane asked for that, and they are ready to present that.

Jim Haig: To address the issue of samples, we do have a larger (inaudible.) with us. To show you the proposed elevations and what they will look like, we have a larger board here that shows the basic colors. The picture that is on this board is a recently opened branch but it gives you the idea of the main entry and the typical model that the bank uses for their marketing and their materials so we will keep the brick across the front of the building, at that elevation and as we work our way around to the other elevations we, at least on the bank portion, we reduce that and that becomes a cement siding versus a clapboard. The roof is a combination of asphalt shingles and as we said last time, what we call the architectural tab, so it does have a small (inaudible) look to it. We've used a charcoal so it is in the dark gray, brown side, and we also used a standing seam roof over the front entry and also the canopy of the drive though that carries through the color scheme which is dark charcoal. It almost looks like a deep brown. The siding is a light gray, almost a white, but it is a light gray, and we used the trim, which will be white. We will carry it over, we will be incorporating Dunkin Donuts that is presently on site. The new (inaudible) that we will get, this is the initial representation for the trim, basically a kind of ash, put on the front of Dunkin Donuts. The building was built so long ago, we are not going to get an exact match, but we tried our very best. Once we have cleaned the building, we will get a little truer look, at what the brick is, that is the molded and it's got a, it's not a textured brick, single color.

Commissioner Pane: The Dunkin Donuts side is staying?

Jim Haig: Yes.

Commissioner Pane: So there is some demo of the brick right?

Jim Haig: Yes, from the elevation, approximately where this window ends here, if you look on the larger elevations, that's about where Dunkin Donuts ends now. So from that point, over to your left, is existing Dunkin. That masonry will stay, we will put on the new shingled roof to blend in the whole complex.

Commissioner Pane: I'm concerned about the match-up on the brick, and what about the windows? Are you going to leave the old windows on the Dunkin Donuts and just have new ones on the bank?

Jim Haig: Yes, they may not blend in one hundred percent. It's a challenge working with Dunkin, we've got to keep them up and running the entire time we are building.

Commissioner Pane: I understand that. I'm concerned about the blend of the brick, I would like to go during the week and maybe take the sample over and place it next to the old brick and see how close it would match. I don't recall the windows.....

Jim Haig: They look like a traditional double hung, they are I think six over six, oh, six over one.

Chairman Pruet: Just to follow up on what Commissioner Pane said, you have negotiated all of the arrangements for the façade and also we learned that we (inaudible)

Andrew Grocki: I'm on the New Center board. We've been trying to put this deal together for about four years now, and we have looked at several plans, environmental issues, he does want to remain open. One of the things we tried to talk about is that he would close down for a certain amount of time, and the fact is he wants to stay open has created some issues with like what you are talking about like matching brick, windows, and things of that nature.

Chairman Pruet: (inaudible, no microphone)

Andrew Grocki: Cary wants to remain open, and we are doing the best job that we can to keep him open, and I'm not having him shut down for a month at a time. I don't believe that would please corporate too.

Commissioner Anest: Is there a way, and I'm concerned about the windows too, is there a way you can do Farmington Savings.....

Commissioner Pane: Replacing a few windows at Dunkin Donuts, you're not talking a major deal so you don't have to shut him down for that.

Andrew Grocki: We will certainly be able to approach Dunkin Donuts and present that to him as a possibility. It has to go into negotiations with (inaudible)too.

Jim Haig: We can go out and look at it too, remember it has probably thirty years of water and dirt accumulated on it. One of the goals is to power wash and clean it up, so it will change color a little bit, lighten up when you get that accumulated grime off of it. So this is, as I said the first shot of what it looks like, this is, one of our brick masons went out and he recommended this, and I think you will find that it blends in very nicely, it's probably a little too red, again, because it is dirt and grime, we will try to match as close as we can to what's there.

Commissioner Anest: (Inaudible, no microphone)

Jim Haig: On this one side, and it's recessed under the portico.

Andrew Grocki: The New Center Corporation is going to enter into an agreement with the Congregational Church for a zero lot line.

Jim Haig: I believe that was the only other issue. We will have to come before you at another date for the signage. You can see a representative on the building, that's kind of the standard logo that they put out, there will be various site signage. Ed, we put in that package that you were looking at, on the last pages is a representation of what Farmington Bank does, at the site, ground, traffic, directional signs, and I know that we will have to submit, and as I said, it's not going to happen right away.

Commissioner Pane: You couldn't do that now?

Jim Haig: The bank has a separate sign company that handles that.

Chairman Pruet: Ed, staff comments?

