

**MINUTES OF THE CHESHIRE PLANNING AND ZONING COMMISSION PUBLIC HEARING HELD ON MONDAY, JULY 28, 2014, AT 7:30 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Earl J. Kurtz, Chairman; Sean Stollo, Vice Chairman; S. Woody Dawson, Edward Gaudio, John Kardaras, Vincent Lentini, Louis Todisco. Alternates: Jon Fischer & Diane Visconti.

Absent: Lelah Campo, Gil Linder; Alternate Leslie Marinaro.

Staff: William Voelker, Town Planner

Mr. Fischer and Ms. Visconti were the alternates for the meeting.

**I. CALL TO ORDER**

Chairman Kurtz called the public hearing to order at 7:31 p.m.

Mr. Kurtz read the fire safety announcement.

**II. ROLL CALL**

The clerk called the roll.

**III. DETERMINATION OF QUORUM**

Following roll call a quorum was determined to be present.

**IV. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**V. BUSINESS**

Town Planner Voelker read the call of public hearing for each application.

**1. Resubdivision Application**

**Kathie A. Welch**

**Reservoir Road**

**3 (2 new) lots**

**PH 5/12/14**

**PH 5/27/14**

**PH 6/9/14**

**PH 6/23/14**

**PH 7/14/14**

**PH 7/28/14**

**MAD 10/01/14**

Mr. Voelker stated there was discussion on a sight line issue. There is correspondence dated July 24, 2014. The Town Attorney has advised that highway standards cannot be applied to driveway locations, and the applicant must be required to maximize the sight distance in each direction and clear any obstructions in the right-of-way.

Ryan McEvoy, P.E. Milone and MacBroom, represented the applicant. He informed the Commission that the application received IWW approval for activities associated with some culvert crossings. Reviews were completed by the Fire Marshall and

Engineering Department, and comments have been addressed. The Fire Marshall requested back lots be pulled together with a drivable stone surface should there be a need for fire equipment to access these lots.

Sight lines have been discussed with the Police Department, and their goal was for driveways to achieve intersection sight distance. The objective was to make the proposed driveways in a location that is most advantageous for sight lines. This was accomplished by applying the minimum lot width standards to the existing lot and by shifting driveways a little further from the highest point.

Mr. McEvoy read correspondence dated July 24, 2014 from Darin Overton, P.E. regarding the Reservoir Road subdivision into the record.

There were discussions with Town staff about shifting the driveways as far as possible, leveling the sight distance, particularly to the left. Mr. McEvoy said the Police Department requested the driveways meet the DOT driveway standards. He said the distance of 340 feet is more applicable for a vehicle to stop, driving at over 45 mph, and the distances proposed are safe given the speed on this road.

Mr. Voelker said the standard is difficult to put in place because the Town has a highway network based on topography, and some things could be required to eliminate obstructions in the highway.

Public safety is an issue and Mr. Dawson said it is the job of PCZ to protect the public.

Talking about the 408 foot sight distance, and Mr. Todisco commented on the purpose of this distance to allow someone turning into the road to do so without requiring a car already on the road to slow down.

Mr. McEvoy said this is the general idea, it is the level of comfort pulling into the roadway. Stopping distance is different from intersection sight distance standard.

With 340 feet of distance Mr. Todisco asked about a car having ample time to stop, and this being safe without a screeching stop.

In response, Mr. McEvoy said "yes". Driveways cannot be moved further down the street without meeting the lot width, and He said we are dealing with design of the road, and obstructions can be removed. With 160 foot rather than 200 foot minimum frontage a subdivision cannot be built.

Ms. Visconti asked about the driveway going to the top of the house, with two houses connected at the top.

Mr. McEvoy said it comes down to there not being enough distance on the lot.

A question was raised by Mr. Todisco about the Commission approving something of a better configuration and layout, at 180 or 160 feet, i.e. modifying or waiving the regulation.

Mr. Voelker said the Commission does not have the power to do that...the regulations state a 200 foot width requirement.

THE PUBLIC HEARING WAS CLOSED.

