

## STAFF REPORT

**Petition 09-11**  
**Zone Map Amendment CD Commercial**  
**Development to R-12 District**  
**Assessor Map 11-335-00A**  
**East Cedar Street**

**May 25, 2011**

### 1. **SUMMARY – ZONE DISTRICT CLASSIFICATIONS**

Toll Brothers, Inc. is requesting a zone map amendment to change the current 29 acre CD District on the north side of East Cedar Street, approximately 730' west of Russell Road, to the R-12 District.

The property is owned by Marcap Company, LLC which acquired it in April 2007 from the Connecticut Children's Medical Center.

The subject property is bounded on the north by the R-20 District; on the east by the B-BT Berlin Turnpike Business District and the PL Public Land District; on the south by the B-BT District, PL Public Land District and R-20 District; and to the west by the PL Public Land and R-12 Zone District.

Adjacent existing and proposed land uses along the easterly boundary include the HDC One, LLC 9 acre parcel currently vacant, approved for mixed use commercial development with gas station/convenience store, retail, restaurant use and hotel/conference center; Connecticut Humane Society's 8 acre parcel; southerly by East Cedar Street (Route 175); westerly by Mountain Road State of Connecticut Regional Center; and northerly by Balf Company 73 acre vacant R-20 zone property proposed for Open Space Subdivision, 71 lots Petitions 12-11 and 13-11.

#### R-12 Zone District

The R-12 Residential District is a restrictive zone classification which limits "as of right use" to single-family detached homes at a density of one unit per 12,000 square feet of land area.

Special Exception regulations, Section 3.7, permit alternate residential building types and density at 8,000 square feet per unit when the Commission determines that the proposed wider housing variety and choices conforms with parcel size, location, density, building type, open space, and roadway access regulations design criteria.

Section 3.7 also regulates by Special Exception Housing for Seniors, age 55 or older, at 20 units per acre and Single Family Entry Level Housing at 5.8 units per acre to provide opportunities for innovative subdivision design that reduces housing costs.

## CD Zone District

The CD Commercial Development Zone is a limited district which Town wide only encompasses approximately 56 acres. This zone is located at the northwest corner of Town near West Farms Mall, 10 acres fully developed; on New Britain Avenue, the Emmanuel Baptist Church parcel, 11 acres fully developed; along Willard Avenue, medical and professional offices, 20 acres; and the subject vacant 29 acres parcel.

The CD District is an exclusive zone limited to office business uses, research and development, and similar uses as authorized by the Commission. Building may be constructed up to 5 stories and require site plan approval.

Since the adoption of zoning in Newington in 1930 the subject parcel has been classified in five (5) different zones:

- **1930 to 1954** - Residential District III Low Density.
- **1954 to 1977** - Reserved Land (RL) District classification for properties owned by the Children's Hospital, Veterans Administration and Town.
- **1977 to 1984** - B-1 District business and light industrial uses.
- **1984 to 1991** - B-BT Town Center business and high density residential uses.
- **1991 to present** - CD Commercial Development Zone.

## 2. **SUMMARY – ZONE AMENDMENT PETITIONS AND DEVELOPMENT APPLICATIONS**

Since 1997 there have been three (3) petitions requesting modification to the subject property's zone designation and one (1) as of right petition for commercial use subdivision.

- **1997** Petition 27-97 denied May 28, 1997, requested amendment of the uses permitted in CD District to add hotels, retail trades, restaurants, liquor sales, helipad and residential housing related to health care.
- **2002** Petition 67-01 denied January 23, 2002, requested amendment to uses permitted in CD District to permit by Special Exception multi-family housing up to 6 stories or up to 8 stories with additional open space dedication at a density of 25 units per acre.
- **2006** Petition 01-06 denied March 8, 2006, amendment to the uses permitted in the CD District to add by Special Exception multi-family townhouses as regulated by Section 3.7 except at a density

of 4,500 square feet per units per gross project acre versus 8,000 square feet per unit per net buildable acre.

- **2006** Petition 38-06 denied December 20, 2006, request for subdivision development (4 lots) not approved the Commission finding that impacts of site grading and rock removal (775,000 cubic yard) was not incidental; subdivision road layout did not comply with Plan of Development future roadway recommendations; cul-de-sac road not appropriate for commercial subdivision traffic generation, and Inland Wetlands permit not approved.
- **2009** Petition 06-09 Withdrawn by applicant April 6, 2009, request for change of zone classification CD to R-12, Toll Brothers applicant. Petition withdrawn prior to public hearing.
- **2009** Petition 25-09 Withdrawn by applicant October 19, 2009, request for change of zone classification CD to R-12, Toll Brothers applicant. Public hearing held September 23, 2009, continued to October 14, 2009. Petition withdrawn prior to the continued public hearing October 28, 2009.

### 3. **STATUTORY REQUIREMENTS**

Section 8-2 CGS enables local zoning commissions to regulate the uses of land, density and building design. When making a determination on amendments to the zoning regulations the Commission should first look to any guidelines in the Town Plan of Conservation and Development which recommends land uses and density. Second, the Commission should become familiar with existing land uses and potential future uses in the vicinity of the parcel. Third, the Commission should consider the physical characteristics of the property to determine if the new district is suitable in respect to environmental features such as wetlands and topography, as well as utility services, road frontage, access and traffic.