Ed Meehan: I just want to go back to your last meeting. We talked about this late, late in the evening. Traffic circulation plan is proposing one way in on Main Street, one way out. There will be angled parking across the front parking lot. All of the curbing will be replaced throughout the site, old curbing will be replaced with concrete curbing, new curbing will be all concrete. The New Center Corporation already has on record cross easements to go out to Garfield Street through OFI. That circulation pattern will permit in and out of Garfield and also there will be access for the Congregational Church when they have services and use their facility to the existing driveway which is next to the outdoor playscape, through the site, out to the Garfield Street. So the site basically demolishes Ron's Auto, does an environmental mediation. They will do all of the underground drainage control and with the

amount of impervious surface on this site, is reduced substantially from what it is today, when it will be, if this project is approved, a rain garden between the islands. Twenty-four parking spaces are provided and the drive through is standard bank drive through with an ATM in the back. No walk up ATM on the site. In the lighting, matches the streetscape both on the parking lot and the street.

Chairman Pruet: Commissioner comments?

Commissioner Pane: Are the shingles going over the entire structure, front and back.

Ed Meehan: Yes.

Commissioner Pane: Over Dunkin Donuts, too?

Ed Meehan: Yes.

Commissioner Pane: Thank you.

Commissioner Anest: (Inaudible, no microphone)

Ed Meehan: A total of twenty-four, two are handicapped.

Commissioner Anest: (Inaudible)

Jim Haig: It's hard to say for sure, but it is anticipated that the majority of the front will end up being Dunkin Donuts, in and out quickly. Whether we do provide the spaces here, across the back, and across here. There are three places in the back that have parking.

Commissioner Anest: So you are going to have traffic going in.....

Ed Meehan: There is a walkway, a walkway that leads to the back of Dunkin Donuts.

Commissioner Anest: (Inaudible)

Ed Meehan: This essentially doubles the amount of spaces that they have now. There's almost the same, the accessibility for the ADA in the front is limited to address that, but taking the characteristics of the site, given all of the (inaudible) parking in the back would really be a good swing. The bank will probably open at nine, and I think the majority of the people are in Dunkin Donuts probably between 6:30 and 7:30, 8:00 o'clock.

Chairman Pruet: Further comments? We have a suggested draft motion on this, and it's up to the Commission to move this to Old Business or we can have comments to make this more uniform to go with the center village.....

Commissioner Pane: I'm not sure what the other Commissioners would like to do, but I would like to take a site visit myself and look at the brick and the architecture that is there now and compare it to the plans, and I would be more prepared at the next meeting.

Chairman Pruet: Shall we leave this open. Okay, fine, we will leave this open.

VII. OLD BUSINESS

- A. PETITION 24-11 – 1300 Main Street, Liberty Bank, Newington Professional Center LLC owner, National Sign Corporation 780 Four Rod Road Berlin, CT 06037 attention Darcy Roy applicant, request for Special Exception Ground Sign Section 6.2.4, B-BT Zone District. Public Hearing closed August 24, 2011. Sixty-five day decision period ends October 28, 2011.**

Commissioner Hall moved that PETITION 24-11 – 1300 Main Street, Liberty Bank, Newington Professional Center LLC owner, National Sign Corporation 780 Four Rod Road Berlin, CT 06037 attention Darcy Roy applicant, request for Special Exception Ground Sign Section 6.2.4, B-BT Zone District, be approved. This approval is based on the design plans prepared by National Sign Corporation 780 Four Rod Road, Berlin, CT, dated 9/7/11 showing a 9 foot monument ground sign with a 2 ½ foot high brick planter base. Sign design to have opaque face with stencil lettering.

Sign base lettering will have “Welcome to Newington” for northbound Main Street travelers.

The Commission reserves the right to require Liberty Bank to reduce the intensity of both the pylon and wall sign lighting if it determines this to be a nuisance to adjacent residential neighbors.

The motion was seconded by Commissioner Anest.

Chairman Pruettt: Discussion, we have a new design format.

Commissioner Pane: Mr. Chairman, is the applicant here so we can ask him questions?

Audience: Yes.

Commissioner Pane: Well, one question, it looks like the sign on the building is already up, and covered, and I would like to know if that was correct, and then the second question that I have, the lighting on the side of the building, I looked at it at night, and being with the residential property right next door, and across the street, I feel that should be toned down, so I have real concerns with that. So the existing lighting that is on the building now, I'd like to see it toned down before (inaudible.)