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| <p><b>2. Zone Map Change Petition</b><br/><b><u>Ball &amp; Socket Arts Inc.</u></b><br/><b>493 West Main Street</b><br/><b>I-1 to S.A.R.D.D. zone</b><br/><b>To allow existing vacant manufacturing</b><br/><b>Facility to be used as an arts center with</b><br/><b>Mixed uses to include restaurant and retail space</b></p> | <p><b>PH 6/23/14</b><br/><b>PH 7/14/14</b><br/><b>PH 7/28/14</b><br/><b>MAD 10/01/14</b></p> |
| <p><b>3. Special Permit Application</b><br/><b><u>Ball &amp; Socket Arts Inc.</u></b><br/><b>493 West Main Street</b><br/><b>Special Adaptive Reuse Development District</b><br/><b>And Special Adaptive Reuse Development</b></p>   | <p><b>PH 6/23/14</b><br/><b>PH 7/14/14</b><br/><b>MAD 9/10/14</b></p>                        |

Attorney Philip Ricciuti represented the applicant, and summarized the application as of the July 14<sup>th</sup> public hearing. Revised plans have been submitted to the Commission for review; plans have been reviewed; changes have been described by Mr. McEvoy; staff comments have been addressed; Attorney Fazzone has submitted the findings for consideration.

The applicant has representation from Tom Sheil, David Sullivan and Ryan McEvoy from Milone and MacBroom, and David Aria from Maier Design Group.

Ryan McEvoy, P.E. Milone and MacBroom reviewed the revised plans from the July 14<sup>th</sup> meeting, and cited the following:

Fire Marshal has requested a sidewalk along the west side of the building adjacent to the Farmington Canal and this has been added; elimination of the pull off area on Willow Street, and this has been removed; existing driveway will be kept in place with curb cut entrance for emergency fire vehicle access; addition of information on soil erosion controls and maintenance of storm water structures. Based on the revised plans, Engineering is satisfied with the changes made. The Fire Marshal reviewed the revisions and based on conversations with Mr. Koslowski, there are no further comments.

Mr. Voelker read the Fire Marshal comments dated 7/18/14 into the record, and noted there is satisfaction with the revisions.

David Sullivan, Traffic Engineer, Milone and MacBroom, reported on the traffic study of May 19<sup>th</sup>, which was revised and resubmitted on June 23, 2014 to the Commission. In the revisions there are comments on the level of service table - A for the overall intersection. This is accurate, but misleading, and the level of service is revised in the June 23<sup>rd</sup> study for turning in and out of Willow Street. There are conservative assessments regarding uses on the site; there are different uses; and they are categorized into a larger use. The peak hours on West Main Street was 4-5 p.m. and with the analysis on site traffic, the site was broken into 5 categories of use – educational use for classes, 13,000 sq. ft. has the same peak 4-5 p.m. peak hour. The office, 4,000 sq. ft. has similar peak characteristics, with 4-5 p.m. having more traffic. The larger components, restaurant, retail and museum are broken out. Restaurant, 9,000 sq. ft. heaviest traffic generator has peak use hours of 6 p.m. and thereafter. Retail, 5,000 sq. ft. use peaks earlier or later based on industry data. Museum peak hours will be after 6 p.m. to closing. Saturday base traffic is about 15% less on West Main Street.

Mr. Voelker read Fire Department comments, dated July 14<sup>th</sup> into the record.

Regarding the Fire Department comments, Mr. McEvoy noted the error in dates on the response.

THE PUBLIC HEARING WAS CLOSED.

**4. Special Permit Application  
Consulting and Design LLC  
905 West Main Street  
Renovate existing convenience store  
For Dunkin Donuts and Drive Thru**

**PH 7/14/14  
PH 7/28/14  
MAD 10/01/14**

Attorney Dwight Merriam represented the applicant Michael Batista, along with Bill Romell, Ron Fortune, Scott Hesketh, and Hiram Peck.

Attorney Merriam cited the following information for the Commission. At the last public hearing some issues remained open, including concern about internal circulation of the site. The applicant received the Engineering Department memo of July 9, 2014 which must be addressed, and correspondence from the Traffic Authority. The Traffic Engineer (Mr. Hesketh) will inform the Commission on how the internal circulation will work on the site. Mr. Peck returned to the site for observation and will also speak with conformance to the regulations. There have been two meetings with the Town Engineer; details on the storm water system were discussed; and more sets of plans were delivered to the Town.

A concern of the Town Engineer in the July 9<sup>th</sup> memo was the possibility of remote fills, which the applicant did not consider a good idea. A main reason for not considering this idea was additional piping away from the top of the tanks, which is a dangerous situation in terms of contamination. The Town Engineer suggested a reduction in the

hours of fuel delivery and was satisfied with the changes made. Town Engineer Gancarz issued a memo today, and said he is satisfied with responses, wants more details on the calculations, and recommended approval be conditioned with clearing those computations with the Town Engineer. Mr. Gancarz said a remove fill is not necessary with the revised hours of operation.

