

PLANNING AND ZONING COMMISSION REGULAR MEETING AUGUST 23, 2000, 7:30 P.M. PAGE 1 OF 37

Chm. William Holley III, Comm. Barbara Plum, Comm. James Fortuna, Comm. David Roane, Comm. Carl Bolz, Comm. Andrew Rak, Comm. John Voli, Dir. P.W. Salvatore Fazzino, Ex-Officio

COMMISSION MEMBERS PRESENT

Comm. Corrine Dorsey, Comm. George Lapadula, Comm. Stephen Gadowski, Mayor Dominique Thornton, Ex-Officio

COMMISSION MEMBERS ABSENT

William Warner, Director, Wayne Bell, Zoning Enforcement Officer

STAFF

Comm. James Fortuna

Notice. Middletown Planning and Zoning Commission Public Hearing August 23rd, 2000, 7:30 p.m., Community Room Police Headquarters, Main Street, Middletown, Connecticut. 5.1 nineteen lot resubdivision of the property of Bysiewicz Corporation located on the easterly side of East Street across and south of the Westfield Fire Department to be known as Eastbury Hill. Applicant/agent Thaddeus P. Bysiewicz S2000-11

Chm. William Holley

Before we start, I believe Commissioner Bolz has a statement.

Comm. Carl Bolz

Chairman, I need to remove myself.

Chm. William Holley

Okay. Before we (inaudible).

Comm. David Roane

Mr. Chairman.

Chm. William Holley

Commissioner Roane.

Comm. David Roane

Before we get into this one,

Chm. William Holley

This one.

Comm. David Roane

Before you get into this one, I have no conflict with this and I will remain sitting on it before the record under the Section 4 Standard of Conduct and I refer to specifically C and D says no commissioner commission member shall conduct themselves, huh, and discharge their duties impartially and fairly and they can continue (inaudible) to maintain and maintain in the highest standard of conduct. Part of these (inaudible) membership treat each member of the public with whom they have contact in a official capacity professionally courtesly impartially in faith and based on those two I will not, will be impartial and I will be fair and my decisions will be based on the evidence put before us and nothing else. Thank you.

Chm. William Holley

Appreciate that, Commissioner Roane. Again, just for the Commissioners' point of view, we are only to consider what's before us now. Again, there are other matters that were on our agenda tonight again, specifically, I refer to the conclusion on those matters and those matters should not enter into any way, shape or form any of our thinking as in terms as to what is going to be presented by the applicant at this point and if anybody so chooses to pursue any discussion now on matters that have been discussed previously, they will not be entertained by the Chair. You may continue.

Atty. Michael Dowley

Thank you. Once again, it's Attorney Michael Dowley. I'm representing Mr. Bysiewicz and his business entities and the application that is before you. Many times when I appear before bodies, I like to basically make sure that everybody is on the same page. This is a subdivision application. It's not an application for a zoning site plan. As a subdivision application, my conclusion you're guided by the subdivision regulations and the laws of the State of Connecticut concerning subdivisions and what I'm required to do in representing my applicant is to review with you the various memos of the city staff to show you that this nineteen lot application is indeed in compliance with all of your regulations and I think as you look at the reports that all of the city staff people have filed, you will see that this development of nineteen lots complies with all of the regulations. The with us tonight are Mr. Bysiewicz, who you heard earlier, and also Mr. Johnson, from Greider Engineering. What I intend to do is to briefly review with you some of the issues that came up. Some of you may remember that when I was not part of the development team, a earlier application for the same site came before you. I think it was a good interaction between the commission and the public concerning some of the issues concerning that application and I think as a result of that interaction, the developer has had an opportunity to speak with some of the neighbors and actually make peace with some of those neighbors. I think that the engineer had an opportunity to review some of the concerns of this commission and so I can take a moment just as almost like as a table of contents or a highway map, it is my intention tonight to basically deal with several of the concerns that happened in that last meeting. Some of you would remember that there were concerns about drainage and I think if you listen to Mr. Johnson discuss the drainage issues, I think they will be pleasantly surprised. I think

Chm. William Holley

If I may interrupt. Getting back to comments, we are not entertaining anything any last meetings whether you were there or anybody else was there. We're just doing whatever you're presenting today. I don't remember that going back that far so

Atty. Michael Dowley
Okay.

Chm. William Holley
Don't don't make

Atty. Michael Dowley
Concerning the issues

Chm. William Holley
References

Atty. Michael Dowley

then that we are going to be discussing, I think it might help this commission to know that, in terms of any drainage issues, I think you'll be really pleasantly surprised by Mr. Johnson and some of his issues. I think also concerning some of the sloping areas of this property when you sit down and you listen to Mr. Johnson, you'll see that the applicant has made very significant efforts in solving some otherwise sloping concerns. With regards to blasting, real important I think for you to know that this is not a substantial cut site where we were. This is what would be classified, I think, as a hill site and so I think as you listen to the engineer and if you have any questions in that area, don't be afraid to ask the engineer in terms of what the difference between a cut and a hill site would be. Finally, with regard to open space, I think I'm going to have you listen to what I think was really good interaction between both the applicant and the City and also some of the residents. One of the residents was concerned, and I think he's in attendance tonight, Attorney Hanks, as to open space being adjacent to his property and so we first considered making a park like area there and talking to both the planner and Mr. Hanks, Mr. Hanks really wasn't interested nor was the planner in terms of like a mini park like along the Wesleyan Hills type development and what was developed was that open space could be satisfied by means of a conservation easement which would have the effect of preserving a canopy of trees and foliage in the area and really worked out really well so that we we have a significant amount of open space now by means of the conservation easement and I'll get into that as as as we go through it. That is like a introduction to what I think are the issues. I'm going to have Mr. Johnson from Greider Engineering basically take you through the application and the land on just exactly what we are doing.

Arthur Johnson

Thank you. For the record my name is Arthur Johnson. I'm a professional engineer, actually now with URS. The company name has been changed but it is URS (inaudible) a corporation with the last names. The subdivision Eastbury Hill Subdivision, located east of East Street, south of Bystrek Drive, one entrance off of Bystrek Drive. Everyone knows the location. It's a nineteen lot subdivision. We're entering into some of the larger details. This is Bystrek Drive. This is Mr. Bysiewicz's house. This is Lot 4A, 5A, 6A, which has been built. This is the detention pond across the street and this is the configuration of nineteen lots and two roadways. The roadways will extend in as a dead-end less than eight hundred feet meeting the City's requirements and this connection going this way to this way is less than eight hundred feet meeting the City's requirements. The actual configuration of the lots start with a small lot of just over fifteen thousand to a lot of almost forty thousand square feet. Around the perimeter of these lots highlighted has now been created a conservation easement and an easement across the front in favor of the water company. The utility improvements will all extend and be serviced from Bystrek Drive. These include water, they include storm and they include sanitary. I mentioned to you that we have a water easement agreement with the water company. There is, I understand, an agreement between the developer and the water company to put a secondary connection to all of this water system just for having a stronger water pressure in the area. This is the grading plan that goes with it in your

documents. I have covered this up so there is a clear understanding in what takes place here. What you see in green is actually called fill. What you see to the extreme east is the cut section. The deepest area of cut is actually behind the backyards of his house. So I have to show this as cut because I'm assuming it's earth. Now, if Mr. Bysiewicz should strike rock or (inaudible) he can actually step this up with virtually no plastic. He can take advantage of rock if he hits it and actually Paris I do not anticipate Mr. Bysiewicz needing to do that. Where we do expect to hit rock on this project, this again is Mr. Bysiewicz's house, this is Bystrek Drive, I have colored up on this map. The black is the finished grading, yellow is the original ground, blue is the deepest utility, we anticipate in this area here in this area here doing based on experience and Mr. Bysiewicz's knowledge with the property, that he will have to blast to get some of this part of this sand constructed wall to sanitary sewer. That's the only blasting that's presently anticipated. Going back to this job, to this story you will see that the balance of the road work is all fill. So the blasting is really going to be where we hit rock where we anticipate based on knowledge of the property. Actually it's close to Mr. Bysiewicz's house and there should be no requirement to blast on this hill. Again, the road the road as you see falls all the way to Bystrek Drive, this being Eastbury. Now let's look at Falmouth Court. Even though Falmouth Court falls away from here, you notice the utilities are reversed. The drainage actually goes back down to Eastbury. From Eastbury it continues down to Bystrek. All the drainage is directed to Bystrek Drive. Again, you can see on this flash road the actual existing grade is yellow. You can see how shallow the utilities will be on this side of the fence, all of it fill as I noted before, the actual excavation is dramatically shallow. We're talking a foot and a half feet. The rest is fill. Now, in controlling the excavation, we're proposing as a condition of this subdivision to limit to Phase One construction and Phase Two construction. It's very important recognize this yellow line, this phase line and the existing contours. We're calling that before any excavation start that Mr. Bysiewicz construct this berm. This berm is a will act as a dam because if you look at the proposed utilities, let's go back to the grading plan. This extreme low point in this yard we're calling for a detention, a catch basin. That low point is located right here. Mr. Bysiewicz, upon putting in this berm, will bring the storm drainage system down and connect to this. This will be in place before he puts in all the fill. Any siltation, any runoff will be caught and conveyed back. With conjunction with that we built a swale that we now will put in this hillside such that any drainage coming off this slope when it's constructed will be conveyed to here, funneled through the drainage system and out Bystrek Drive. I would like now to revisit some concerns that were brought up by the public last time and what has been done engineering wise from the last application.