Ed Meehan: I can give you some additional information on the sconces on the building that Commissioner Pane just mentioned. I did talk to bank representatives last week and the company who is doing the refitting on the inside of the bank working directly for Liberty Bank and the property owner has another company doing the outside work. I did receive an e-mail that they are going to re-wire the sconces and put them into a system that they can put a time box on. They will have a timer on them, and they will work with the town when they go on and when they go off. They had suggested they go on at 5:00 p.m. and off at 9:00 p.m., and I did go back and do some research and when we saw these plans originally, including the elevations there weren't any sconces on the building. Subsequent to that, the architect submitted the plans for construction purposes, and that is where the lighting appears. So the bank, they have been responsive, they understand the neighbors concerns and the Commission's concerns and they will put the lights on at night, and if necessary, tone them down. Domenic mentioned the wall sign, it doesn't come under the purview of this pylon sign, ground sign, but in speaking with the sign company representative, that can be adjusted by toning that down again, the technology, how it's done, I think Russ can explain that better, if you want him to.

Commissioner Pane: The wall sign wasn't part of this application?

Ed Meehan: Wall signs do not require Commission approval. Just ground signs, under Section 6.4.

Commissioner Pane: No wall signs require approval?

Ed Meehan: That's what the regulations say, but again, we have encompassed it in our conversation and they have designed the sign, it can be adjusted to address any lighting concerns. We have that on the record.

Commissioner Hall: For some reason I thought the sign was going to be more directly in front of the building in the grass area, and looking at this plan, it looks as if it's in the little jog as you come in the entrance.

Ed Meehan: We did have to move it because of underground utilities. Actually the sight lines are better where it is.

Commissioner Hall: Right, I'm assuming it is a good size sign. That someone has figured out sight lines, it's going to be back far enough so that when you are out at the road, trying to get onto Main Street, it's not going to block, it's going to be far enough back.

Ed Meehan: We did a, we marked out an area, right in the middle there and evaluated either close to the front building, the sight lines are not good there and there is electrical conduit in the ground, so when we went to the island adjacent to the drive coming in, the sight lines are better and it's back behind the (inaudible) so in driving out, it's going to be ahead of the sign looking north and south on Main Street.

Commissioner Hall: Thank you.

Chairman Pruet: More Commissioner comments?

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

- B. 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.**

- C. 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.**

Chairman Pruet: These are the two petitions, we are awaiting the Conservation Commission report on the wetlands issue. I'd like to start the discussion. Ed, if you could paraphrase....

Ed Meehan: I have prepared for tonight some discussion notes that will hopefully guide the Commission as you go through discussion on both of these petitions. I think for now I would recommend obviously don't come to a conclusion tonight, or any sense of what you want to do, because we have to wait for the Conservation Inland Wetlands before but what I tried to do here is to explain to the Commission, I know that you understand this, how you need to apply your regulations, the subdivision regulations and the zoning regulations of the open space subdivision to the application before you. We heard a lot of testimony, almost sixteen, seventeen hours of comment from the applicant, and public. Specifically, your jurisdiction is just what was presented to you. Now it's stated as 62 lots as an open space subdivision to meet your standards. The property is zoned residential. It has been zoned residential since 1929. It's a subdivision as of right for an R-20 standard conventional subdivision. They have come in and proposed to the Commission requesting a special exception for an open space subdivision. The standards for an open space subdivision I can go through if you would like in outline, but I will begin to get a sense of what is buildable area up there. I think that is important because we've heard, I've said it, Commission members have said it, a lot of members of the public have said it, well, they can't use the property anyway, so what are we getting. Well, I think if you break it all down, it's a 73.7 acre parcel. Mathematically if we deduct the inland wetlands, which is about 3.8 acres, slopes over fifteen percent which is 26 to 28 acres, I tend to think it is a little higher, maybe 28 acres, the applicant thinks it is 26 acres, the bottom line mathematically providing 20 thousand square foot lots into what both the applicant and myself believe are the buildable areas, it any where between 91 to 94 lots, again, mathematically. That doesn't take into account deductions for street right of way, and there are sixty foot right of ways proposed, and almost sixteen or seventeen hundred linear feet of roadway. There's (inaudible) acres right there. In Connecticut, in New England, we are not talking about North Dakota or Kansas, there's nothing flat. If you are going to design a subdivision, you have to maybe take into account a rough calculation that planners use is taking twenty percent deducted for miscellaneous odd angles and shapes of the property, street right of way, and in this case we know they proposed retention basins, and they are proposing an area for an MDC pump station. On May 25th, the applicant presented what they called their conventional as of right R-20 subdivision. It showed 79 lots. My staff report and Commission members balked at that, and we felt that it really didn't represent the limitations of the property as far as steep slopes, the twenty-eight acres that I just mentioned. So what I have prepared for you tonight is a sketch. I took what BL submitted, the 79 lots and I submitted what I believe might be a more reasonable and doable R-20 subdivision, a standard conventional subdivision. Basically what I did, I took their layout, I just shortened up the roads, to not go into the slope area, and created cul-de-sac's. So I think reasonably, taking into account moving the pump station as we requested out of the open space, avoiding the Old Highway greenway, along the south side of the parcel, recognizing that this site has almost 1700 linear feet of frontage on Russell Road, which they could put driveways on, the lot yield might be between 45, 50, 52 lots, for a standard R-20 subdivision, without encroaching on the wetlands, or steep slopes, and that wetland includes both the large center area wetland that was recognized throughout the process, and the smaller 1700, 1800 square foot wetland near the front of the site. So, in reality, I think what we are looking at here is comparing a conventional subdivision of maybe 45 to 55 lots, to what they have requested for an open space subdivision, which is 62 lots. There is a significant difference that I think the Commission needs to talk about or look at. If the Commission wants a conventional single family R-20 subdivision the maximum amount of open space you can require is fifteen percent which is eleven acres. The property owner then dictates the balance of what we call unusable because of environmental limitations, they could incorporate those into lots, they can incorporate that into a private home owners association, they don't have to give it to the Town, so there is eleven acres there. With a subdivision as open space, they are required, under our standards, again we are looking at the difference