Mr. Voelker read the memo from the Town Engineer, dated July 20, 2014 into the record.

Attorney Merriam cited the hours of 5 p.m. to 5 a.m. period for fuel delivery. The local traffic authority decided that the only way to avoid any conflict is to limit fuel delivery when everything on site is closed. Therefore, fuel delivery will be limited to 11 p.m. to 5 a.m.; there would be no customer conflicts; emergency deliveries would only take place outside these hours if event of a blizzard/hurricane or emergency situation. The gate will remain as part of the design and there could be a time when people must be served and the gate will operate.

Scott Hesketh, P.E. Traffic Consultant, displayed a colored drawing/plan of the site showing the traffic circulation and what traffic volumes would be. In the p.m. peak hour there are currently 70 customers; +79 customers during a.m. peak hours; 54 of them will utilize the drive thru window which is 1.5 additional customers per minute on the site; the time is one vehicle per minute for the busiest hour of the day. Mr. Hesketh pointed out that the pumps are angled, people drive in, look for open pump, and pull out to RT 68, can make a left turn onto RT 70, with enough room for two-way traffic. There is 30 feet of paved area between parking spaces and canopy; it is wide enough for two-way traffic; and plenty of room for a wide turn.

Mr. Hesketh cited the following information.

Drive thru window – a vehicle can be served every 30 seconds – 2 vehicles a minute; there is no left hand turn; raised pavement has been installed which forces traffic all the way out crossing the front of the building; making a left turn is difficult; and the intent is to push traffic out for a left hand turn between the canopy and RT 70. Observations indicate a left hand turn is almost non-existent, and there are traffic signals at both intersections. The site is a convenience type use; people will enter the site with a right hand turn and exit with a right hand turn. 70 customers during peak hour using the pumps is 7-8 minutes; 5-8 minutes to park and enter the store; there is not much turnover at the pumps; the site has a wide parking area, and plenty of pavement; and traffic flow will avoid conflicts. The volume of traffic out of the location is not significant; there are 150 movements per hour; the level of service is “A” at the intersection. The movement of the diesel pump allows for larger vehicles to use this pump. Fuel delivery will be done at a time when the site is closed; the gate remains as part of the application for emergency situations. Mr. Hesketh cited his professional opinion that the site has the appropriate pavement width for traffic control; the intersection has safe capacity to accommodate the traffic volume at the site.

Chairman Kurtz asked about entering one way and exiting one way and if this was considered. He visited two Dunkin Donut facilities with this flow.

According to Mr. Hesketh, one way circulation for the subject site was not looked at, and he said there is level service "A" for all aspects of the site, and few left turns off the site. Most people visiting the site will be familiar with it, and the site will serve local customers who know the roads and how the site flows. By default there is a one way circulation pattern for the drive thru.

Mr. Strollo raised some questions and concerns. If the food from Dunkin Donuts is not readily available, people have to wait, and where will they wait. With two or more tractor trailers in the lot the place is shut down; everyone cannot get out with the location of the diesel pump; and this is the first gas station coming into Cheshire from I-84, and 25% of the people do not know this station. Mr. Strollo stated he does not like the flow at the site.

Mr. Lentini cited concerns about the pumps on the east side when a tractor trailer comes in and gets gas, noting there will be problems will drive thru cars getting by with large trucks pumping gas.

In reply, Mr. Hesketh said there is a 26 foot wide paved area with enough room for trucks, and with the pump orientation there is room. He does not think many large trucks will block the area.

Mr. Lentini asked about gas customers blocking cars going into the drive thru.

This is possible with all pumps in use or an emergency situation, and Mr. Hesketh said there will be some regularity of people coming into the site.

With regard to peak hours and 130 customers per day, Mr. Gaudio noted the applicant will be closing the Dunkin Donuts West Main Street store, which has 357 customers a day. He asked where they would go...will they go up the street...and if so this is a good percentage of customers coming to the drive thru operation. With these customers plus 70 more drive thru customers and convenience store customers, Mr. Gaudio pointed out this is 600 people going in and out, 1200 cars, and this is an unsafe situation.

Mr. Hesketh stated these are cars already on the road, and the site is a convenience.

Mr. Gaudio noted these are new Dunkin Donut customers; they will come to the site; and there is too much activity on this site.

This is a gas station and with the drive thru, Mr. Hesketh expects an increase in traffic. Dunkin Donuts serves 350 customers and one-half are people already using the facility, with one-half new to the site. This is not unusual and many sites already look like this one, which is a generous site with good circulation patterns, and it will operate safely and efficiently.