**Amendment of the Zoning Regulations is a policy decision, not an administrative action. Amendment of the Zoning Regulations can not be conditional.**

When acting on this application the Commission must also follow the requirements of Section 8-3 of Statutes:

- Regulations shall be established, changed or repealed only by a majority vote of all the members of the zoning commission. If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of twenty per cent or more of the area of the lots included in such proposed change or of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted

except by a vote of two-thirds of all the members of the Commission, i.e. 5 affirmative votes.

- Whenever the Commission makes any change in a zone regulation it shall state upon its records the reason why such change is made. No such Commission shall be required to hear any petition or petitions relating to the same changes, or required to hear any petition or petitions relating to the same changes, or more than once in a period of twelve months.
- Zoning changes shall become effective at such time as is fixed by the zoning commission, provided a copy of such regulation; boundary or change shall be filed in the office of the Town Clerk.

4. **NEWINGTON 2005-2010 PLAN OF CONSERVATION AND DEVELOPMENT, June 9, 2010 effective June 30, 2010**

The Town Plan provides the following commentary and guidelines that the Commission may find germane to the proposed amendment:

**NATURAL RESOURCES**      **PAGE 16**

**Strategies:**

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1. Protect important natural resources such as watercourses, wetlands, steep slopes, ridgelines, floodplains, and floodways.

**OPEN SPACE AND GREENWAYS**      **PAGE 18**

**Strategies:**

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6. Emphasis should be placed on the preservation of Cedar Mountain as open space with priority directed towards protecting inland wetlands and slopes over 15 percent.
8. Consider modifying local regulations to give a lot size exception and coverage bonus for properties that dedicate lot area to the establishment of greenway trails desired by the Town of Newington.
9. Preserve the undeveloped steep slopes along the western Ridgeline of the Cedar Crest Hospital and limit site changes to the footprint of existing building and parking lots.
10. Apply for state and federal open space grants to acquire the western steep slopes of privately owned vacant ridgeline properties along Cedar Mountain.
11. Establish buffer setback standards for the preservation of the natural contours adjacent to the Old Highway greenway corridor.

**Strategies:**

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1. Cedar Mountain should be preserved from development.
  - a. Use conservation easements to protect steep areas in excess of fifteen percent (15%) slope.
  - b. Revise Zoning and Subdivision regulations to clearly state that steep areas in excess of fifteen (15) percent slope shall not be counted in density calculations for development purposes.
  - c. Seek open space grants.

**Strategies:**

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2. To guide development east of Mountain Road consider the adoption of design standards that preserve sensitive slopes and directs development to better suited terrain.

**Areas East of Town Center**

7. Treat the existing vacant property along the north side of East Cedar Street (opportunity sites #14 and #15) as currently zone where important issues related to future land uses on this parcel are:
  - a. control the height, placement and appearance of structures to preserve the open space quality of the Cedar Mountain ridgeline.
  - b. storm water management,
  - c. safe access and traffic, and
  - d. public water service.
  
8. The parcels near the intersection of East Cedar Street and Russell Road (opportunity sites #15 and #17) are important to the successful development of the adjacent land along the ridgeline and important considerations in the long range reuse of this area are:
  - a. improvement to the Berlin Turnpike exit/access ramp system,
  - b. control of access along East Cedar Street by a “single point” traffic signal, curb cut closures and interconnections between sites, and
  - c. promote land uses that are low traffic generators.

5. **ADDITIONAL STUDIES AND COMMUNITY DEVELOPMENT AND TRAFFIC ISSUES**

- The Cedar Street Corridor Study and the Berlin Turnpike Corridor Study have been completed and transportation recommendations proposed that

effect the development of the 29 acre parcel. These design concepts relate to interchange reconstruction, Russell Road relocation and traffic signal installation to serve new land uses. (see attached)

- Future Land Use Component Profile of the Town Plan of Development identified the dwindling supply of remaining vacant land. Environmental restrictions and access limits much of this available vacant land. As an inner ring suburban community the TPZ's policy decisions on land use will have visible impact on community character and the fiscal quality of Newington's grand list.
- Previous Petitions for zone amendment CD to R-12, Toll Brothers has submitted conceptual site plan designs for 108 to 113 units with potential Town Road connections to East Cedar Street and shared access with Shoppes at East Cedar Street approved traffic signal. Sketch Plans 5-15-2008, 1-7-08 and 2-19-09.

WETHERSFIELD  
NEWINGTON

PROPOSED ACCESS ROADWAY  
BETWEEN RUSSELL ROAD  
AND ROUTE 175

29 ACRE

SUBJECT PARCEL

RUSSELL  
ROAD

ROUTE 515 (BERLIN TURNPIKE)

INSTALL TRAFFIC SIGNAL  
AND PROVIDE TURN LANES

ROUTE 175 (CEDAR STREET)

INSTALL TRAFFIC SIGNAL  
AND PROVIDE TURN LANES

PROJ  
FOR