between 50 and 62 lots, to at least offer forty percent open space, and that forty percent can be given to the Town for at least thirty-five years or longer, it can be given to a home owners association, or it can be incorporated by easement as part of the lots. So here we have a situation of the open space subdivision that forty percent of the 73 acres equals about 30 acres, 29 and change. The plan before you bears consideration at 62 lots supposing a donation to the town of 44 acres. Sixty percent of the site would be developed, excuse me, sixty percent would be open space, forty percent would be in development. Both plans, and I don't think the applicant would take exception to this because they showed it in their final layout, I believe they have about thirty usable acres up there to build on, and I think their plan with open space or conventional subdivision would end up the same way. The difference between a conventional R-20 subdivision and open space subdivision is forty-four acres of open space, eleven acres, conventional. What they do with the difference, they haven't disclosed that. We can't require (inaudible). That's the difference. Well you could say, the lot yield is a little bit less for a conventional subdivision, it would have less impact on town services and traffic. The difference in my opinion is miniscule. The difference of traffic coming off this site with 62 units for single family homes is not high traffic. So, in a nutshell, I think that is where you could start your conversation, here's the difference between the two, the open space subdivision is a special exception. They have tried to demonstrate for the record how they have met your special exception criteria for protecting sensitive land areas with the mathematical formulas, and donation of land. It's up to the Commission to decide if you feel that open space special exception is appropriate for this parcel, keeping in mind what you could get and not get, open space area, keeping in mind what resources, natural resources, trees, scenic vista, trail system, and so forth are protected. So that's what these two pages summarize, and then the sketches are already in the record, the sketch from BL Company is already in the record, and the sketch that I submitted to you shows what you might get in a conventional subdivision. I'd be happy to answer any questions.

Chairman Pruet: Good summary Ed. Questions for Ed?

Commissioner Aieta: Can we make this report available to the public in this form so they can digest it?

Ed Meehan: Yes, I have extra copies tonight.

Chairman Pruet: Okay, we have this summary from the Town Planner. I'd like to hear your thoughts so far. Do you have questions from Ed, or some comments?

Commissioner Turco: A question for Ed. Ed, you were stating, let's see if I say this correctly, the R-12 open space subdivision option, the 44 acres of open space land, they don't have to give it to the Town? They could give it to a homeowners association, but (inaudible)

Ed Meehan: Right. There are three options in the regulations. First option is to dedicate it to the town, transfer the property, and the regulations say not less than thirty-five years, my understanding, we haven't done too many of these in Newington, but whatever ones we have done in taking of land is forever. Once we get the open space, the Town owns it forever. The second option is to subdivide the piece out and deed it to a homeowners association and we would have to know with certainly the charter and by-laws of the homeowners association, and I would think we would also recommend a conservation easement on top of that area, just to save the area, to make sure there was no tree removal and make preservation plans and so forth. Every body is private, the home owners association is private. The third way is to design the lots so that, it doesn't really make any sense, someone could design these lots to be long, large lots and the westerly two thirds of these lots running from the middle part of the site, just above the central wetland all the way out to

the ridge would be privately owned, encumbered by conservation easements and preservation easements on these lots. The example of where that has been done on a much smaller scale is up on Settler's Knoll, where the lots were reduced from R-20 to R-12 and they are long narrow lots, down in back of Shaw's in the area of Kitts Lane. They are restricted by a conservation easement, and we have to have some enforcement because people nibble away at that. You see a shed, playscapes and so forth. There is a line on the property on the subdivision map that says that you can't go into that open space area and remove trees, those are the three options.