Stating she has visited the site, Ms. Visconti commented on people parked all over the place, and she asked about the 30 feet of pavement and if it includes parking.

There is 30 feet between the canopy and parking area and Mr. Hesketh pointed it out on the drawing. Parking spaces will be marked and striped, and the drive thru has a painted island and stop bar.

Ms. Visconti has concerns about people walking through the parking area into the store and if this was considered by the applicant.

According to Mr. Hesketh people will walk through the site, go into the store. He reported Plainville has 16% gas use only; 34% use the drive thru window; people will walk throughout the site; and volumes of traffic is usual for a convenience store. He also said 70 cars is not a large number, and traffic volume data is from other facilities which operate efficiently and safely.

On the plans Mr. Fortune pointed out the handicapped parking space, portion of the site with additional pavement, and said there will be defined parking on the site.

Attorney Merriam noted the July 14<sup>th</sup> letter from Hiram Peck regarding compliance with the Plan of Conservation and Development, and he submitted the letter for the record. On the site there will be one space reserved for people picking up food from Dunkin Donuts. Mr. Merriam stated the customers will not be 100% new to Dunkin Donuts; 70% will visit the new facility; and more vehicles are using diesel fuel so the applicant will continue to see diesel fuel.

Hiram Peck commented on the intensity of the proposed use, the fact that average daily traffic on surrounding roads is decreasing, and the proposed use will not approach any intensity to over burden existing infrastructure. He cited Section 40.4.2 of the Zoning Regulations, stating the Notch Store has a menu, take out service, tables, etc. and Dunkin Donuts is a different experience, making concentration of service a public choice. Two similar uses are not prohibited in the regulations. Reorganization of the fuel dispensers will make the site oversized and function more smoothly. The existing building will be remodeled and updated.

Mr. Peck visited the site on Saturday, July 26<sup>th</sup>, 8 a.m., 55 cars per hour entered the site, and 16 people entered the store only. His observations concur with the comments in the traffic study. It appears patrons are familiar with the site and its internal circulation pattern, fuel dispensers available, and there is lots of room to make a decision. Site plan amendments will not change the situation. Realignment of the diesel pump will increase the room for vehicles with trailers. Delivery trucks to the store take about 60 minutes; there is no problem with cars entering or exiting the site or getting to the pumps. Mr. Peck saw a police officer visit the site, one person walk through the site without incident, 3 motorcycles on site, and there were no circulation problems around the pumps due to adequate room. This site is large for the proposed use, and with the drive thru the site will appear more open.

Regarding property values, based on his experience, Mr. Peck said the Dunkin Donuts will enhance property values in the area. Emergency services will have full access with the design and traffic plans. Mr. Peck's conclusion is that this application complies with all the regulations; the design is safe; and in the best interests of the Cheshire consumer.

Attorney Merriam referred to the July 28, 2014 Conformance with the Regulations document submitted on behalf of the applicant. Mr. Merriam stated that Connecticut has the substantial evidence rule with the Commission's decision based on the substantial evidence in the record. The process Mr. Merriam used is managed by taking all the regulations, outlining them, identifying the best persons to testify with written or oral testimony on the requirement of the regulations. The process is overseen throughout the hearing of the application, and his job is to bring everything together, summarize in a more convenient format. Mr. Merriam needs to be sure there is compliance with the regulations fully, and the subject application complies in each and every respect with the regulations.

Attorney Merriam stated the Commission must take into account, where appropriate, the sections of the zoning regulations cited in the conformance document.

40.4.1 – buildings, footprint, size remain the same; there are parking improvements; small increase in the number of customers to the site; intensity of the use does not cause any safety issues on the site.

40.4.2 – this is a similar use in a particular zone; there is no undue concentration of use; the site is ideally situated for the activity.

40.4.4 – the building remains unchanged in footprint and location and will conform to the regulations; fuel delivery will take place when the facility is closed, 11 p.m. to 5 a.m.

40.4.5 – site works successfully.

40.4.6 – expert testimony; no further concerns expressed by Town staff; each comment has been addressed; Peck testimony throughout the document.

40.4.7 – Dunkin Donuts on the site will enhance property values.

40.4.8 – all staff concerns regarding emergency access have been met.

40.4.9 – no changes.

40.4.10 – site is not in proximity to any residential use, with one small residence 200 feet south.

40.4.11 – the relevant provisions are highlighted; applicant conforms to all the highlighted regulations.

Plan of Conservation and Development – the proposed plan is in compliance with the POCD.