Chm. William Holley

You may not bring up concerns because there was nothing we are considering from the public last time.

Arthur Johnson

I don't mean it in that sense.

Chm. William Holley
Just so it's clear for the record.

Arthur Johnson

I understand how I presented, Mr. Chairman. How we have treated our buffer buffers in this project, the sensitivity to the property is in the south. These lots at the extreme southern boundary in all cases have now been designed with walk out basements. That lowers the fill approximately eight feet, the original was here. In doing so, we've been able in all cases to bring the grading inside I call it the perimeter canopy. I'm trying to find the best drawing to represent it that I haven't colored up. I've got other drawings. I'll show you later but the canopy that runs around and hides the abutting property, this used to be (inaudible) fund. There's no trees out here. There's just a tree line that goes around the perimeter of the walls. We've been able to pull back all grading activity inside those conservation easements that I pointed out and well back from the canopy such as the perimeter to the south and the east. The existing canopies will be un-impacted by the proposed improvements. Now you can't see the canopy on that drawing. With respect to drainage, this is the property, it's upside down so I can confuse people, you can see on this plan right here that before any development, this canopy basically running around the site and along the walls. As part of the conservation easement we can't do any work inside these canopies and we're retaining them. This is the site before any work was done by Mr. Bysiewicz or any future work's going to be done by Mr. Bysiewicz and the drainage divide basically runs through the peak of his house to a saddle through here and it's all directed down here. This total area drains on the surface to the south. No improvements by Mr. Bysiewicz goes in the natural conditions of the site. Upon completion of the project where I showed you that Eastbury Drive goes that way, that the drainage from this road is reversed and goes this way, the new drainage divide collected by Mr. Bysiewicz's installed drainage system will take all the drainage in that direction. That represents the difference between the two plans. That much area, eight and two thirds acre of surface area will be collected and conveyed to the north, not to the south as it goes today but if it can then be conveyed westerly into the original watercourse, Miner Brook, there is no conversion of any drainage divide so we're not breaking any drainage law. The design does take eight point two eight and two-thirds acres of surface runoff and directs it. As a percentage of what happens to the south, I can't tell you that. With respect to Mr. Bysiewicz's property and what he can control, the maximum amount of diversion has been incorporated into the design. I've touched upon the drainage issues and I've touched upon the blasting issues and the technical features of the plan. If there's any questions, now at this time (inaudible) the board (inaudible) entertain.

Chm. William Holley
I think we'll deal with specific questions to this. David?

Comm. David Roane

How deep will you be going if you hadn't blasted and, and how much time do you believe that will consist of?

Arthur Johnson

You don't understand. This draft I showed you from existing grounds in blue is 208 to 216. That's ten feet. There's no rock underground. I don't know where rock starts but even if it's two foot down, we're talking the depth of maybe six feet of rock. A hundred and fifty feet, Mr. Bysiewicz, in that range? Now, that could be accomplished in a relatively short period of time. It would occur at the beginning of the project because after Mr. Bysiewicz after Mr. Bysiewicz puts his hand in, he has to start his drainage system here and the sanitary system is deeper than the drainage system so they're going to come in concurrent starting here and work upstream. That's how you do it. (Inaudible) close to the system. It has to start here. This will occur initially well, one of the very first things of the project, we're not getting blasting on this project anticipated except for possible, I can't imagine possible (inaudible) because I stayed on the right, this can be ripped or shaped and avoided. And if there were and if there were blasting on this face, you better understand that on top of Wanda Drive, you are basically drilling a hole in a massive rock. There's rock to the left, there's rock to the right and when you blast it you transmission you transmit energy waves through the rock and that's why you get vibrations. In a case like this, if there were any required blasting, we would be on a open face and all the force would just lift the rock off the deep. There would be very little vibration in a blasting situation like this. But for the record, I don't anticipate, through the nature of this rock and the slope conditions permit able to terrace those occasions when he does hit it. Any (inaudible) around here. There will be anticipated early on trench blasting to accommodate that sanitary sewer. That's my best judgement, sir.

Chm. William Holley
Barbara?

Comm. Barbara Plum

I have a question and I guess that would be the appropriate one right here. When is the earthen berm? How high is that?

Arthur Johnson

This was set at elevation two eighteen. This is the two eighteen contour like this so I'm matching the natural contour all the way around. So the natural grades in this area are like from two thirteen two fourteen, so it's like four feet or five feet high at the worst case. Most blast places are like three feet.

Comm. Barbara Plum

And how wide are the conservation easements that you made reference to?

Arthur Johnson

They vary from as little as ten to as wide as thirty or forty. They're shown on the shown on the actual plat that would be recorded. It is a total of 1.03 acres. This is a setback twenty-five. This would be twenty. This is significant here. This is thirty. This is, excuse me, my own plans and I can't read them. Forty feet on the bottom to the south, ten here, twenty here, like I said this is twenty, this whole area down the strip is a conservation easement so (inaudible).

Comm. Barbara Plum

Okay and I I guess you've indicated that that whole area is to be built

Arthur Johnson
Yes, just

Comm. Barbara Plum
And what, I guess my question is that you also mentioned the draining. So, are you saying that once you put all that fill in and this drainage situation that you are putting in that's going to go all the way back to the end of the road, it's going to eliminate any possibility of water runoff into

Arthur Johnson
To the south?

Comm. Barbara Plum
the neighbors or into other areas?

Arthur Johnson
I showed you on that map where I had the (inaudible) of eight point six seven eight. All this water from this point over (inaudible). The actual limits of the work, which can be verified, the water runs perpendicular to the conduits. They run down this hill. They run down there's a swale here that goes this way. This is the limit of the drainage divides as conveyed in this drainage system. In front of these houses, like I said they had walk-outs, in the peak of the (inaudible) in the front yards we go to the street and back (inaudible) go through this area. Same with the front of this house. The back would move and drain off and be the walk-outs to the back. Obviously we can't catch that. The front lawns would be graded to the streets. We follow the concept that we came up to the peak of the house here. These are walk-outs. You can't reach this one. This walk-out walk-out, we got a swale and this this slope in back. So we can actually capture this runoff. So you see the (inaudible) here of the grades that will be directed towards the drainage system and actually conveyed up to Bystrek Drive. Do you have another question?

Comm. Barbara Plum
I think I asked them all.

Arthur Johnson
Okay.

Comm. Barbara Plum
One ran right into the other.

Arthur Johnson
Mr. Bysiewicz would like to address blasting.

Thaddeus Bysiewicz
Probably five or six years ago we did some exploratory holes along this area, actually I think four of them and I guess what I would like to point out to you is a couple things. First of all, we are only digging twelve feet deep along here. Directly adjacent to the property is a home with full basement. Our exploratory holes indicate that we can actually do this site sloping without doing any blasting on this area. With respect to the blasting discussed for the sewer line, we would be blasting approximately six feet of depth for a hundred and fifty feet by four foot in width. That would take between two and four days.

Chm. William Holley
Commissioner Rak.

Comm. Andrew Rak
You talked about phases of, can you go over that a little?

Arthur Johnson
Yes. This plan right here.

Comm. Andrew Rak
I know but exactly what

Arthur Johnson
In other words, Mr. Bysiewicz has to do all the work this side of this berm and this line substantially complete before you move beyond the. The work inside this can actually be contained and during construction all the runoff, sediment, storm drainage and surface drainage can actually be captured before he finishes his finished grade so he'll be working his grade this way and any runoff that goes gets captured here to be filled out as an embankment in this area. And at the same time he's going to do this he's going to build this ditch

Comm. Andrew Rak
Right.

Arthur Johnson
this swale.

Comm. Andrew Rak
Well, you're not talking about doing phases of the road itself like stopping and then

Arthur Johnson
That's up to Mr. Bysiewicz. The conditions of these subdivision plans restrict Mr. Bysiewicz's (inaudible) within this phase to one. How Mr. Bysiewicz proceeds within that and what is allowed by the City is up to him. I know

Comm. Andrew Rak
Oh, oh, alright. I just wanted to clarify what you meant by the phases. Okay.

Arthur Johnson
I know. This is the first phase of the construction that we are proposing. This has to be completed

Comm. Andrew Rak
I see.

Arthur Johnson
or allowed to work (inaudible) substantially. In other words, all this work north of the people who live to the south substantially completed and the activity goes in here. You finished up the (inaudible) quite rapidly (inaudible). But you will capture the initial damming of all planned drainage and sediment and possible problems to be solved.

Chm. William Holley
Excuse me, Barbara, did you want to

Comm. Barbara Plum
Oh, well

Chm. William Holley
continue the discussion?

Comm. Barbara Plum
I have a question but I'm not sure that you will allow that because this relates back to something on Lot Number 104.

Chm. William Holley
Let me, let me ask you. I missed the (inaudible) of the early part where you're talking about. Unless you're clairvoyant. How do you know what I'm going to do or not do?

Comm. Barbara Plum
Well, I don't know what you're going to do but

Chm. William Holley
What, what, what's

Comm. Barbara Plum
you indicated before that we couldn't refer back to a previous meeting.

Chm. William Holley
There was, just for the record, the director might want to make this clear for members of the public that there was

Comm. Barbara Plum
Can you use your mike, then, Mr. Chairman, to make your comment. We can't hear you at all.

Chm. William Holley
Microphone. (Whistle). Hello? There we go. If I blast your ears, I apologize. The history here, just so we are clear, there was an application made by the applicant I believe was withdrawn. Am I correct, Mr. Director? The point I was making, there's since this is a brand new application, as commissioners we obligated to only entertain evidence presented to us at this time. That is the only thing that is relevant. So we have to erase our minds or memories of anything else that we've heard from that application that was withdrawn because one, it's not the same application and, although it is the same piece of property that's before us and again, members of the public will have the opportunity to comment on this. That is what our our what we are restricted in terms of reviewing. So, with that I don't know if you could I don't know what your question is but but I would ask that if the commissioners could pay attention to the applicants while they are talking instead of holding sidebar. Commissioner Roane?

Comm. David Roane

I have a question for staff. I understand clearly I understand clearly what you just said. Since this is a brand new application,

Chm. William Holley

That one doesn't work. Try this one, Dave. There you go.

Comm. David Roane

Since this is a brand new application, should we have received new maps showing all the changes, etc? Because this, as you just stated Mr. Chairman, this is a new application. All of the references that are being made are new (inaudible) the engineer is showing and everything that we have are from the old application. So, so the map that I have before me shows none of the new things that are on this map. So, I'm going can we continue on

Chm. William Holley

I guess, I guess

Comm. David Roane

not having that information?

Chm. William Holley

I guess what I'd ask you to do is direct that question to the director's responsibility is to furnish us with all the proper information and I ask that you answer the question that has been directed.

William Warner

The new application submitted, hmm, was an application. The new application submitted included a application, a fee, and twenty-one sets of plans. You received the plans in your packet. The dates the revision dates should be reflected on there.

Arthur Johnson

Actually, we dated the whole new package eight one. The old package was dated. We didn't even try to revise it and the this particular map that you've got here has a revision as late as that when the attorney came through and asked for the easements. So when (inaudible) as late as well after

Chm. William Holley

Hold on a second. The responsibility of this is of the director. His responsibility is provide to us so we have the correct, I appreciate your ability to clarify and I guess the Director's saying, I'll let him speak for himself again.

William Warner

The maps that you received in your packets were brand new maps with a brand new application. You can see on the date of the plans is that they are dated in May. I believe the last application was withdrawn in March or April. These plans didn't even exist until the new application was submitted and these do have all those changes on there.

Chm. William Holley

So I guess to clarify your question, I guess we have the correct maps that were presented to us. Barbara?

Comm. Barbara Plum

Could I could I just pass down this particular one? The one that I had a question on?

Chm. William Holley

(Inaudible).

Comm. Barbara Plum

I ask, this this pencil markings are my dates and I kept referring to them because we kept getting (inaudible) all the time. But the only thing on there indicates a five point two. No date is on that particular thing. That pencil is all my dates. I changed the date. So am I to assume that this map doesn't give me the same information is the question I'm trying to ask.

Chm. William Holley

So you're correct in that you weren't delivered the proper sub?

Comm. Barbara Plum

Yes.

Chm. William Holley

You're not sure. Okay.

Comm. Barbara Plum

This is (inaudible) that I have. It's says five point one revised but

William Warner

These maps say May 1st, 2000. That's their date.

Comm. Barbara Plum

So so tonight I can ask a question off that map?

William Warner

Sure.

Comm. Barbara Plum

Okay.

Chm. William Holley

Let me let me just clarify this. So, Bill Bill why don't you go look at and see what she has in front of her and make sure she has the right stuff. What you said and that she received the same thing. So we're all looking at the correct information here.

William Warner

What you have before you is the A-2 survey. This is the development plans (inaudible) the grading plan and everything else.

Chm. William Holley

So is she correct in relying on the information that is in front of her and that is all

William Warner
That's that's

Chm. William Holley
pertinent to this application?

William Warner
That is all the new information.

Chm. William Holley
Does anyone else have any questions in terms of what they have? I know that it can become confusing at times.

Comm. Barbara Plum
I guess I'm confused again because of the fact I'm I had to make a reference back (inaudible) to that meeting in order to understand if the question I'm asking has been clarified and I can't really tell from this. So, my two questions are

Chm. William Holley
Let me ask you first. Why do you have to make reference back? Can you just

Comm. Barbara Plum
Well, no.

Chm. William Holley
Can you just ask your question?

Comm. Barbara Plum
Well, Lot 104, which was the reason I believe was indicated as didn't that go forward to the Zoning Board for frontage and the radius of (inaudible)

Chm. William Holley
What are you referring to? The maintenance included?

Comm. Barbara Plum
The radius of the cul-de-sac. Sixty-five is too large and forty-five is too wide.

Atty. Michael Dowley
I can explain.

Chm. William Holley
Hold on. Hold on a second. He'll explain.

Atty. Michael Dowley
What you're what you're referring to and you know, I applaud you for keeping the old information but you're referring to the comments from the previous application.

Comm. Barbara Plum
Right.

Atty. Michael Dowley
If he hadn't addressed those, I would have repeated them.

Chm. William Holley
Was there a particular separation while you were out there? With respect, maybe the city engineer have a better grasp at that but again, at the same time, is there a intention of connecting? I know that we're only talking about a subdivision here but since we're talking about drainage, storm water into that system or any thought how are you going to move that, is that storm water that you're you're describing is not going to move through gravity on its own down to the watercourse to move it out that way. That is the question that I have.

Arthur Johnson
That's how it's designed.

Chm. William Holley
What I have is two questions, one went to him first and then.

William Warner
The answer is yes. The property is serviced by city water and city sanitary sewer so all houses have to be hooked into the city sanitary sewer system and the city water system in terms of potable water for drinking. There'll be a separate line for storm drainage so all the rain water will go into a separate line which will go through a pipe down towards their detention pond across the street and into Saw Mill Brook. So they will be kept separate. The storm water will not go into the same as the sanitary sewer. It used to be designed where they would all go into one. We don't do that any more because it overflows the treatment plant down by the river.

Chm. William Holley
Then I guess the question then to you folks turns out it's going to happen on the storm water.

Arthur Johnson
Storm water on this project is collected by design catch basins (inaudible) to connect to properly sized pipes on Bystrek Drive and then easterly across East Street, of course other property formerly of Mr. Bysiewicz, to a detention pond that was previously owned by Mr. Bysiewicz, conveyed to the city, at which time there is a overflow structure that flows under Miner Brook. All those sizing of those down stream facilities were actually addressed at the time of the Russell Ridge Subdivision. I hope that answers your question that this is sound engineering practice for a ten year design storm flowing by gravity through city owned facilities to properly treat water onto a watercourse.

Chm. William Holley
Again, I would just ask, is Director Fazzino still here?

Salvatore Fazzino
Yes.

Chm. William Holley

Where is he? Why is he standing in the back? He's supposed to be up here with the rest of us. Hmm, gist of, we probably should have someone from Water and Sewer but since you're an engineer, we can rely on your expertise here. Is what he's saying accurate and true and your understanding of reviewing this in terms of the gravitational forces and the water and the like. Better yet, have you reviewed this or is that something Water and Sewer has reviewed?

Salvatore Fazzino

Let me address

Chm. William Holley

In terms of the storm drainage.

Salvatore Fazzino

Basically Water and Sewer. I mean, there is a sanitary sewer and if you required to extended it to the development, its potable water. That's another department. I mean, that's very simple. Just (inaudible) the sewer to every lot. What was earlier was when the first application came in for this entire complex they have constructed

Chm. William Holley

Careful, careful of what you're saying. This is the first system.

Salvatore Fazzino

This is all part of the design

Chm. William Holley

Alright. Alright.

Salvatore Fazzino

To the south of the fire house there are some trees there. To the to the north of the fire house and to the west of the road there's actually a hole in the ground. That's the area where the storm water is discharged to and then it leads out into the road. Yes, everything that has been said has to be done.

Chm. William Holley

Okay. Any other questions of the commission to the applicant before we open it up to the public? David's got it first.

Comm. David Roane

Could, could you explain the way that you are presenting it tonight? Are there going to be any drainage problems to Cambridge Court and , if so, have you how do you prevent them?

Arthur Johnson

The whole purpose of the design or the design criteria identified in this project was to intercept as much surface runoff as possible and convey it to the system on Bystrek Drive. That has been accomplished. All drainage, when I went through this, this is this is Eastbury Drive. Cambridge Court is further to the south. All of our runoff is going to the north and then it's going to the west to Bystrek Drive. None of the surface water for this project within the bounds of that boundary I

showed you will continue to go will be turned around and directed to the north. We are actually diverting, taking away eight and two thirds acres of surface runoff that presently goes (inaudible). That's the most that can be accomplished on Mr. Bysiewicz's property and that's the end of it. We can't do any more improvements with respect to our neighbors. It's not possible.

Atty. Michael Dowley

I think, Commissioner Roane, that the answer to your question is without approval of the subdivision, the water continues to flow towards Cambridge Court and your question really was does this help or does it hurt? I think his answer is basically it significantly helps in taking that water away from Cambridge. As a lay person, that's how I understand it.

Comm. David Roane

Thank you.

Chm. William Holley

John.

Comm. John Voli

Did the applicant address the concerns of the Westfield Fire section comments?

Atty. Michael Dowley

As to hydrant locations? Yea, we've had no problem in terms of working with them in locating the hydrants so. We've worked with all of the departments and that gives me an opportunity to basically say that we would accept an approval subject to all of these these departments and I believe that all of the departments in terms of their comments have approved the project.

Comm. John Voli

Even with your call boxes.

Atty. Michael Dowley

Right.

Comm. John Voli

I have a question still. I apologize if this (inaudible) still going on. Under the first one of your first (inaudible) site analysis (inaudible).

William Warner

That was submitted. It was in the box for the last meeting. I was supposed to pass it out so you did receive it now.

Comm. John Voli

Okay.

William Warner

It is a part of the record.

Chm. William Holley

So can we just pass it around?

Chm. William Holley
(Inaudible).

Comm. John Voli
Thank you.

Atty. Michael Dowley
Just to conclude my as I started the presentation off, all of you I know functioning in your planning function with your planning hat on and the regulations say that I'm required to show you that I've satisfied all of your regulations and I think your departmental staff have held my client's feet to the fire and I think he has actually presented to you a quality application that is going to improve the life of those of the Cambridge Court residents as well as the activity within this very subdivision and what I would say to you is that since we now comply with all of your regulations, I think you are required to approve the subdivision here.

Chm. William Holley
Alright, then members of the public who want to come up and express their concerns we will take your comments and then we will ask the applicant to come back and at that point we will then move forward. I wish you all the best luck with the microphones.

Donald Lunt
Where are the microphones?

Chm. William Holley
This one right there.

Donald Lunt
Okay.

Chm. William Holley
Just state your name and your address.

Donald Lunt
Can everyone hear me? Okay. My name is Donald Lunt of Wallingford and I represent Charlotte McCoid and the McCoid family (inaudible) own property on East Street abutting the proposed Eastbury Subdivision.

Chm. William Holley
Am I correct to assume this

Donald Lunt
This this is Charles Dimmock. He is a registered geological engineer and he will be pulling in on certain technical aspects which I cannot.

Chm. William Holley
Okay.

William Warner

Spell your last name.

Donald Lunt

Lunt. First I just have a question of the applicant and the engineer in testifying there that there will be they will not be anticipating any blasting except for the sanitary sewer line and I would like to ask if he if he's there if he can answer my question. As I look at the map, it appears that the Eastbury by itself on the same ridge as Russell Ridge it is.

Chm. William Holley

Basically, what we can do you can raise all your questions, they can take notes and we can redirect the questions to them.

Donald Lunt

Okay.

Chm. William Holley

This is not an open mike type arrangement

Donald Lunt

(Inaudible) you want to do it.

Chm. William Holley

Raise your questions, raise your concerns, say what you want us as commissioners to address. They're going to be coming back at the table and we're going to

Donald Lunt

Fine.

Chm. William Holley

We'll make sure we'll you know do that.

Donald Lunt

Okay. So my question is that I think that the commission should be interested in is that I think this is the it appears on the map, if you look at the Russell Ridge map and you look at the Eastbury map and, in fact, if you just look at the Eastbury Subdivision map and that runs up at just about the same elevation as the Russell Ridge property. It's on the same ridge and Russell Ridge, you've got a lot of discussion about blasting in front of Russell Ridge and I think that it is highly unlikely that he would encounter the same conditions on Eastbury. It's the same ridge, it's traprock ridge. Now,

Chm. William Holley

Just just just for your information, again we have been some discussion regarding zoning issues on blasting at that subdivision you mentioned and it was presented tonight that there weren't any violations with respect to the blasting.

Donald Lunt

There weren't any violations but I think that the Zoning Enforcement Officer addressed only the questions of grading elevations.

Chm. William Holley

That may be but we're not going into that issue at this point of time in terms of the application.

Donald Lunt

I think that in considering this application the commission should need to know what would happen there and whether or not there'll be blasting and I raise that point because I think that in order to extract rock in the zoning regulations you must get a special permit and to my knowledge there was no permit before (inaudible).

Chm. William Holley

Again, again restrict comments only to what we are talking about. Not existing pre-existing issues, sir.

Donald Lunt

(Inaudible).

Chm. William Holley

Hold on, sir. I'm very well astute, sir, that you are trying to get words in. I appreciate that. That's your job. But what I want to make clear here is that you can address blasting all you want as it pertains to this application but try to color it in with other actions or other issues is irrelevant as it pertains to this particular application and the evidence presented before us.

Donald Lunt

I understand.

Chm. William Holley

Okay. Just be careful in terms of that you keep sliding it back in there.

Donald Lunt

I know we are all conscious of history but in this application I think the Commission must be concerned with the possibility of blasting because they are dealing with the same ridge and I think that if we are going to, like I say, approve the application

Chm. William Holley

They can't. You're going back into the same ridge. I want

Comm. Barbara Plum

It's the same ridge.

Chm. William Holley

Same same same ridge as what?

Donald Lunt

This is a part of

Chm. William Holley

No, no, no, no. Same ridge as what? Or were you going to say the previous ridge? Please pertain to specifically what was presented to the application and to what we are talking about. Okay?

Donald Lunt

This

Chm. William Holley

It's not that difficult to do.

Donald Lunt

This this subdivision, part of it on the east and the west side is on the is in a traprock ridge. Okay and the proposal is to steepen the slope very very significantly on the side in order to allow the people using the flatlands to put a house up. If you look at the C-2, which is existing contours, and C-4, which are proposed contours, you will see how much that slope has steepen and I think that the Commission thinks if it's looking if it's sit in considering whether to approve this subdivision, must consider the possibility that if that is traprock, there will be blasting. If there is blasting (inaudible). I don't think you have to approve it and I think you are going to have to take into consideration the fact what's going to happen. If they have blasting. If they have a rock crusher. It's in clear violation of the regulations. That was one question but I think the Commission should ask the question how do they determine that there is no rock there even after the blasting. What kind of burdens have they taken. What kind of (inaudible) have they made. These are questions I think the Commission should ask. I think the focus has been that I have heard so far is on technical requirements in the subdivision regulations and (inaudible) but I think some of the general purpose of the subdivision regulations, the guide to approve subdivisions, has not fully been discussed and there's something I really want to put to you now. Under Subdivision Regulation Section 5.02.02 the Commission is to consider the development or as to be determined the development is to be determined by consideration of there are five items and one is protection of public health and safety and I don't think that's a concern here. Preservation of natural features of site and I think that's very much a concern here. Making the best use of the natural terrain. Avoidance of environmentally sensitive areas and finally, also important, minimizing negative impacts and alteration of natural features. If you look at the existing contours and the proposed contours, you can see that there's going to be a dramatic change in the topography of that area. There'll be a dramatic change in the natural features because they are going to be taking excavating one side taking out a tremendous amount of material. Mr. Dimmock will estimate how much material altogether that probably will have to be moved and they're going to be tanning a lot of that on the west side, which will raise the elevation. So I think that that's something we the Commission, by its own regulations, can consider are natural in this proposed subdivision alone, are natural features being preserved. You know, there is no rule that says you have to develop on any piece of land that's within, say a residential zone. The question is, the question that should be considered, is whether the kind of the development that is proposed is suitable for that land and I don't think this has been sufficiently been addressed and the reason that I would say that this is not this proposed development because the maximum number of lots of the size permitted in the zoning regulations on this property requires a very large, drastic change of the nature of the property. The blue print, the blue print development up there which you won't have as many parts and you won't have as many houses but you would have something that would be part of the present basically the present contours and the present appearance in that

Area. So, that's one point I want (inaudible). The, and this is an example, when they add fill to the west side, they will be increasing the elevation up to twenty feet. When they avoid the Zoning Code, distinctly they will grade the slope or (inaudible) how much they will steepen the slope on the east side. The question that was raised was open space. The regulations don't require, as I understand it, open space but I understand that it's preferred it's preferred there be open space. The question that I would have basically on the developer has appraised the commission that they will have a conservation easement (inaudible) to be determined. I quite frankly don't understand what that how that would work. I don't know who would be able to use it if it's open to the public, how they would access it. It would seem to be just a crossing of existing lots and therefore, there would be no access to the conservation easement and if it's simply the back area of existing lots, it's just somebody's backyard and they don't know just what kind of requirements they're proposing (inaudible) but it's not something that is open to the public and certainly to the members the people who live in that subdivision. I don't see how that qualifies at all as open space. Well, one very significant area and what I think Mr. Dimmock will explain to you, if what he says is true, there's going to be increased runoff on my client's property as a result of this construction for a subdivision. That is a direct violation of Section 5.23.01 of the Subdivision Regulations.

Chm. William Holley

Could you, I mean to interrupt you briefly, could you identify where your client's property is located on the plan the applicant has submitted so we know where you're talking about as related to this issue?

Donald Lunt

This is you can see it on (inaudible) oh, here we go. The McCoid family living trust is right here and Charlotte McCoid lives right in here.

Chm. William Holley

Which map number is that one?

Arthur Johnson

The actual subdivision plan. It's not one of the subdivision construction drawings. It's the A-2 survey of the property.

Donald Lunt.

(Inaudible) alright. I'm trying to locate it on the west side of East Street and the west side of the proposed subdivision. Her properties, except one of the McCoid family living trust property, is not shown on this map. From the property to the north of the subdivision, and as Mr. Dimmock will explain, there is drainage there is existing drainage now. Right now the silt from their properties we think can get really serious. We've had a lot of rain and we've had a lot of rain. But the development the proposed development the runoff has substantially increased (inaudible) and the developer has talked about draining from this area south but he has not addressed the question of this slope and the drainage that leads in East Street.

Chm. William Holley

Do you know what the elevations are in there? In terms of sloping? It's hard to tell from (inaudible).

Donald Lunt

I can tell from my maps.

Chm. William Holley

Well, again, anything you submit to us we have to keep

Donald Lunt

Oh, you have to (inaudible). It's on your map. It's C-2.

Chm. William Holley

I'm just saying what you submit to us becomes part of the public record.

Donald Lunt

(Inaudible)

Chm. William Holley

I just want you to be aware of that.

Donald Lunt

Certainly.

Chm. William Holley

I'm sure you are.

Donald Lunt

Mr. Chairman, may I ask this? Is the I assume you have

Chm. William Holley

Is it the same? It looks like the same.

Donald Lunt

the same map on file with you. Would that date be correct then, on May 1?

Chm. William Holley

You mean on C-4?

Donald Lunt

Yeah, on C-4, which is the proposed contours and C-2, which shows existing contours. So the contours on down on C-4 on down to two ten and they start at about the two twenty elevation. From that part of course they go up to two seventy, two seventy-four (inaudible). And the (inaudible), just for the record, the McCoid properties with the rest of the lots run one nineteen, one eighteen, and one sixteen.

Chm. William Holley

But getting back to the point, I don't mean to interrupt you.

Donald Lunt

Right.

Chm. William Holley

Before I ask you to point out, you made you made some reference again to I think it was Section 5.2 you made you made mention that there would be an impact as proposed as it affected the

Donald Lunt
Right.

Chm. William Holley
standards here.

Donald Lunt

Right. I take the regulations (inaudible) Section 5.23.01A states that the runoff rate outside of the subdivision after development may not, and it's mandatory, may not exceed the rate that existed prior to the development. So, if in fact, the rate will exceed (inaudible) in your own regulations (inaudible). At this point I would like to turn this over Mr. Dimmock.

Dr. Charles Dimmock

Good evening. For the record, I am Dr. Charles Dimmock. I'm a certified professional geologist certified by the American Institute of Professional Geologists. I have been doing geological consulting work in the State of Connecticut since 1973. I think it's been at least six years since I last appeared before this particular commission and I don't think I recognize any faces from six years ago. Also, for the record, just I'm stating my qualifications on the basis in case you don't know me. I am a professor of geology at Central Connecticut State University. I am Vice Chair of the Cheshire Inland Wetlands Commission. I've been on that commission since 1974 and I have worked on properties for developers and for citizen groups in over a hundred different towns in Connecticut and my specialties are mostly surface and ground water and soil conditions. In this particular case, I was contacted by Charlotte McCoid, who had some concerns in terms of drainage on to her property. I made an examination of her property, adjacent pieces of land and the existing piece of land to be developed. Now I must commend Mr. Johnson here in taking care of the larger picture of drainage. As he stated, he has taken a lot of drainage which is currently going to the south and that with his develop, huh, proposed plans, that drainage will be caught and be put into the storm drainage system to be carried to the north. But as what quite often happens when you try to solve a larger problem, you may overlook a smaller problem and admittedly Charlotte McCoid is only a very small part of the large picture but while most people will be getting less drainage after this development goes in, the property of Charlotte McCoid and the two properties to the north of her, that's to say the Watkins and the Fisher properties, will see an increase in the drainage. Currently, approximately one acre of land from the site of the proposed development drains towards the west. Now, if I could have ask the applicant if I could use his maps showing the current drainage divide for just a minute, I'd like to point out something.

Donald Lunt
Excuse me.

Chm. William Holley
Yes.

Donald Lunt

Would you like have the report (inaudible) so that members of the commission could follow it along as they listen?

Chm. William Holley
Sure.

Donald Lunt

Okay. If you'd pause just a minute and I'll have that distributed.

Chm. William Holley
(Inaudible) referred to us?

Dr. Charles Dimmock
I'm not sure I got

Chm. William Holley
(Inaudible).

Donald Lunt

You can use some professional courtesy.

Dr. Charles Dimmock

Wait just a moment, sir. This is a very short report and so a little bit technical in places. I'd left that part for your engineer to review. Now if we are all set, using the developer's own plan here, you'll notice that there is a blue line which I agree with it is the current drainage divide, currently because of the fact that there's a swale running down through the middle of the property through here and a very low ridge running down here. West of this blue line drainage is to the west. The properties that are concerned are Charlotte McCoid's property and two properties to the north.

Atty. Michael Dowley

Charlotte McCoid's property (inaudible). So earlier when he said it wasn't marked, it is marked.

Dr. Charles Dimmock

Her house is actually here. The boundary of her property is not. I actually I didn't think but it's it's hard to pick out the boundaries. They just showed the shadows here. Charlotte McCoid's property and two properties to the north of her, there is also a very shallow drainage swale that comes down just barely shown by the contours. On this plan it shows the drainage now goes to the west and is carried southward to these two properties down onto the McCoid property. They eventually lead to the south and there is a drainage facility a couple hundred feet south of the McCoid property. That is the current situation. Currently, she does not receive any of the drainage east of this blue line, which is carried in a swale on the other side of this very low ridge and currently pools in an area that's very south of the proposed development and that water and and this this blue line seems a little misleading to me because I was able to trace (inaudible) swale and pooling and puddling in this area that I'm showing at the southwest corner of the proposed development and then that water runs through a narrow little gap here and into a drainage system to the west and southwest of the proposed development. The proposed development will fill this

swale. The engineer for the developer recognizes the problem that creates has said. The water in this swaled area will now be caught and put into the storm drains and it'll be carried north as was explained to you. However, there is a small part of this area currently lying at the edge of this to the east of this low ridge, which after filling, will drain to the west. So that, instead of about one acre of land draining to the west and eventually through the McCoid property, it'll be about 1.45 acres. Now that's not a very large increase and 1.45 acres may seem like a very small amount of extra drainage, very, but there is another factor to this. Currently, the ridge and all of the land to the west of the ridge is heavily wooded, dense undergrowth. When it does rain, there are a number of little brattles, broken branches, roots, other things that slow down the water movement going to the west and somewhat (inaudible) the runoff and, in fact, allow a certain amount of infiltration of that water. After development, the municipal fill and of the extra fill here, all of that will be either impervious surface or lawns and there will be nothing to slow down the water which runs off. Now I have included in my report a set of calculations that show for a typical rain storm, not a large rain storm but a typical sort of the kind we've had three or four this year, it will be something like a threefold increase in the amount of water that will go through the McCoid property after development. So while there is a decrease for almost everyone else, there is for Charlotte McCoid and her two neighbors to the north a what becomes a significant increase on a frequent basis, two or three or four times a year they will be getting three or four times more water from a rainfall than is currently the situation. This is partly because of a great deal of landscape or or land moving that is going on on this parcel. I did a back of the envelope calculation and came up with something like a hundred and twenty thousand cubic yards of material that's moving around on this site. What with an average of about ten foot (inaudible) on the east side and an average of about twelve foot fill on the west side, then the soil may move south, the soil may move north. There's quite a large amount of change of the contours compared to the present, to their situation. So that is primarily my client's concern and the concern that I am presenting to you. I'm certainly open to any questions if you have any.

Chm. William Holley

At this point we are only taking testimony here.

Donald Lunt

I would like offer photographs of existing conditions after a rain storm of the McCoid property.

Chm. William Holley

So, your client's property.

Donald Lunt

My client's property. I put a label on the back (inaudible).

Comm. David Roane

Mr. Chairman.

Chm. William Holley

Yup.

Comm. David Roane

Before you leave the tape (inaudible) submitted (inaudible) sir, is it part of your testimony that these conditions are there now in terms of the water that accumulated will be more after development

Dr. Charles Dimmock

That, that is correct.

Comm. David Roane

or will it be worse than it is now?

Dr. Charles Dimmock

That is correct. It is a problem that is bad now and it will be worse. I believe looking at old photographs that at one time there was another drainage swale that carried water southward from there and after the construction of the homes to the south of these properties which occurred a few years ago, that swale seems to have been blocked up and that's probably part of what's making things bad now but what will happen, which is a terrific problem now, will be made much worse. That was the situation.

Chm. William Holley

(Inaudible).

Dr. Charles Dimmock

Yes.

Comm. David Roane

I just have one more question, Mr. Chairman.

Chm. William Holley

Go ahead David.

Comm. David Roane

Could you go back and just talk a little bit more about when you say when they fill, when they take from I believe the west side and fill the east side,

Dr. Charles Dimmock

No, I'm taking from the east

Comm. David Roane

from the east side and fill the west side, you said it's going to be twenty feet?

Donald Lunt

I think I said that. Up to twenty feet of lot area.

Comm. David Roane

Up to twenty feet?

Dr. Charles Dimmock

(Inaudible) the maximum of fill depth comes out somewhere to a spot (inaudible) would be twenty-two feet of fill but on an average it's much closer to ten or twelve feet of fill on the western side so obviously there's some areas with much more fill than others. There's a few spots that will end up with exactly the same contour.

Chm. William Holley

When were these pictures taken? Oh, you got it down here, June 20th, Walgreen's One Hour Photo. Was it correct to assume they were taken on that day or?

Donald Lunt

Charles, can you answer that question?

Charlotte McCoid

(Inaudible) I submitted those pictures.

Chm. William Holley

Excuse me, who took the pictures?

Charlotte McCoid

I took the pictures.

Chm. William Holley

Is that your client?

Donald Lunt

Yes, that's Charlotte McCoid.

Chm. William Holley

Okay.

Charlotte McCoid

Does it have a date on it? Six twenty two thousand. That's when I but it was it was probably in May because it was probably because you can see the tree foliage.

Chm. William Holley

It's pretty clear there's a pool of water in this picture, this is your property, correct? And that is the way it is presently?

Donald Lunt and Charlotte McCoid

After it rains.

Chm. William Holley

Okay it's apparent you have water on your property after it rains. Is that all you have to say?

Donald Lunt

Yes.

Chm. William Holley
Okay. Thank you very much.

Donald Lunt
Thank you.

Chm. William Holley
Any one else other member of the public like to come up and speak? Who wants to go? You two guys, I can tell. It was a tie.

Atty. Salvatore Petrella
Thank you. My name is Salvatore Petrella. I'm an attorney in Cromwell, Connecticut. I represent Patricia Watkins. It's noted as an abutter under the Watkins Fisher property at 644 East Main Street in Middletown. What was referred on previous testimony as the Fisher property is the Watkins Fisher property.

Chm. William Holley
Can you show us where that is? You mentioned, you said East Main Street. You mean East Street?

Atty. Salvatore Petrella
East East Street. I'm sorry. East Street. And I apologize in advance if I make any errors in tonight's presentation. I (inaudible) at five o'clock to be here so I haven't even seen those maps. What I was going to be addressing, however, is some generic problems that the appli that the my client has with this application and I will try to refrain from any comments about any other application noting the Chairman's aminition's. My client my client has a serious interferement with the quiet enjoyment of her property right now which will be expanded or extended by this project. There was a mention by Attorney Dowley that the project will improve the quality of life for certain residents but my client will not be one of them. There is talk of blasting. If approved, then I would ask this commission to seriously inquire as to place limitations on the scope and duration of any blasting and if the applicant runs into a problem that requires additional blasting that they had not anticipated, then they be required to come back to this commission for whatever additional permit, whether it be a special permit or conditions on the original approval if they're given one that would address any additional blasting on the site. I also ask them to limit as they may have in other incidents the size of any charges that are used on this site because depending on where the blasting actually occurs, it affects the, I believe Mr. Johnson, and he's here to correct me if I if I misquote him, indicated that in one portion of this property where they did not anticipate blasting, that there was rock and if there was a blasting in this area, there would be seismic transmissions so therefore, they could just take off the top of it or grade it. They may not need to drill a hole and blast. Where the trenching is going to be done, it is my understanding that there is rock and that if there is blasting or trench blasting, that there would be seismic transmissions that would very easily affect the already cracked basement and pool of my client, who lives adjacent to this site. We have some real legitimate concerns about potential damage. I did speak to Attorney Dowley before and, in all fairness to him, he did offer to have our property inspected and surveyed for any damage prior to any blasting if this property does get approved, this project does get approved. The other thing that is of major concern to my client again has to do with a quality of life issue of health, safety and welfare criteria that have to be required to

address these applications. There's talk of a large amount of fill. I would like the applicant, if it hasn't already been done and again, I haven't seen these maps, to address the quantity of fill that we're talking about because I think that directly bears on the amount of truck traffic that's going to be on this site if they plan on moving it by truck or the amount of equipment traffic if they plan on moving it by heavy equipment. If that's the case, is there going to be anything going over the hours of operation, the number of trucks leaving the site because it's my understanding from not just from the previous app, any other applications but that truck traffic in and out of excavation fill sites usually tends to cause neighborhood problems. So I would ask the applicant if they would address that issue as well. Lastly, I would ask the the commission, I didn't realize until the last presentation that there would be more water going onto my client's property than what is currently there. Perhaps, if the Commission is predisposed to approve this, they might ask the applicant if there is any way that could be prevented through any additional grading or berms or whatever other engineering applications they may have. To wrap it up real quickly, my client currently has a problem. She doesn't want it extended or increased and anything the Commission can do to limit the interference with her quiet enjoyment, we would expect and ask respectfully of the Commission to do. I will try to go up if the Commission still wants me to and show you where my client's property

Chm. William Holley

Actually, I think we're able to locate it. You might want to point out for the, for the public just where we're talking.

Atty. Salvatore Petrella

Well, Mr. Johnson, you have to help me.

Mr. Johnson

(Inaudible). It's right here, where I'm pointing to (inaudible) it's right (inaudible) lot seventeen. Lot eighteen. (inaudible) one eighteen.

Atty. Salvatore Petrella

That concludes my remarks.

Chm. William Holley

Okay, thank you very much. You're up.

David Chauvin

My name's Dave my name's Dave Chauvin, 45 Cambridge Court. My property is due south of the pending development. My concern is two fold, one of an environmental nature. The cut on the hill is of great concern to me in that it's changing the landscape of the hill and creating two man made terraces. I can't believe that there's not going to be any blasting when you make this cut when the ridgeline runs at the same contour levels on the north side of Wanda Lane as it does on the south side and there's extensive cutting involved and extensive blasting involved on that section of Wanda Lane that runs east and west. I expect the same amount of stone to be found, as least when that makes a twelve foot cut and also, just the general appearance of that hill it seems it seems like a crime to, to make that hill look so artificial from what it is today. These homes could be built on the current property without affecting the hill whatsoever by reducing at least the number of homes by two or three and making a real piece of open space south of the property.

From a personal perspective, there have been some changes near our property that have improved the condition but we still have a man made twenty foot hill next to our property. It's a steep three to one slope. That's the height of our second floor. This hill also has hill homes. The design now they have exposed basements and pitches begin right at their rear doorsteps. It's not a real practice design, probably force homeowners' to establish fences so that their children and their toys won't roll down the hill so that I get to get more site pollution. I know I can't deny the developer the right to make a living but does he have to do it at the expense and the use of my home and the real estate value? In real estate, a real open space and preservation of the hillside means that somebody can use it and just provide a beltway. The existing property doesn't do that. I, I think if you, you look at the property and, and shorten the roadway so that, I mean real, real estate that cut is being made, is being made just for the last three lots on the right side. The first five, six lots

Chm. William Holley

(Inaudible). Point where you're talking about so we all know where you're talking about.

Arthur Johnson

In this area.

David Chauvin

Realistically, this cut's being made so that these homes can be put in. These homes can go in without any cut whatsoever. If this, this was brought back to here and the homes put around here, you could maintain the integrity of the hill without making any cut whatsoever, to establish an open, some open space over here, something that hasn't been done any where in this area and there wouldn't be such an environmental impact both from, just, just a general looking at the place and wouldn't make any changes in the drainage. I guess, in conclusion, if you do approve the project in any shape or manner, I, I feel that the blasting, if any has to be done, should be, should be, we should be provided with at least a twenty-four hour notice before any blast in addition to the current five minute warning and that the quantity of the explosives used in the blast should be limited to reduce the potential side effects to our property. Thank you.

Chm. William Holley

Thank you very much.

John Hanks

Hi. My name is John Hanks. I live at 39 Cambridge Court, which is right next to Mr. Chauvin's property bordering on the subdivision. I just would like to join in Mr. Chauvin's remarks about, I have exact identical concerns about the development. I've lived there, lived in my house for the past ten years and have enjoyed having nice views of this property and it really is quite a nice property to look out over. I've enjoyed it for many years looking out my back window and I'm going to miss that. I think it's a shame that it has to be cut up in this way and, as Dave pointed out, perhaps the developer could sacrifice a few lots and he could still make a profit on the property and in that way, be able to keep some of the natural contours the way the land looks now. So, I just join in with Dave and I just say I share the exact same concerns as a resident and I accept Mr. Johnson's representations concerning drainage. I can't hire an engineer. Thank you.

Chm. William Holley

Thank you very much. Go ahead, ma'am. The lady in the back.

Helen Bysiewicz-Cross

My name is Helen Bysiewicz-Cross. Seventy-one years ago I was born in the McCoid Bysiewicz house and that many years ago there was a apple orchard on the acreage that my nephew is planning to build on. Despite the apple orchard, the rain provided us with ice skating in the winter. It was a pond, actually, between the Fishers and the Bysiewicz household and the McCoid household. Now, what is going to happen with seventeen foundations there? Are we going to have more water or swamp? Thank you.

Chm. William Holley

Thank you ma'am. Any one else wish to speak or be heard?

Charlotte McCoid

My name is Charlotte McCoid. I live at 626 East Street and I already took (inaudible) vote into account with regard to the drainage. I just wanted re-iterate one more time it is certainly a very low place. It will get worse with this development. It causes more drainage on the property, which is (inaudible) against the subdivision regulations apparently. I also wanted, here's, it's interesting because you, I never got any comments from Public Works with regard to this property and that would be all the people on the north of the area of East Street. So that would be lots of property and the McCoid family estate and Canton family also. But, I, I just want to say that not were any comments made but I'm discovering there is a drainage pipe that was put on the property that was the, the property that's above the Canton property. Can you see, that would be (inaudible).

Chm. William Holley

You can use that if you want. If that helps you.

Charlotte McCoid

Yeah. The Chauvin property is actually the property that I'm referring to. There was such bad drainage when they were for that property to have been approved was kind of a shame but they'd hoped to solve that issue with some, being able to use the storm drains that go into Cambridge Court but they discovered that there was a lot of excavation been put in to change Cambridge Court because Mr. Bysiewicz, who developed that property, apparently dumped a lot of large rocks at the end of that so it was very expensive to, to fix that issue. Apparently the City had put a drainage pipe off the back of their property that actually goes into the property that belongs to the McCoid family estate and the Canton property, which I found very interesting and didn't realize it until I walked the property and then I had conversations with the Chauvins. I guess what I'm trying to say is that it is very interesting that the City did not make any particular comments to the drainage at the bottom of East Street and then come to find out also had four lots added a pipe (inaudible) that added drainage to those properties also. I guess the thing is to recognize that drainage doesn't just happen or stop at any point. You talk about going into, I mean the drainage of our property would have been helped by going into the extension convents on the end of Wanda Lane. That's not happening because of all the cuts that have gone into that property. It's basically wetlands to begin with and probably should never have been developed. We talk about there not being a problem at all and it's all going to end up in Miner Brook but you know, if you talk to the people who live in Glenwood Terrace, they would not be happy to hear that more drainage is going to go in Miner Brook because they have issues of drainage down there. I guess what we have to understand clearly is that it's a big picture. It's not. This water is just not staying

in one spot. It's going lots of places. Unfortunately, some places it's stopping too soon and other places, I wonder what the impact of that would be, you know, especially when you have very low flooding. And I do, I'm very concerned about the fact there's nearly no open space in this development, this proposed development. I think that open space is a real issue. I think this easement is certainly, it's a tiny thing. It doesn't have access to the public and I don't know really how it would be utilized very well. I think that those are two big issues I'm concerned about, drainage and also the open space but I'm opposed to this subdivision and I hope that you deny it.

Chm. William Holley

Thank you, ma'am. Any one else wish to speak?

Arline Rich

Arline Rich, 615 Miner Street, Chairperson of Westfield Residents for Rational Development of Middletown. This is not referred to (inaudible) I have to speak again. We still opposed this development. It's over used and very sensitive land. We think the (inaudible) could be better done if, if before it was said that if they couldn't develop it, there would be no use of that land but it would be a great spot for open space unless that's (inaudible). But also I have another question. If this water's going to drain into that detention pond, what about water quality? We have a big problem now with sandy water and the West Nile virus. Will any controls be put on that pond or just, just holding water? And, just in general, we opposed this. We think it's not really appropriate for the land. Thank you.

Chm. William Holley

Thank you very much. Any one else want to be heard? Seeing no other further members of the public, entertain a motion to close the public hearing?

Comm. James Fortuna

So moved.

Atty. Michael Dowley

Don't we get a chance to rebut, though?

Chm. William Holley

Well, time out.

Atty. Michael Dowley

That's how you introduced the thing.

Chm. William Holley

I understand that. What I'd like to do, with respect to this and indulge the applicant, seeming the time of the hour that we're in, I want to get as much testimony from the open public here, not from you folks at this point in time. You've already made your presentation. What I want then to do, particularly regarding the thing that was submitted by the geology professional, I'd like to have our engineering department go through that information to verify what those calculations are the conclusions that are contained in there for our next meeting so we can make some heads or tails out of it and give us something in english. We need the Director Fazzino. Maybe we can get Water and Sewer in there also or so whatever you've got down there in your brain trust to sift

through that so that we can look at this and make some sense of it. So we can all see at that point of time what that is and then figure the opportunity to address those things and anything else brought up today at that point in time.

Arthur Johnson
Mr. Chairman?

Atty. Michael Dowley
So you want to close the public hearing?

Arthur Johnson
Mr. Chairman, in respect I would like to respond on the record tonight while it's fresh on my memory on the comments made by the geologist.

Chm. William Holley
Well, okay, we'll continue. We will continue with that.

Arthur Johnson
Thank you.

Chm. William Holley
That, that's not a problem

Arthur Johnson
It really isn't over.

Chm. William Holley
but just, just, just so everyone knows, what I'd prefer to do again is after that then we will close the hearing

Arthur Johnson
Right.

Chm William Holley
and then we will, I want to get the some expert opinion from our side on what was presented to us so we can make some educated decisions.

Atty. Michael Dowley
I think we will be brief but

Chm. William Holley
Okay.

Atty. Michael Dowley
I also think it will help the Commission and I'm sure

Chm. William Holley
Yeah, go ahead.

Atty. Michael Dowley
(Inaudible).

Chm. William Holley
There's plenty of time. I just wanted to find the proper way to do it here. (Inaudible).

Atty. Michael Dowley

Just in a couple of seconds, I've taken some notes myself and then I'm going to turn obviously the matter over to the expert and, and with regard to Attorney Lunt's comments, I'm (inaudible) some of you, I know at least one of you (inaudible) on the map that we haven't showed Charlotte McCoid's property and then he counted off the lots that were bordering his client's property, I'm sure you all remember when he said lot 117, lot 118 and (inaudible). The other attorney who got up said where's your client's property and he said it's next to 117 and 118. He answered the question as Attorney Lunt, which is wrong. His client's property is shown on the map. It's not in the place where he said it was and the other attorney was correct in where his client's property was. The reason why I think it's important is because obviously any one can get up and say anything that they want but (inaudible) to you. You need to know what's right and what's wrong and that's why we have no problem referring to Public Works to analyze. But much of what's been said has been said without proper analysis. Anytime any expert gives an opinion, that opinion is based on certain assumptions. The assumptions are very important for you people to know and, for instance, if you remember what one of the experts said, he described an area that was going to be taken by the house (inaudible) lush life and woods and in reality that's not what's up there. If you look at one of those pictures, you're going to see a meadow. It's the meadow that's up there and not these trees and woods that he was talking about. The item that is important is that I really take pride in representing my clients before this commission and other commissions and after coming to several meetings that were postponed here, finally, I think, at a meeting I didn't even know there was an Attorney Lunt representing someone. So I sent Attorney Lunt a letter and I said, look, if there's anything I can do to assist you if you need, let me know. Never once heard anything from Attorney Lunt that he had any concerns or any problems or if he told me he had a drainage problem, I would have been more than happy to deal with him. He told me tonight that he got the letter but that there was nothing that he could do. The condition that is important for him to understand is that I did the same thing with the woman who's concerned about the blasting. I said to her attorney if you've got blasting problems, I'll give you a pre-blasting survey. It's not our intent to make an application that you can't be proud of. It's our intent to make an application that is going to actually do the people of Cambridge Court much better. If you've looked at those numbers, that be an issue be an issue in this subdivision. When I first got up and I said to you we have complied with all your departments' reviews and all the regulations, I mean it. We have. With regard to whenever you represent someone and you can't find defects in the regulations, everybody goes to the general purpose clause and they start talking about all the general purpose flaws. The state statutes and the, as interpreted by the courts, are clear that when you've got guiding principles which sets forth your regulations, you can't just turn down something because of the guiding principles, you have to see what specifically is not in compliance with your regulations and we are indeed in compliance with your regulations. That's why when the two attorneys got up here, they couldn't tell you where we weren't in compliance with your regulations. That's the real key to this application. With regard to open space, I need to ask your staff director the, the open space of over an acre that we've come up with because not just in this subdivision, when an attorney gets up and says to you, there's really no open space,

which is what he said to you and he said I can't believe that a conservation easement satisfies your regulations. It's wrong. I've used it on several subdivisions that the people were very happy in the idea. I indicated to you tonight that when we spoke to John Hanks, he indicated he didn't want the public going into the open, any open space next to his property. That's when we started to talk to the staff person who recommended that in fact this conservation easement would work. I've used it regularly. So you have an acre of open space that is there to protect the trees and the walls and I think he used a good word, the canopy effect. I think you need to discuss with your staff as to with this nineteen lot is this the type of open space that we want and I think that's what you should do. But, in fact, as to Attorney Lunt's comment that says it doesn't qualify, that is wrong. It does qualify and it has been used regularly by this commission. With regard to the issues of drainage, I'm going to turn the matter over to our engineer, Mr. Johnson. But once again, remember that when experts come in and provide to you a report, which I still haven't seen yet by the way although I wrote Attorney Lunt two weeks ago and told him that I would be willing to help him out. Never once was I called and said I got a report and I got some concerns. I still haven't seen that report that was handed in tonight. With regard to the assumptions that were made in it, I'd like Mr. Johnson to take a few minutes now.

Arthur Johnson

Again, for the record, my name's Arthur Johnson. It would be a big help if someone had a red magic marker for I think it's very important. Dr. Dimmock is here, and he's to correct me if I misinterpret what he was telling everybody, because he's correct, I'm correct and there is a solution. Mr. Dimmock pointed out that that's the existing drainage divide and he's correct. Our drainage divide goes like that and this part in here (inaudible) actually does get directed to that side of the line. The overall drainage picture we're aren't in violation because this side of the line gets converted to the side and this side gets converted and that (inaudible) but in that isolated incident where this area (inaudible). And this area over here, the area of contention that, I believe, Mr. Dimmock pointed out, this area is lower than our drainage system. We can put a drainage drain, a catch basin in there and take it out. That is not an engineering problem. It's an honest oversight. Even if the properties (inaudible) there's little (inaudible) Mr., Dr. Dimmock here, I believe that is a concern he expressed. This is the natural drainage divide and these people to the east, the only drainage they receive starts at this point. Based on this engineering design, he is correct. Drainage at the rear of this house in this triangular area, which is you know over half an acre, would be pointed in that area. That can be engineered (inaudible) control. This area is higher than this area in terms of the grades and we take a catch basin out to the street and we can adjust these and come back there and we can even put a berm there. We want to protect our neighbors. There is a solution here but that's the problem. That's why I insisted on talking about it tonight so that he could correct if I misunderstand his presentation. Is everyone following what happened here? This little triangle section got oversight and he's correct will harm these people. That can be corrected and will be corrected. You've got catch basins in the rear of this line and this line and a berm where we can control that. And this is not (inaudible), this is lawn area but it is a larger area. That's my technical response and I think it would be very important to be expressed tonight. (Inaudible) to talk to Dr. Dimmock and it can be very clear to everybody what has to be fixed.

Chm. William Holley

Is that an offer of the applicant to recall Dr. Dimmock to confirm what you're saying or

Arthur Johnson
(Inaudible).

Chm. William Holley
It's yes or no. Hold on a minute, sir.

Atty. Michael Dowley
I think the issue, the question is just a yes or no answer.

Chm. William Holley
No, the question was for you. Yes or no to have him come up here and verify the red line that you just drew down the map. That's all.

Atty. Michael Dowley
I think it's a matter to defer to Public Works. That's what I think.

Chm. William Holley
Well, with everything being reported, has been re, I just wanted to make clear if your expert isn't in agreement with their expert.

Dr. Charles Dimmock
(Inaudible) mike here if that's

Chm. William Holley
No, no that's, I just wanted, just, no, go ahead.

Dr. Charles Dimmock
I think we've moved about seventy-five percent closer to an understanding clearer than where we were before built up before. I (inaudible) very slightly as exactly where he has that triangle but that doesn't make that much difference and it is quite true that if one put a yard drain out, I would put it outside the triangle, somewhat to the west of the triangle to catch some things that it would solve a great deal of the problem now. As far as the woods versus lawn bit, one of the things I don't want to be misunderstood. There is woods from the property boundary in about fifty feet and then it becomes, well, maybe I had the property boundary longer, I was going by the flags I saw. Perhaps they were someone else's flags. There is a wooded area along the property.

Arthur Johnson
(Inaudible)

Atty. Michael Dowley
That's the buffered area we're going to keep, which is I think

Dr. Charles Dimmock
No, this, this area you are filling right to the property line, (inaudible) contour line so there's no buffer on the western side.

Comm. James Fortuna
The tree. That's actually silt fence?

Dr. Charles Dimmock

You have, you have, you have a, a new contour line, a 214 contour line on top of the existing roughly 212 at this point which is about eight feet from the property line so it looks as though you are doing filling.

Arthur Johnson

The concern, the concern is this area and what we can do about it. We can put, increase the conservation easement and put a drain into this area and we can solve that problem.

Dr. Charles Dimmock

Well, mine is, that's, that's about, that 214 is eighteen feet from the line but assuming that you're going to be (inaudible) you're probably a little beyond (inaudible). So I say twelve.

Arthur Johnson

(Inaudible).

Dr. Charles Dimmock

I, I say that. I also know that there's some pretty heavy overgrowth of brushes and undersection along this side (inaudible) before you even (inaudible) the meadow, which is further.

Chm. William Holley

Okay, thank you.

Dr. Charles Dimmock

I hope that clarifies on both parts.

Chm. William Holley

Okay.

Arthur Johnson

Thank you, Mr. Chairman. I think let's let Public Works properly in on it. Thank you.

Atty. Michael Dowley

Thank you.

Chm. William Holley

Thank you very much. At this point let's entertain a motion to close the public hearing?

Comm. James Fortuna

So moved.

Chm. William Holley

Motion made.

Comm. John Voli

Seconded.

Chm. William Holley
Seconded and closed the public hearing. All in favor.

Commission Members
Aye.

Chm. William Holley
Alright. Public hearing's been closed. I entertain a motion to continue this matter until after we get until the next meeting when we have a proper analysis of the of the information, technical information as presented tonight?

Comm. David Roane
(Inaudible).

Chm. William Holley
Commissioner Roane, you have a question for the director?

Comm. David Roane
We can close the public hearing and continue it, we can continue it until we have should we keep everything open because the opinion?

William Warner
No, you're closing the public hearing and you're just putting this on the table until the next meeting so you just the proper the proper motion would be to table this application. Now that you've closed the hearing, you're done with it. Now you table it to the next meeting.

Chm. William Holley
Commissioner Roane?

Comm. David Roane
Mr. Chairman, I move that we close the public hearing

Chm. William Holley
We already did that.

Comm. David Roane
and I move that we table this matter until the next Planning and Zoning Commission meeting two weeks from now.

Chm. William Holley
Second?

Comm. Andrew Rak
Second.

Chm. William Holley
Motion made and seconded. All in favor?

Commissioners
Aye.

Chm. William Holley
Okay. So moved.

Donald Lunt
(Inaudible) the public have an opportunity to discuss controls

Chm. William Holley
The public hearing's been closed.

Donald Lunt
The applicant will have an opportunity

Chm. William Holley
We will, we will analyze the analysis at that point in time, see what was there and we'll entertain motions on what we plan to do and may have further discussion with the applicant based on what our findings are.

Donald Lunt
(Inaudible)

Chm. William Holley
Well.

Donald Lunt
(Inaudible)

Chm. William Holley
That's correct. You had the opportunity already to speak presently.

Donald Lunt
If there is going to be a new board (inaudible) Public Works, this means we will not have the opportunity (inaudible). The applicant will have his opportunity to comment and I don't think that's

Chm. William Holley
Well, so be it. Moving onto to Item Number

Respectfully submitted,

Ellen Stevens
Planning, Conservation and Development Secretary II