Commissioner Turco: And they are choosing option number one, to turn the land over to the town.

Ed Meehan: They have stated on the record that the forty-four acres would go to the Town of Newington.

Commissioner Turco: And if this petition is not passed, and stays an R-20, fifteen percent of that plan, which is eleven acres I believe you stated, would then fall into one of these options, and we don't know which one of the options for the eleven acres they would choose.

Ed Meehan: If you deny the open space subdivision, they have the option of appealing that, they have the option of resubmitting new plans for a conventional R-20 open space and the Commission can not require at that point more than eleven acres dedicated to open space. The terrain, and obviously the wetlands there, the wetland agency would have something to say about what happens around the wetland area, but the upland area, which is between the center leveling and the ridge line could be privately owned and it wouldn't be available for a trail system, I wouldn't say it would be a timber area, to remove the timber, but obviously we know from past years, a lot of the trees are (inaudible). We lose that control. The eleven acres represent pretty much the ridge line. The eleven acre area is about four hundred feet wide by 1200 feet long. That would cover the whole western ridge line, trap rock ridge line. Give it to the town, or give it to the homeowners, this is the backup to the central wetlands, the back of these lots, 31 acres or so. It's going to be privately owned, and that's because (inaudible), so that is how the regulations are structured, a broad view.

Commissioner Pane: I'm concerned about how it would be owned too, and maybe we should consult with the Town Attorney to see if this is taken over by the town, would they have a certain liability.

Ed Meehan: I have not consulted with the Town Attorney but any time you pick up property, you have the responsibility of managing it and maintaining it and it would come under our general insurance policy, as any town owned space for recreation.

Commissioner Pane: I'm just wondering, someone hiking up there, falls off, you know, how much liability are we going to have? I'm wondering if it might not be a bad idea to have the town attorney come in and talk to the Commission. The other question I have is our town engineer signed off on the drainage, and I know that he is retired now, is, what do we (inaudible.)

Ed Meehan: We have Chris (inaudible) who is Tony Ferraro's assistant and was part of this process consistently, so he is up to speed on the drainage.

Commissioner Pane: Okay, but one question that you could ask him, on the petition, they say, the applicant shows an improvement in the drainage, a reduction, I was wondering

whether or not the town engineer felt that that was a significant reduction of runoff and whether or not anything should be done in addition for the runoff down the road.

Chairman Pruet: Further Commissioner comments?

Commissioner Anest: I have concerns (inaudible). If they are digging ten feet, eighteen feet, where is the rock is going, and whatever is left, where is it going? (inaudible)

Commissioner Schatz: In the R-20, you are talking about 62 homes, but from the diagram, they can build seventy some homes?

Ed Meehan: No. What they said on the record on May 25th was that they felt that a conventional R-20 subdivision, that plan did not represent the slope requirements of the subdivision regulations and the zoning regulations, so that is why I did the alternate sketch.

Commissioner Schatz: So they couldn't build seventy homes.

Ed Meehan: Not under the R-20 standards, I don't see how they can do it. I know a couple Commission members questioned this, and I put into the record back in July that I don't think they can. I think 45 to 50, 52 homes is a range which they might be able to do and still meet your buffers along Old Highway, the pump and drainage stations, there is a (inaudible) ridge that goes through the middle of this site, and address the inland wetland concerns for the wetland areas, the, you have to have a hundred foot frontage for any R-20 lot in there.

Chairman Pruet: On the discussion of what Carol said, the detention ponds, how would, if the homeowners association decided not to maintain (inaudible).

Ed Meehan: We said on the record, the town engineer has told this to the applicant's engineer, we are not going to take over management of the detention basins from the home owners association. We are responsible for certain street networks that come off of the public highways into those basins, but the fencing, safety, cutting of the grass, the appearance of those fall under the responsibility of the home owners association. If they are not going to do it, they said they would do it, a performance bond for maintenance, I'm not sure, we've never done this before.

Commissioner Camerota: Some of the lots on the plan were in the slope area.

Ed Meehan: I think the lots in the northern corner, there's like a pie shaped area that was removed, the back of that lot, the downslope, away from the home is on the edge of the twenty-five percent slope area, and they are proposing a small wall to (inaudible) The adjoining lot increased in size and is not in the fifteen type slope. The other, they pulled the lots back from this ridge, and the downslope of this ridge is where the large central wetland is. There are some slope areas in here, they're really not a (inaudible) for a mix, not like what we have on the western part of the slope.