Page 10/Conditions – traffic authority and town engineer in agreement with all aspects of the plan; there are no remaining areas of disagreement.

The application meets all the regulations; expert testimony is un-rebutted; staff comments have been addressed.

#### PUBLIC COMMENTS AND QUESTIONS

Joseph Spirito, 40 Brook Lane, a commercial driver for 30 years, asked about the queuing, cars lining up and back up to the RT 70 entrance, 68 cars possibly out on the road, and cars parked in the spaces.

Mr. Hesketh does not believe this will happen. There will be 54 cars in the peak hour, 30 seconds of service per car, and the queue will not exceed 5 vehicles. With 45 second service time there could be 15 cars in the queue.

Kathy Williams, 1066 Prospect Road, commented on her road being busy all the time. With the drive thru there will be 68 more cars in an area terrible for traffic, and having a Dunkin Donuts is ludicrous. She questioned closing the West Main Street donut store, and said a Dunkin Donuts could be in the Ball & Socket project. Ms. Williams noted there are many kids in this area riding bikes to and from Mixville Park, and the drive thru is in the wrong spot and will cause trouble to people in town.

Andy Falvey, 379 Peck Lane, confirmed the statements about heavy traffic on Peck Lane, making a left turn onto West Main Street being nearly impossible, and Mountain Road and Prospect Road as one of the worst intersections in Cheshire. Mr. Falvey noted that people are concerned about traffic flow in this area; it is heavily congested; cars will make left turns out of the site to get to I-84; and people slowing down could be dangerous. This application is not in the best interests of public safety, quality of life for people living in this area of Town, and is not good for the Town of Cheshire.

David Cadden, Leray Court, said assumptions and approximations can sometimes rest on a pile of sand. He had questions about the queuing lane, increase in number of customers, approximate number of cars per minute, the 30 second service rate, where the data came from, comparable Dunkin Donut information. Mr. Cadden questioned observations done on a Saturday, and wants more data from weekdays, with more information and work presented to the Commission before approval is granted.

According to Mr. Hesketh the service rates used are from Dunkin Donuts, with 30 seconds per vehicle, and with a 45 second service rate there is more queuing. The DOT states 12 vehicles queuing at a Dunkin Donuts facility is on busy roadways. Mr. Hesketh advised there were four different days of observations which is sufficient for this application, and they were conducted on weekdays and Saturdays.

Marshall Robinson, 937 Prospect Road, lives close to the subject property, and said traffic up to RT 70 is near his driveway, and with Dunkin Donuts it will get worse. He questioned why another Dunkin Donuts is needed with 3 already in town, and the Notch selling coffee. People using RT 68 toss out their trash onto his lawn, and now he will have coffee containers in his yard, along with horrendous traffic and property values changed.

Sandy Lueder, 30 Laray Court, said when businesses look to relocate they should think of more than just dollars, and should consider character of the area chosen. Traffic in this area of town is a problem, but she likes the area as it is, with Notch Store on one side and gas station on the other side. She asked if the applicant conducted a socio-economic impact study since they talked about property values increasing, and if the people side of the application was looked at, and its conclusions.

Attorney Merriam stated that a socio-economic impact study was not done and is not required.

Greg Wolfe, 842 West Main Street, concurred with the statements about traffic problems on the road, and the impossibility of making a left turn from the gas station or taking a left turn onto West Main Street. More traffic is a bad idea for this area of town. There is now an Italian restaurant, with more traffic, and a Dunkin Donuts fast food is proposed. Mr. Wolfe questions what will next be allowed in this area.

Frank Salvatore, 980 Prospect Road, owner of the Notch Store, talked about the impact of the drive thru on the area residents. He lives 800 feet from the proposed drive thru. The Notch Store was opened in 1921 by his grandfather who also built the gas station building. With regard to the numbers presented by the applicant, 70 cars per hour, Mr. Salvatore reported his staff did a study last week, counting cars, and noted 350 cars by 8:15 a.m., 22 trucks with trailers, 20 large trucks...and this is the summer with people away on vacation and schools not in session. When Darcey School opens there will be kindergarten, special education classes, pre-school classes, and Doolittle School is around the corner off Mountain Road, with area kids in these schools. Mr. Salvatore also noted that Prospect Road/RT 68 is an alternate route for I-84, and construction of I-84 must be taken into consideration. Mr. Salvatore commented on the backup at the RT 68/West Main Street intersection, one tractor trailer backing up the intersection, and the same situation at the West Main Street Café with backup to Maple Avenue and West Main Street. On the plans he pointed out the rear loading zone behind the subject property, and asked how a tractor trailer can get around the handicap space, get through the site, and exit out the road. This gas station serves food, redeems Stop & Shop points, is the busiest gas station in Cheshire, has heavy diesel volume and many cars. He did counts for 2 days, showing 926 cars per day until 6p.m. and the applicant wants to add another national firm, Dunkin Donuts. This is spot zoning being applied, with two major national corporations, Stop & Shop and Dunkin Donuts and this does not work. 29 accidents in 3 years have been reported in this area, and the Dunkin Donuts just does not work in this area.