Chairman Pruet: Regarding the concerns for blasting I know they come under the auspices of the Fire Marshal, is there a specific layout, notification before the blast, times that they are going to blast, etc., etc., is that correct?

Ed Meehan: Yes, the Commission's practice and your action is to require a pre and post blast survey and because this is next to Wethersfield, it would be important to coordinate with Wethersfield officials. This is the practice the Commission put in place for Rockledge, off of Culver Street, Wakeley Drive off of Griswoldville, and secondly, Carol brings up a good point.

They gave us information on what they think the quantities of rock are, what they are going to use the rock for, to balance the site. But if they bring in equipment, there probably will be equipment on this site to process the rock and crush it to the appropriate size, then the Commission's practice is to require a (inaudible) application for a certain period where they come back and apply for a special permit for the machinery that is going to be out there crushing rocks. So you control noise, operations, times of day, dust and get a handle on any off site trips. They could have underestimated the quantity of rock, all of a sudden they have twenty thousand more cubic yards of rock out there. We need to know that.

Commissioner Lenares: Ed, you just touched on one of the subjects that Carol had brought up under her concerns and a concern of mine, correct me if I'm wrong, one of the concerns that I had was obviously the amount of rock that was going to be blasted and removed from the site, and had to be hauled off. You touched on, balanced site, that was something that they brought up and said that the amount of rock that was going to be brought off of the site was going to be very minimal, correct?

Ed Meehan: Yes, the terminology was balanced site, and we have illustrations in their exhibits showing where they believe, the depth of the rock that needs to be removed, for the utility cuts, and where they can reuse it for the roadbed and the foundations. Again, they haven't tested this whole thirty acres that they are going to build on, they have done random testing. So geographically, and we walked the site, there is a lot of shallow bedrock. I can walk the site and see it, so on the fifteen percent slope, the bedrock is close to the surface. That's why any blasting study and processing of rock on the property should be monitored, (inaudible) they have underestimated, if they get that far and they need special exception they need to come back to the Commission and say, we've got excess rock, here's our plan to remove it and here's the trucking route and so on.

Commissioner Lenares: That's great, that's important to maybe putting to bed the concern about hauling off of the property or excess hauling. Thank you.

Chairman Pruet: Ed, on the traffic, the state traffic report on the modification and the improvements to Russell Road, what is the compliance of the petitioner to make the corrections.

Ed Meehan: This has frontage on a state highway. Russell Road is a state road as I put in my report. Getting an encroachment permit from the Department of Transportation, and an encroachment permit normally goes to the petitioner. This may, because it is close to East Cedar Street and Russell Road, can actually be moved up to the Department of Transportation Central Office where the traffic engineers can take a look, a closer look at this. There is already a State Traffic Commission Certificate in place for the Hunter project. The certificate was issued in conjunction with traffic signals being proposed on East Cedar Street. But as part of that certificate there were required improvements to the ramp system on Russell Road and the applicant has stated and showed on the record they were going to implement the improvements as required by the State Traffic Commission and that had to do with changing the island configuration, eliminating the stop sign at the end of the ramp so it becomes a right turn, by changing the island. They cannot go into private property as Hunter was going to do. The plans that they submitted during the public hearing showed legally they can implement those traffic improvements within the state right of way. That would be part of their encroachment application to the Department of Transportation.

Chairman Pruet: Is that with or without Hunter's approval?

Ed Meehan: They could do it, if they stay just within the state right of way, they could refigure the islands, remove the stop sign, and have a right turn without needing the adjacent private property owner.

Commissioner Anest: (Inaudible, no microphone.)

Ed Meehan: The certificate was probably three years ago, four years ago?

Commissioner Anest: Is there like an expiration on that, or are we accepting that three or four year old application that was made?

Ed Meehan: They may have a time limit on that, that Hunter Development has to renew it and because of the economy right now, go back to the STC, advise that they want to continue, but that is a valid permit, a valid certificate and there is a bond amount proposed with that that the property owner has to provide to the Department of Transportation when they start the work to ensure that the work is done. That would probably be reviewed and updated at the current prices.

Commissioner Anest: It wouldn't be reviewed concerning traffic?

Ed Meehan: The traffic, they looked at traffic in that it was not Hunter's responsibility to take care of traffic they are not responsible for. Hunter was responsible for making the improvements after they submitted to the State Traffic Commission and that includes the background traffic that was there then, plus the new traffic that they identified they would have at the intersection.

Commissioner Anest: I'm talking about (inaudible) the additional traffic that is coming off that exit ramp, they need to go back out and look at that to see what the State proposed for that continuing right hand turn, (inaudible.)

Ed Meehan: When they did these traffic plans, they usually do a five year forecast of what they think, the existing background traffic, plus the new traffic generated by (inaudible) project plus the normal growth in traffic which is going to deal with a five year period out, so the improvements that Hunter is responsible for doing should be taking into account the traffic right about now. They forecast the traffic for 2011, 2012. It may not materialize, because of the economy, I don't know. But they are not going to have Hunter go back and correct that, because it is not their responsibility.

Commissioner Anest: I understand that, but I was wondering (inaudible)

Ed Meehan: It's one of these things that is date certain because it takes three or four years to complete, they can project a certain growth factor into their traffic count.

Commissioner Aieta: Would they have taken into consideration some kind of development on this land, and also the Marcap piece, also the state property of Cedarcrest and Department of Special Revenue and the other property across the road? I'm assuming that they would take into consideration the traffic generated by all of these.

Ed Meehan: They probably didn't. They only take into account projects that they know are making its way through land use review and approval processes, so if there is (inaudible) going on in Wethersfield and Newington. You mentioned earlier the Capital Region Council of Governments, Wethersfield and Newington and the Capital Region Council of Governments did a corridor study probably about eight years ago now, and we took a local

look at that whole intersection and we did take into account the probable growth of traffic that could be attributed to the land uses around that intersection. That had to do with the Marcap piece and property in Wethersfield, and the conclusions that came out of that study that was done by a traffic consulting firm retained by CRCOG was that the ramps off of Russell Road to East Cedar Street should be closed. Russell Road should be dead ended, probably where Jensen Machine is, traffic signals could go in, approved for Hunter, and a road goes through the Marcap piece, public road, around the back of the Humane Society, and back out to Russell Road. So all the ramp action that we see today with cars going in reverse up the ramp, and coming off the ramp would be funneled through these traffic signals and out to Russell Road. The off ramps and the on ramps would be then brought in specifically just very tight for the Berlin Turnpike, but the local traffic would go through the traffic signals. That is the Cedar Street/Berlin Turnpike corridor study. Part of the puzzle that was trying to put together was approval of Hunter with the traffic signal and the requirement and whoever developed the Marcap piece coordinate their traffic through the signal and through this road that would have gone out to Old Highway and back to Russell Road, so in that study they did take into account trip generation from Balf and Cedarcrest and Wethersfield, but that's in the planning stage. It hasn't been funded and hasn't gone farther than the planning stage.

Commissioner Schatz: Coming in with this site plan, is there a time that they have to get started and finished or do we wind up with something that (inaudible.)

Ed Meehan: There is five years under the statutes. They can ask for an extension for another five years. They have five years to start the project, the definition of construction in the statutes, and they can come in, in year four and say, for XYZ reasons, the economy, whatever, we are asking for an additional one year, two years, so they can get another five years. Normally Commissions grant that but it's up to you whether you want to decide to grant that extension.

Commissioner Schatz: So it can go on forever.

Ed Meehan: No, it's not forever, after the ten years, if this doesn't meet the statutory threshold for large projects, and the other planner is the Inland Wetlands Agency and they do normally put time limits on their permits for a renewal. Our Wetland Agency has a one year renewal criteria on their permits, and those permits are not transferable usually. A wetland permit is not transferable without getting the approval of the Inland Wetland Agency.

Commissioner Schatz: I would hate to see, if the economy goes in the tank, to have them start a project and not finish it. We don't have any recourse. The point I am trying to make is that you could have a builder start a project and never finish it. It's a possibility.

Ed Meehan: It would be bonded, particularly because there are public streets involved here. Not only would they have to deal with us, they would have to deal substantially with the Metropolitan District Commission, but you make a good point. Just because you might approve this doesn't mean that Toll Brothers would develop it, they could sell the project. So when we talk about it, we have to make sure that all these issues that we heard since May, blasting, traffic.....

Commissioner Schatz: I understand that, but I was thinking of a sunset rule (inaudible).

Commissioner Anest: I know it's not our problem, but if drive up there now, there is water spilling out half way up those rocks, now if they start blasting, what is going to happen to all of that water.

Ed Meehan: Water is leaking out of the ground system because of the shallow bedrock, the water is coming off of the Marcap piece but remember, the Marcap piece doesn't go right to the edge, there is still the state highway right of way out there. If you ever walked it, from the edge of that rock face that you can see, you probably would have to go back a hundred feet before you get to (inaudible) which is where the Marcap piece starts. So there is probably sheet flow water coming over the Marcap piece into a gully system which is actually a swale in the (inaudible) system and falling into the rocks but this other piece that we are talking about is twenty-eight acres west.