John Caldwell, 747 West Main Street, stated that in the morning and evening he cannot get in and out due to the influx of traffic, and it is mayhem and a fiasco, and must be addressed. Until everything is addressed a drive thru should not be in this area.

Ray Ilnicki, 355 Sandbank Road, cited Section 11.1 of the Zoning Regulations versus Section 40. He said it is the intent of the regulations to promote greatest efficiency and economy through coordination of proper development for the town, safeguard the welfare and prosperity of its people. The intersection is one of the busiest in Cheshire and with more traffic becomes a dangerous intersection, and Mr. Ilnicki said any plans to this location requires scrutiny for safety. He does not believe any changes to the location will create a safer drive thru. The applicant will have to hire a police officer for the parking lot to keep people moving around. Mr. Ilnicki lives in town, deals with common sense, and is opposed to this application.

Matt Bowman, 422 Maple Avenue, has appeared before the Commission with many applications, has lived in this area his entire life. He said the attorney for Dunkin Donuts did a wonderful job, laid out a great application for appeal, and consultants deal with average. If these consultants are wrong after PZC approval, the Town lives with it forever. Mr. Bowman noted the attorney made comments about fulfilling all the obligations of the zoning regulations of Cheshire, but this is a special permit application, and it is not by a matter of right. The Commission has discretion and the ability to take into consideration the comments of the people who have spoken about traffic problems and issues from their personal knowledge – not from averages, not from a consultant saying how it is or way it should be. If this gets approved the way it should be may not be the way it will be, and people have to live with it. Mr. Bowman posed a question to the traffic consultant on where, when, and time studies were done, and if any studies were done in an area where there are secondary roads, 98 unit condominium, 2 state highways, West Main Street, RT 70, RT 68, Waterbury Road, Moss Farms Road, and businesses that are already there. Having visited many Dunkin Donut facilities, Mr. Bowman said the Prospect facility queues out to RT 69. The store in south Cheshire backs up and blocks access to the Big Y store. The Southington store has the same situation, backing up to RT 322, and a left turn cannot be made to get to the light. The Wolcott store has backups to RT 69, and the Dunkin Donuts by the truck stop backs up all the way out down 322 in a westerly direction. Mr. Bowman noted this application is a special permit for a reason – and the Commission can take the expert's evidence – and the people are experts too because they live in Cheshire. Mr. Bowman has lived in Cheshire 62 years, in this area of town most of his life, and there is a traffic problem there which will be added to by this application. And, the residents will have to live with it. He asked the Commission to take this into consideration with the special permit application.

Breina Schein, 62 Hilltop Road, stated her opposition to the Dunkin Donuts drive thru and is more opposed than at the last public hearing. She noted the experts used the word "symbiotic" and read the definition into the record. Ms. Schein does not see a mutual advantage to Dunkin Donuts so near the Notch Store, and said Dunkin Donuts will take away business from the Notch Store. She said the experts commented on

leaving children and pets in the car and this does happen, but the Notch permitted her service dog in the store. This is a dangerous intersection; there will be more accidents and property damage; and she is opposed to the application.

Paul Zentek asked what will be done with accumulation of snow on the property.

On the drawing, Mr. Fortune pointed out where the snow shelf will be located. If there are tremendous amounts of snow, it will have to be trucked off site.

Frank Salvatore submitted photographs of the traffic at the intersection and information on the data he collected. He cited the car count for the Prospect Dunkin Donut drive thru location, and the applicant using a 70 car count for the Cheshire site. At the Prospect location the counts were -- 1<sup>st</sup> hour, 105 people between 6 a.m. and 7 a.m. with 32 going inside the store; 7 a.m. to 8 a.m. 133 people, 38 into the store; 8 a.m. to 9 a.m. 113 people, 24 into the store, and then the numbers decrease. The question is what is the "peak time", and Mr. Salvatore said it is very elusive. For the Notch Store, certain days have certain peak times, and his counts are double the applicant's expert counts. This is July, vacation time, school is not in session, and when school opens and people are in town, the numbers will increase.