Commissioner Anest: Too far back?

Ed Meehan: I think it's too far back, but who knows when they start blasting. I don't want to be cynical, but I don't put a lot of stock in these blasting, this is what an expert tells you they can do within a certain amount of rock at a certain depth, but what experience tells me from what we have seen in areas that are, neighborhoods such as Rockledge, with all the homes around the back of Sunrise Estates, there has to be monitoring very carefully through the Fire Marshal's office, the size of the blast. Maybe they take it a little bit slowly, they don't blast as much, take it a little bit longer, they do it in layers, only going down fifteen feet, that's how you really control it.

Commissioner Anest: I'm really concerned about the water, the water flow.

Ed Meehan: The type that they call quarry blasting which is a lot more dramatic than this construction type blasting, where they just sheer off, it's a quarry, a substantial depth when they do that, and I think Balf has controlled that at least for a while, along the ridge line, that is where you might get fissures in the rock, and you may have changes in the underground water. I'm not an expert in that.

Chairman Pruet: We are going to continue this discussion. It's a lot easier for us to paraphrase all of the material that we had, the testimony and everything else, to start our discussions and negotiations. The Commission has concerns, (inaudible) in the meantime, we will continue on, we will be methodical about this, we have time on our hands so to speak, we are not going to rush through, we are going to be diligent in how we handle this and we will be taking this (inaudible.)

VIII. **PETITIONS FOR SCHEDULING** (TPZ Tuesday, September 27, 2011 and October 12, 2011.)

Ed Meehan: Mr. Chairman, you continued Petition 27-11, the zone change for a fueling station and Farmington Bank will be continued. Those are the two that you have right now.

IX. REMARKS BY COMMISSIONERS

None

X. STAFF REPORT

None

XI. PUBLIC PARTICIPATION

(For items not listed on agenda)

Maide Kinney, 53 Crestview Drive: I think over the past few months, I have come to realize that this is one of the most important Commissions in this town. The decisions that you have to make will affect this town forever. Saying that, my hearing is perfect. I have not been able to hear probably eighty-five percent of what you all had to say tonight. That distresses me, because I'm interested in this situation, and I can't understand, I'm sorry, I can't hear you. Is there anything that can be done, use this microphone here, pass it around, I think that something has to be done.

Gary Bolles, 28 Burden Lane: I will second Made Kinney's remarks. I think part of the problem here is the air handling system. That's kind of noisy, and it does impede anyone's hearing in this room, even though we have excellent hearing, so take that into consideration please.

Myra Cohen, 42 Jeffrey Lane: I will add my comments to this. One of the problems is that you do have to hold the mic closer to your mouth. If you look at entertainers, when they perform, they are practically eating the microphone and you do not hold it close, you turn your face away, you talk this way, that way, you're not talking into the mic. Please, you know that you have a low volume voice, then remember that in public speaking, speak up. I don't know that it is the equipment, it may be part of it, but I think it's also that you have to hold it close to your mouth and if you turn your head away, keep the mic along with the turn. Thank you.

Rose Lyons, 46 Elton Drive: Ditto, ditto, ditto, and we moved up front and we still couldn't hear. If we are going to continue to meet in this room, I would suggest that something be done about this, sure, there isn't going to be as many people, much as I wish there would be, I don't know if the room back where you used to meet is out of the question now, or if you are going to be meeting somewhere else, I just wish that we all could hear what you are saying, because I know that the questions that you were asking are important ones, ones that we want to hear and get the answer to. Thank you.

Chairman Pruett: I just want to ask, is there a big difference between tonight and previous ones or....

Rose Lyons: This mic is working all right tonight, because apparently it has batteries, but it looks like you all have different microphones, some of you, and like Myra said, some of you are talking like this, talking to the other Commissioners so we don't hear what you are saying.

Chairman Pruett: Thank you. Anyone else from the public wishing to speak. We will try to work on our skills and maybe we will be more cognizant of the microphone. Thank you for your information, we will make a note of this.

XII. CLOSING REMARKS BY CHAIRMAN

Chairman Pruett: I appreciate the sentiment over the past meeting, on this subject, Cedar Mountain. I appreciate what the public has done, they have brought a lot of information to the table for us to consider. The petitioner has been very professional, the public very informative and my fellow Commissioners have, I think them for their efforts and we will continue to do the best we can, and will make the best decision we can.

XIII. ADJOURNMENT

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

Respectfully submitted,

Norine Addis,
Recording Secretary