The peak times were cited by Mr. Hesketh as March 9<sup>th</sup> and March 13<sup>th</sup> a Saturday and Wednesday for traffic counts. The DOT count was done in February 2010. At the Plainville Dunkin Donuts drive thru, the counts were done on Thursday, March 14<sup>th</sup>.

Regarding accidents, there is a three year history from DOT of 29 accidents for this area of Town. 17 accidents were on Mountain Road; 9 accidents on RT 70/68; and 2 accidents related to the subject site. Mr. Hesketh noted that the Prospect location is a full service restaurant and traffic volumes will be higher.

Information from Dunkin Donuts states service of 350 customers on a daily basis. 75% of this occurs in the morning peak, 50% occur during a 60 minute period, with four 15 minute peak consecutive periods. For analysis purposes, Mr. Hesketh assumed those peak periods occur at the peak time of the site, which also occurs at the peak time of the adjacent roadway network. Mr. Hesketh said the subject site is a convenience store, people pass to and from somewhere else, and the projection is 350 new customers daily with 70% of them already on the roadway. Driveway volumes will increase with more right and left turns out of the facility, and the projection is 17 new customers entering and exiting, a total of 34 trips. The expectation is capturing traffic passing the site and using the facility.

Mr. Kurtz asked about the number of days at Plainville and if the numbers came from Dunkin Donuts or the expert's numbers.

Mr. Hesketh said there are two sets of numbers in the report. One Dunkin Donuts indicator has 350 customers per day with a drive thru facility, and this is in the report.

The Plainville facility has been visited by the experts, which is the same type of facility as the one proposed for Cheshire. Traffic volume counts were done in and out of the store, compared them and calculated a percentage capture rate, took this rate and applied it to the subject location, and came up with 149 customers, servicing 70 already, and came up with 79 new customers. This is more than the Dunkin Donuts number of 61, and Mr. Hesketh presented the 79 customers in the report. A regular store and drive thru store are different, have different numbers, and the subject store will be serving existing customers, and there is a shared use component with people using the gas station.

Mr. Dawson has concerns about 30 accidents, which is 10 per year. He noted the Prospect location is close to the subject location. He likes new business, but is obligated to protect the public and believes there is a big safety factor here. The Commission should look further into the figures presented. Another concern is the frequent use of this road and it's a race. Safety is a primary concern, and the data must be accurate and there could be accidents that were not reported. This is a dangerous area. Mr. Dawson uses this road frequently, and taking Mountain Road is a race even with his being more cautious and observant. To him, safety is a major concern.

According to Mr. Hesketh the DOT data looked at 3 years, and this is a significant intersection with expectation of rear end accidents. There were 2 accidents in 3 years on the subject site. With a new convenience use there will be more cars on the site, but he does not believe numbers will increase in the roadway. Most people do not make a left turn out of the site onto the roadway, and would have to do so at low traffic times. With or without a Dunkin Donuts drive thru the accident record will not be affected. Regarding loading zone accidents, the trucks are 30 foot box trucks, and some companies use smaller trucks which can unload and exit the site and there is enough room to maneuver the site.

Rob Salvatore, 735 West Main Street, visits this gas station, and asked about the number of feet for parking spaces, and problems with the narrow area.

There is 26 feet of space to the canopy and Mr. Hesketh said parking aisles are 24 feet wide.

At this location, Mr. Salvatore said it is a nightmare and a safety problem. He has seen 5 vehicles with trailers lined up in front, trailers hanging out, and asked how this can be made to sound easy. This is completely wrong to do and everyone knows it.

Frank Salvatore presented the Prospect CT drive thru data, which was done every 15 minutes, and the numbers presented by the applicant are about half of the real numbers. He said the plan does work; people will come from Prospect, get coffee and go out; but if you come from Cheshire and want to turn left onto Prospect Road there is a problem. There can be 4 cars staged on the state highway.

Mr. Kardaras asked Mr. Salvatore about how many people he has at peak morning business.

In reply, Mr. Salvatore said the Notch Store brings lots of people to the intersection, but he does not have specific numbers.

James Cook, 410 Chestnut Street, agreed with comments stated by others about the traffic problems on RT 68 and RT 70, backups to Peck Lane, Lynwood Drive, all the way to Strollo's Garage. He noted no one has come forward in support of the Dunkin Donuts proposal. For the record he is opposed to the application and it should not go through.

Chairman Kurtz stated that with the public hearing closed the applicant must understand there cannot be response to Commission questions or comments. There are 56 days to the next public hearing.

Attorney Merriam stated the applicant understands this and wants the public hearing closed. Mr. Merriam expressed appreciation to the Town staff and everyone involved with the application process that has taken place in Cheshire.

For his conclusion statement, Attorney Merriam stated this is a special permit which gives the Commission some discretion, and the standard is one of substantial evidence. The testimony has been heard from people opposed to this application, but it is not expert testimony, some is anecdotal and cannot be used or accepted by the Commission. There must be dependence on the expert traffic engineers for trip generation numbers and counts for this site. All the information has been given to the Commission, and Attorney Merriam said he thought the gate would solve a problem along with the changed times of fuel delivery. He hopes the Commission approves the application.

Mr. Dawson commented on lots of testimony presented, and for the record he would like to look into more information, ask questions, and with the public hearing closed the Commission does not have opportunity to ask more questions. There is the Town Attorney and Town Planner, but the Commission makes the decisions.

Based on public testimony and Commission questions, Mr. Kardaras asked if any changes or adjustments would be made by the applicant on the presentation.

Attorney Merriam said "no" he did not think so, and reiterated his client wants the public hearing closed. He noted it is expensive to bring out consultants for 3 nights. The process has been a long one, with a prior application withdrawn, and his client has presented all the information and wants the public hearing closed.

Patti Ilnicki, Cook Hill Road, does not want a drive thru Dunkin Donuts, and will attend public hearings nightly to oppose the application. She visited the site location observing

the parking lot, and it is chaos. People sit in the lot for 15 to 20 minutes, do not get gas, and there are big box trucks sitting on the side. She is opposed to the drive thru.

THE PUBLIC HEARING WAS CLOSED.

**5. Subdivision Application**  
**A.M. Napolitano**  
**Cook Hill Road**  
**8-lots**

**PH 7/28/14**  
**MAD 10/01/14**

The applicant has requested a sidewalk waiver and Mr. Voelker advised this request would be set for public hearing at the September 8<sup>th</sup> meeting. The applicant has been advised that the waiver request cannot be discussed tonight because it is not on the agenda. The subdivision application will also be continued to September 8<sup>th</sup>.

Dennis McMorrow, Berkshire Engineering & Surveying LLC, represented the applicant for the subdivision application. The subdivision is proposed for 566 and 540 Cook Hill Road, two existing parcels, with two existing dwellings, in an R-80 zone, total of 24 acres. The applicant proposes an 8 lot subdivision; 6 new lots plus the 2 existing houses which will remain, coming in off Cook Hill Road. There will be 1100 feet of new road off Cook Hill Road; wetlands are on the east and west side of the property; and the application has received IWW approval. There is on-site septic; Chesprocott tested the site; approval was received with copy of the letter in the file. The site has municipal water, and there will be a water main extension in the cul-de-sac road. The existing site drains to the east and west into the wetlands; wetlands travel to the south under Cook Hill Road; and then go further south into a large tract of Town owned land. The wetlands and lots discharge into the east wetlands and there is a man made ditch that travels Cook Hill Road. There is only an existing 12 inch culvert underneath Cook Hill Road. When detention calculations are done, there must be pre and post development flows equal, and 100 year storm events/flows are reduced to 18.3 CFS. The basin will act as a water catch basin; the first 6 inches of the basin will pond; there is no discharge until it exceeds 6 inch level; the 6 inches of water in the bottom meets the water quality volume for the 2004 storm water volume from the State. The 6 inches in the bottom has a special wick designed with sand, top soil and mulch.

The sidewalk waiver request requires the public hearing to remain open. Several engineering comments were received; revisions were made to the plans per these comments; and the revised plans meet the approval of the Public Works Department.

THE PUBLIC HEARING WAS CONTINUED TO SEPTEMBER 8, 2014.

**6. Special Permit Application**  
**Rock Building and Remodeling**  
**1104 Wolf Hill Road**  
**Build an in-law apartment**

**PH 7/28/14**  
**MAD 10/01/14**

Ken Rock, 1104 Wolf Hill Road, presented the application for an in-law apartment to meet the needs of parents with health problems.

Mr. Voelker stated that this is a 750 sq. ft. in-law apartment, and complies with all the regulations.

THE PUBLIC HEARING WAS CLOSED.

## **VI. ADJOURNMENT**

MOTION by Mr. Strollo; seconded by Mr. Dawson

MOVED to adjourn the public hearing at 10:45 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk