

The Shelton Planning and Zoning Commission held a special meeting on June 10, 2008 in the Shelton City Hall, Auditorium, at 6:30 p.m., 54 Hill St., Shelton, CT.

The following members were present: Chairman Anthony Pogoda
Comm. Chris Jones (arrived 7:00 p.m.)
Comm. Virginia Harger
Comm. Patrick Lapera
Comm. Ruth Parkins
Comm. Leon Sylvester
(arrived 7:30 p.m.)

Commission Members absent: Comm. Thomas McGorty

Staff members present: Richard Schultz, Administrator
Anthony Panico, Consultant
Pat Gargiulo, Court Stenographer
Karin Tuke, Recording Secretary

The Chairman reserves the right to take items out of sequence.
Tapes (2) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

Chairman Pogoda began the meeting at 6:50 p.m. with the Pledge of Allegiance.

EXECUTIVE SESSION: PENDING LITIGATION (GAIDA)

Chairman Pogoda asked Rick Schultz to explain the details of the Executive Session for the pending litigation in the Gaida matter.

Mr. Schultz responded that Corporation Counsel, Tom Welch, advised him today that he would not be attending tonight's meeting; however, he did petition for certification on the Gaida matter. Mr. Schultz explained that many of the current commissioners were not on the Commission at the time this occurred. This involves a zone change on Long Hill Avenue. He displayed a map on the table to show the location and identified the area of discussion as being highlighted in yellow.

He explained that there were four parcels that were split zoned R-1 and industrial IA-1. As part of cleaning up that area of Shelton, the Commission petitioned and rezoned that area. One of the property owners, Mr. Gaida, appealed that decision. The Lower Court upheld the P&Z Commission's adoption of that zone change. He appealed it to the Appellate Court; the Appellate Court reversed the Lower Court's decision stating that it was spot zoning.

Mr. Schultz provided the true definition of spot zoning to be, generally speaking, as a small area of property (5 acres or under), that is to benefit a property owner that is inconsistent with long range planning. However, this was an area of Shelton that had existing single family residents in a split zone. The Commission has always acknowledged that this area of Shelton should be rezoned in its entirety to residents R-1 to protect the integrity of this particular neighborhood. This neighborhood is adjacent to Donovan Way which is across the street from Ripton School. It also immediately abuts the Sikorsky facility off of Platt Road. This was zoned back in the 60's when this area was being considered for industrial development. The zone didn't follow the property lines.

Mr. Panico added that they didn't know where the property lines were.

Mr. Schultz explained that when they did planning in the Route 8 corridor area, they found that this area needed to be adjusted. They held a public hearing and had one resident who objected to it. Although there is a single family house on it, he believes he can do a non-residential use in the rear portion which is industrial. However, Shelton Zoning does not allow anyone to cross a residential piece of property to do industrial. Nevertheless, this resident felt he was being infringed upon and took the matter to the Lower Court. Mr. Schultz indicated again that the Lower Court upheld the P&Z decision and he took it to the Appellate Court who has reversed the decision. He indicated that Tom Welch has petitioned for certification to the Supreme Court. Mr. Welch has indicated that only 10% of those petitions are heard. They will find out in mid-July if the Supreme Court will hear this matter. If it doesn't hear the matter and it is rejected, Mr. Welch will come before this Board and determine what the next strategy will be.

Mr. Schultz concluded that was why Mr. Welch was not present and there was no need for an Executive Session at this time. Mr. Welch has petitioned for certification and that is public information. He wanted the present Commission members to be aware of this location on the map which had been adopted on 4/13/04. Mr. Welch would be keeping everyone informed as to the status of this matter.

PUBLIC HEARING

APPLICATION #08-08, ST REALTY FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: ICE CREAM SHOP/DELI), 515 BRIDGEPORT AVENUE (MAP 62, LOT 44), CA-2 DISTRICT.

Chairman Pogoda stated that this public hearing was continued from 5/15/08.

Mr. Schultz indicated that he had already read the call of the hearing. He read correspondence received from the Fire Marshal. There was no correspondence from the City Engineer's Office.

***See attached correspondence dated 6/8/08 from Fire Marshal, James Tortora.**

Comm. Jones arrived at 7:00 p.m.

Bobby Delibro, 1504 Barnum Avenue, Bridgeport, CT addressed the Commission. He indicated that he was the realtor involved in this transaction.

Mr. Delibro stated that he brought the proposed floor plan and parking lot schedule on file. He indicated that the drawing should show that there was ample parking for the site. He distributed copies to the Commission.

Mr. Delibro indicated that he would answer any questions from the Commission.

Mr. Schultz requested that he provide a brief overview of the operation.

Mr. Delibro responded that the hours of operation of Cold Stone and Blimpie would be Mon – Fri, 10 a.m. to 10 p.m.; Saturday & Sunday from 10 a.m. to 11 p.m. The peak hours for Coldstone would be between 7:00 – 9:00 p.m. The peak hours for Blimplie would be 12 noon – 2 p.m. Mr. Delibro added that it shouldn't conflict with any of the existing plaza tenants.

He stated the hours of the other tenants:

P&J Salon (by appt. only) Tues, 9 a.m. – 5 p.m.

Wed – Fri, 9 a.m. – 8 p.m.

Saturday, 8 a.m. – 4 p.m.

Cork & Key

Mon – Sat, 9 a.m. – 8 p.m.

Simply Body (by appt. only)	Tues. 10 a.m. – 7 p.m. Wed - Fri 10 a.m. – 8 p.m. Saturday, 9 a.m. – 6 p.m.
Shelton Cleaners (drop-offs only)	Mon – Fri, 7 a.m. – 7 p.m. Saturday, 8 a.m. – 5 p.m. Sunday, 11 a.m. – 3 p.m.
Quest Diagnostics Lab	Mon – Fri, 6 a.m. – 5 p.m. *busiest at 6 a.m. Saturday, 7 a.m. – 1 p.m.
Curves Work-Out Cntr	Mon – Fri, 6:30 a.m. – 1 p.m. 3 p.m. – 5:30 p.m. Saturday, 8 a.m. – 12 noon

Mr. Delibro indicated that the parking on the site has 106 spaces; however, they actually have 108. There are five handicapped parking spaces; three on one end and two on the other.

Mr. Panico asked where in the building this facility would be located.

Mr. Delibro responded that it would be located on the far right hand side, as seen from the street side – it was the former Cingular cell phone store location. It is 1830 square feet.

Mr. Panico asked how they would be handling rubbish disposal.

Mr. Delibro responded that it would be plaza-maintained. There are dumpsters on site. They would adjust the frequency of pick-up based upon their generation of trash.

Mr. Panico commented that there is usually a lot of concern with food operations and the disposal of leftover food products.

Mr. Delibro responded that the Coldstone end of the venture is strictly cold cuts. There would be no deep fryers or ovens. The closest thing to an oven would be to bake the bread.

Chairman Pogoda asked if they would be baking there.

Mr. Delibro responded that they would be for Blimpie's similar to the baking done at a Subway operation.

Comm. Harger asked about the delivery of supplies.

Mr. Delibro responded that deliveries take place in the morning. Coldstone deliveries occur in the midnight hours and Blimpie deliveries arrive (inaudible).

Chairman Pogoda asked if they would be open on Sunday because no hours were given for that day.

Mr. Delibro responded that it would be open Fri – Sun, 10 a.m. – 11 p.m.

Mr. Panico asked if Coldstone and Blimpie's were the same company.

Mr. Delibro responded that they were owned by the same corporation.

Comm. Lopera asked if the parking was designated or undesignated.

Mr. Delibro answered that it was undesignated in that plaza.

Comm. Harger asked about the Fire Marshal's letter and the seating limitation because no limitation had been noted on the floor plan.

Mr. Schultz responded that the Fire Marshal has seen the floor plan.

Mr. Panico asked where the seating was.

Mr. Delibro stated that it would have approximately 36 seats. He indicated that it could be adjusted. They didn't anticipate customers staying in there very long – just to eat a sandwich or have an ice cream.

Chairman Pogoda asked about the floor plan because there was no indication of what the different shapes on the drawing depicted or their actual size.

Mr. Delibro responded that the squares were square tables for 4 people and the circles or round tables would be for 2 people each. He stated that it would be a total of 24 seats for all the square tables and a total of 8 seats for the round tables. Additionally, there were four along the wall for single seating at a proposed counter.

There was some confusion because an earlier floor plan that had been submitted had an estimated 50 seats. Chairman Pogoda asked for clarification on that.

Mr. Delibro specified that was an earlier estimate. The revised plan estimates 36 seats.

Comm. Lopera asked Rick and Tony if they felt that the parking there was adequate for this type of operation because it's a traffic generator.

Mr. Panico responded that this was the first time he has gotten any details on this so he could not answer that just yet. They will do an evaluation and compare what they think the parking demand for this could be as compared to what has been allocated for that space. The applicant cited figures and demands of other occupants, but in reality those other occupants can change so that can't be relied upon. They need to look at what the original parking plan allocation for that particular square footage had been and compare that to the likely demand under this type of occupancy.

Comm. Jones asked Tony to explain that – was there parking spaces allocated per square foot in that plaza?

Mr. Panico answered that there was an established parking ratio but he couldn't quite recall if this particular site plan met it 100%, but whatever it is, it is based upon a certain number of spaces per thousand square feet. By using the applicable ratio, they can determine how many of those spaces were anticipated to be used by that tenant and compare that to what the likely demand is. He added that it would help the Commission determine if they believe there is enough parking to handle their peak demands because the other tenants have different periods of peak operation.

Mr. Schultz added that he'd like to make the observation regarding the traffic in that area. He stated that he has witnessed a lot of traffic in that area especially during the peak because Wal-Mart is there. There is a lot of traffic just from Wal-Mart. He indicated that he was of the opinion that if customers do not find a parking space in that plaza, they would go across the street to another food vendor. If they are very successful, there is going to be a lot of cars parking there, just like anyplace else.

Mr. Schultz commented that the proprietor of the Subway across the street has angrily indicated to Staff that his sales were down because his customers can't find parking. It is difficult to find parking spots. As the applicant indicated, there were more open spaces because of the types of operations in that plaza. Across the street there is a heavy concentration of food establishments and all their customers come at once – and if they don't find a parking space they'll go to the other place across the street and vice-versa. Mr. Schultz concluded that this was just an observation; however, that is how he feels this situation will play out. He added that he's been going to that area enough, and there are always open spaces on the right side and the majority of spaces on the left are unused.

Comm. Jones commented that at all different times of day – such as 12 noon, 5 p.m. – there are plenty of spaces on the left side of that parking lot.

Mr. Panico stated that the nature of the existing occupancies is such that they don't demand a lot of parking; however, they need to take into account for more intensive users. If, all of sudden, the occupancy at the far left with the big lot goes out and a restaurant wants to come in, the needs would change.

Mr. Schultz reiterated that was why they do it by occupancy – a lot of people say it is overkill, but it's the only way to make this work. As another observation, he added that he was very concerned about the abuse of the handicapped parking spaces. He sees it all the time with people wanting to run in and out; proprietors can't enforce it because they're busy with their own customers.

Mr. Delibro indicated that they could or would move one or two to spread it out in the front line of the plaza.

Mr. Schultz commented that they are already in a great location for the handicapped – because they have to be.

Chairman Pogoda indicated that the main issue would be for the handicapped spaces to be as close as possible to the establishments.

Comm. Parkins asked if a parking light had been mentioned for that location.

Mr. Schultz responded no, he just mentioned the peaks.

Mr. Panico added that it was just a standard paragraph that the Fire Marshal puts in all his reports.

Comm. Parkins stated that it was a hard location to get in and out of.

Mr. Schultz agreed that taking a left was impossible; however, the Fire Marshal uses a boilerplate condition but it's not applicable here.

Mr. Panico added that was why they had tried to get all the sites across the street integrated, so that they could get to the traffic signal if they had to go across the flow. Before the signal was put in there, when Wendy's was opened initially, there had been all kinds of congestion because the traffic was too heavy to get out of there.

Mr. Schultz relayed that overall this Commission has been good with food establishments; however, they denied one because the site didn't work– Domino's Pizza downtown with only curbside parking. As indicated, they need to scrutinize all food establishments because sometimes the location does not serve the occupant well. The Commission has to make a tough decision, but they do have parking here.

Mr. Panico asked where the rubbish control facilities were presently located.

Mr. Delibro responded that they were in the rear of the building.

Mr. Schultz requested that the Commission really zero in on the condition of appropriate rubbish provisions being established.

Mr. Panico told the applicant that it was very important to have frequent pickups if they are having food in the garbage.

Mr. Delibro responded that they would adjust it accordingly.

Chairman Pogoda asked if there were any more comments from the Commission. There were none. He asked if anyone from the public would like to make a comment regarding this application.

Steven Grey, 48 Pine Tree Hill Rd, Shelton, CT addressed the Commission. Mr. Grey stated that his wife attends Curves which is in this location. He has driven her there numerous times, and he agrees with Mr. Schultz, that making the left turn can be an extremely harrowing experience without a traffic light there.

Chairman Pogoda asked if there was anyone else from the public who had questions or comments regarding this application. There were none, and he asked for a motion to close the public hearing.

On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #08-08.

APPLICATION #08-09, BARRY KNOTT ON BEHALF OF RICAR, LLC AND MAINUS HOLDINGS, LLC FOR MODIFICATION OF INITIAL DEVELOPMENT PLANS FOR PDD #66 (MARINA, MULTI-FAMILY, RESTAURANT/CLUB HOUSE), 704-712 AND 722 RIVER ROAD (MAPS 32, LOTS 16 AND 17), AND CAM SITE PLAN.

Chairman Pogoda stated that this public hearing has been continued from 5/15/08.

Mr. Schultz stated that he received two pieces of correspondence since the opening of the public hearing. He read the letter with recommendations from the Fire Marshal and correspondence from the State of Connecticut, Department of Environmental Protection.

***See attached letter from Fire Marshal, James Tortora dated June 10, 2008.**

***See attached letter from the State of Connecticut, Department of Environmental Protection Agency, Office of Long Island Sound Programs, Crystal Columberg dated June 10, 2008.**

Barry Knott, Knott & Knott, 1656 Main Street, Stratford, CT addressed the Commission. Atty. Knott indicated that he was present on behalf of Ricar, LLC and Mianus Holdings, LLC, the managing member of which is Mr. Richard Kral, who was also present for this meeting.

Atty. Knott indicated that he would be briefly addressing the letter just read by Rick Schultz from the DEP as related to the Coastal Area Management application and Mr. Kral will speak about the Fire Marshal's requests.

Atty. Knott recalled that at the last public hearing held in October 2007 on the previous iteration of this application, this project included the shifting of the 100 foot wide, 7 foot deep Federal Navigation Channel. His client will dredge 19 ½ thousand cubic yards of material from a 30,000 square foot area to an approximate elevation of -5.0 feet mean low water. The material will be dewatered and redistributed as ocean fill on this site. The existing bulkhead will be replaced and the riprap embankment will be rehabilitated and restored. Reconfiguration of the floating dock, platforms and ramps will also be accomplished as part of the work associated with this application.

Atty. Knott commented that with respect to the letter just read by Rick Schultz from the DEP representing the review of their Coastal Area Management application, he wanted to highlight that the author pointed out that this proposal in its entirety represents "an expansion and enhancement of water-dependent uses and waterfront public access. Further, the abandonment of the existing septic system in favor of sewers should favorably impact water quality along the Housatonic River. We look forward to working with the City of Shelton on the future approvals for this site as the project moves forward."

Atty. Knott added that his client has been and will continue to be in touch with the various people suggested in this letter for further permits at the State level. He indicated that detailed explanations and engineering have been submitted in support of the CAM application to Staff, and then he introduced Rick Kral.

Richard Kral, Principal of Mianus Holdings, LLC, Ricar, LLC and the Beacon Point Marina addressed the Commission.

Mr. Kral indicated that they've worked with the Fire Chief and Fire Marshal over the last week or so, very cooperatively, very understanding of what their needs are. They have no problem with what they are asking for in the letter. They've worked together to come to those resolutions; he thinks that it's a summary of several phone conversations and meetings that they had to discuss how to proceed to make it safe for everybody's interests, and obviously, that is what they are going to do.

Mr. Kral stated that they did decide that the best course of action was to use sprinklers in the lower section of condominium units (#23-#31). He agrees that it is a great safety feature to have in that building and a good selling point, so they have no problem working with the Fire Department. They will be putting some sand pipes in that area and as they progress and move forward toward building, they will look at final engineering plans and meet again with the Fire Marshal to determine where the hydrants will go on the site. The Fire Marshal would like to be involved in that process, and they would have no problem with that, and actually, they invite it. They will be working with them every step of the way to give them exactly what they are looking for. As he mentioned, the letter was a very good summary of their conversations and they have no problem making these requests. Other than that, he believes that he's given his full presentation and indicated that he'd be happy to answer questions from the Commission or from the public.

Mr. Panico asked Mr. Kral to update them on the status of their negotiations with the DOT relative to the adjustments in the right of way line.

Atty. Knott responded that an application for an STC permit has been submitted by their traffic engineer, Barkin & Mess. That application was submitted after the last approval. When these modifications were made to the plan, revised site plans were submitted to STC in support of their original application as an amendment to that application. That application is still being reviewed by them.

Mr. Panico indicated that his concern wasn't with the State Traffic Commission; it was with the DOT and the acquisition of excess right of way from them in order to make this project work.

Mr. Kral responded that it has all moved forward; they have sent them the agreement letter indicating that they agree to their terms. They are drafting the final documents and it's a matter of closing. Obviously, they have not pushed it along until they were sure of what they could build and then they can move forward. They are at a phase that's going pretty well hand in hand with...(inaudible)

Mr. Panico asked if it was an agreement in principle that just wasn't executed yet.

Mr. Kral responded that they haven't signed on the dotted line, but they are through contractual agreements. They are to the point where they should have a closing, and his guess, knowing the speed at which the State works, would probably within the next 45 - 60 days. He added that everything has been agreed to, and if need be, they can submit that letter to Rick Schultz or the Commission to confirm that they are in the stage of that process.

Chairman Pogoda asked Rick Schultz if they had spoken to the City of Stratford for water pollution on the additional 8 units.

Atty. Knott responded that he had spoken to the town engineer in Stratford regarding the fact that they were seeking additional units. Their inquiry really had to do with if there was going to be an additional fee associated with these extra units, because they are paying them \$121,200 for the hook-up that was approved by the Commission last October. They [Stratford] calculated the fee, not based upon the number of units applied for, but based upon hypothetical single family lots that can get 7500 square feet each. Since the size of the property hasn't changed, the fee hasn't changed.

Chairman Pogoda asked if there was any additional confirmation that the P&Z would need to confirm that Stratford is OK with the additional 8 units.

Atty. Knott responded that he intended to get a confirmation from Stratford as part of their final plan submittal.

Mr. Panico asked if they had been in contact with the City Engineer in regard to that sewer line, and if he was assured that the physical design of it will be such as to enable the connection of the Tanglewood Condominiums across the street. He asked if someone reviewed the design of it to make sure the design works and if it was a low pressure system.

Mr. Kral explained that on the map, by basically taking the center section right down the middle of the project -on River Road prior to the condominium entrance - that is where they will have the sewer terminating and they'll come up in that greenway up out of lower pressure. The lower pressure feed will go all the way down the road. At that point, they will pick up the lower pressure with a transfer system there; they'll be able to get that feed downhill to that lower pressure pump at that point.

Mr. Kral indicated that they haven't submitted the final plans to Engineering at this stage, but their engineer has been in contact with the City and have had discussions of what would be desirable and how they would work that effluent from that point down; obviously, they have made consideration as to how their effluent would flow from the grades that they have up and then back down to

River Road. They are fortunate enough to have a flowing gravity situation to that pump. He concluded that they've taken an overall look at it, but the exact pipe phase and invert heights and things like that have not been specifically determined.

Mr. Panico responded that he was only concerned that it's physically capable to accommodate that.

Mr. Kral stated that it was more their side than it is them, by far, they're able to gravity feed downhill. It does have to be a low pressure main from that point to the existing location 1200 feet to the south because of the height of street. No matter what they do it is going to be low pressure.

Mr. Panico asked if that component of their low pressure system would be sized or would be sized in design in anticipation of Tanglewood Condominiums tying in at some time.

Mr. Kral responded absolutely yes, and actually it would stay the size it is in the street main even if there was further expansion or anything above it, it could potentially be included.

Mr. Panico commented that they will have to approach the Town of Stratford to tie in though.

Mr. Kral responded yes, that they would have to go through the same situation they did, but obviously they'll have a much better position.

Comm. Jones asked Mr. Kral about the area of dredging.

Mr. Kral responded that all of the dredging – dredging is a misnomer, it is really bank region establishment - all the dredging is in near shore, so it works all along the embankment. On the current site plan in front of the clubhouse they have the most discharge, and that's where the drain comes off River Road. That is where they have the most silting and all the sand and everything washes down from River Road and up off of the hill and comes into the river right there. He added that they've seen the most sedimentation in the area of the clubhouse and where the two crew docks are south; all of that will just be cleaned back so they have a consistent water depth and all that can be done from the shore. There will be no dredge pumps or anything in the river, no barges and everything will be dredged from shore basically brought up by DEP water (inaudible). It's all clean fill; it's all been tested so they can use it for fill on site.

Comm. Sylvester arrived at 7:30 p.m.

Chairman Pogoda asked if there was anyone from the public who had any additional questions or comments regarding this application.

Mr. Irving Steiner, 23 Partridge Lane, Shelton addressed the Commission.

Mr. Steiner asked about the restaurant involved, which has sewer loading, and the increase in the number of residential units which increases the amount of sewage. There is a differential in sewer fees between Stratford and Shelton that up to now, as far as he knows, the City of Shelton is subsidizing. He doesn't know whether this has been taken into consideration. It is an important factor that should be brought to the attention of the Water Pollution Control Authority.

The Chairman asked again if there were any further questions from the public or the Commission regarding this application. There were none. Mr. Kral

responded that he had no further remarks either, but told the Commission to feel free to contact him with any questions or concerns.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #08-09.

End of Tape 1, Side A 7:36 p.m.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

Mr. Schultz indicated that Staff has reviewed the 27 Standard applications and finds them to be in compliance with the Shelton Zoning Regulations and recommends approval.

On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Applications for Certificate of Zoning Compliance, Standards 1-27.

SEPARATE #7050, BOB CAMMISA, 344 RIVER ROAD, SIGN

Mr. Schultz stated that they approved the pole sign; subsequent to that, Mr. Cammisa has stopped selling gasoline and has been focusing on his automotive repair and sale of new and used cars. He is requesting the installation of the canopy "Cammisa's Garage Complete Automotive Sales and Service" on the south side and the north side. The Commission has asked Staff to look at all the other canopies in town. He showed that this is consistent with what they've allowed throughout the community.

Mr. Schultz told Mr. Cammisa that some of the Commissioners have asked how important it is to have the individual manufacturer's names on the canopy sign such as EXXON, CITGO, etc. He asked Mr. Cammisa if it was critical to have all of them on there.

Mr. Cammisa, 344 River Road, addressed the Commission. Mr. Cammisa responded that it wasn't critical, but it would be nice to have.

Chairman Pogoda read off the different names proposed to be on the canopy sign such as Carquest, ASE, Technet – Cammisa's Garage Sales and Service Automotive... he indicated that if they go along with everything else that is around town then –

Mr. Cammisa asked if they could have phone numbers.

Chairman Pogoda responded no phone numbers on it. They are trying to stay away from that.

Mr. Panico commented that if all these names show up on this canopy sign, all the other guys are going to come back in looking to add more to their canopy signs.

Chairman Pogoda explained to Mr. Cammisa that what they are trying to do is be fair with everyone else who presently has a service station and anyone who may want one in the future. They would like to keep the canopy simple with the name of garage. They are trying to keep excessive material off of the signs.

Comm. Harger commented that AJ's Petroleum was about the closest example of a dual purpose for signage with something over the door and something farther

out. Even though they are talking about the canopy, maybe some of this other information could be carried someplace else on the property.

Chairman Pogoda responded that on the canopy it should just have the garage name.

Mr. Cammisa asked if he could have the "Technet Professional Service" included on the canopy because that's part of his business. Not the Carquest, because that is auto parts.

Comm. Sylvester asked what Technet was.

Mr. Cammisa responded that it was a nation-wide professional auto service and warranty certification. They represent auto repair shops with their marketing and educational services.

Mr. Panico asked if Technet meant something to the average customer.

Comm. Sylvester indicated that was what he was asking Mr. Cammisa - to find out if Technet is part of his service or if it is just an advertisement for someone else.

Mr. Cammisa responded that it was an important aspect of his service.

Comm. Sylvester responded that then it is very valid to have on the sign if it's something that he does.

Mr. Panico suggested that they include the Technet Professional Service information if it's important and eliminate a couple of the other lines of text.

Mr. Cammisa was not able to decide at this time what would be the best information to keep and what he could eliminate from the sign.

Mr. Panico tried to explain that the Commission was trying to get the signs in the direction of being an identification more than an advertisement.

Comm. Sylvester commented that a small business owner needs to advertise to let people know what he does – that is important to his business. He stated that he felt the Commission should allow Mr. Cammisa to be able to put on that sign what services he provides – just because he sells used cars, it isn't obvious that he's a complete automotive service as well. Everyone locally knows that he is an expert in repairing vehicles, so it is legitimate for him to say on the sign that he sells used cars and he also fixes them. Comm. Sylvester commented that he respected the Commission's position but he felt that they should also allow people to be able to say...

Mr. Panico responded that it can't be too subjective, because what is good for one, is good for the next one.

Comm. Sylvester commented that having been a small business owner for 25 years, he knows how difficult it is to get your name known and to get people to stop at your establishment. It's important; that's what a sign is about - style, color, size are important, but it's about trying to survive and doing business.

Chairman Pogoda responded that he understands that but this is just about the awning sign. Mr. Cammisa can put that other information over the door or window, but they'd like to keep the awning portion as plain and simple as possible. He indicated that he didn't have a problem with him describing his services elsewhere.

Comm. Sylvester agreed that he had no problem with that as long as Mr. Cammisa can include it someplace and advertise what his business is about.

Comm. Harger asked Mr. Cammisa what signs were on his establishment right now. Is there anything on the physical building itself?

Mr. Cammisa responded that EXXON was on the canopy right now, but there was nothing on the building. He stated that there were a few plastic signs hanging down in the windows saying "Emissions" and other services etc..

Comm. Jones asked if he had any free-standing signs.

Mr. Cammisa responded that they were approved at the last meeting. He has a lot of the information on those signs, north and south, so he can adjust the canopy.

Comm. Jones asked if that information was shown from both directions and if it was shown in full size.

Mr. Cammisa responded that it was on other signs.

Chairman Pogoda commented that it would be great if he could put "Cammisa's Garage", "Quality Used Cars" and "Technet Professional Service." So there will be three lines - with two of the blue lines being removed.

Comm. Parkins commented that it's pretty obvious that it's a used car dealership because it has used cars parked there with stickers on the windows – she suggested putting in "Complete Sales" rather than "Used Cars." If it's obviously a used car dealership, it's more important to state "complete services."

Comm. Sylvester responded that Ruth is on the right track, but it is very difficult for Mr. Cammisa to stand here this evening right now and try to decide what is best for his business. He suggested that the applicant be allowed to think about this and consult with Rick about a reasonable sign.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to approve Separate #7050 with the signage modifications to be approved by Staff.

SEPARATE #7082, GNS CO., 760 BRIDGEPORT AVENUE, SIGN

Mr. Schultz indicated that this was the monument sign for Planet Fitness. He displayed a copy of the proposed sign with the brick that matched the brick of the building. building brick and reminded the Commissioners that the wall signs had already been approved. It was consistent with what the Commission wanted.

On a motion made by Ruth Parkins seconded by Patrick Lopera, it was unanimously voted to approve Separate #7082 for the monument sign.

SEPARATE #7095, BOB DESALLE, 495 RIVER ROAD, SIGN

Mr. Schultz indicated that this was a sign for the wine and liquor store at the new commercial building at the corner of Petremont and River Road. He showed a drawing of the proposed signage to the Commission and indicated that it would be internally illuminated with red channel letters. The Commission has already approved the occupancy.

Comm. Harger asked what the actual name of this store was.

Mr. Schultz responded that it was Wine & Liquor on the River.

On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve signage for Separate #7095.

SEPARATE #7076, JOHN PAIGE, 90 BRIDGEPORT AVENUE, BUSINESS

Mr. Schultz indicated that this was 50 square feet, retail auto accessories and internet sales. The building overall is over 3500 square feet. The property is a subleased area on lower Bridgeport Avenue going towards downtown in a commercial zone. It's the two-story colonial that was upgraded next to the old Red Rocks?, there's a computer store in there and a dwelling unit on the second floor. They are subleasing 50 square feet of that store for Internet sales.

On a motion made by Chris Jones seconded by Patrick Lopera, it was unanimously voted to approve Separate #7076.

SEPARATE #4688, DENISE DUBEY, 522 HOWE AVENUE, SIGN

Mr. Schultz indicated that this was for a hairdressing/barber shop, 400 square feet, one employee, hours of operation Thursday & Friday 10 a.m. – 8 p.m., Saturdays, 8 a.m. – 2 p.m. This replaces Reliable Real Estate next to Valley Printing on Howe Avenue. He showed a draft of the sign for the Big Clipper. It would be a solid colored sign, probably metal but not wood; the applicant indicated she would be using the most affordable materials for the sign.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to approve Separate #4688 for the business and the sign.

SEPARATE #7042, PUCHALSKI KRZYSZTOF, 567 HOWE AVENUE, HOME OFFICE

Mr. Schultz indicated that this was for a home office construction business, 50 square feet, one employee. He rents the location and has obtained authorization for the business office from the property owner. He has one vehicle, a GMC Van with no commercial lettering. Staff recommends approval with the standard conditions.

On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #7042.

SEPARATE #7072, CARRIE KOSCAL, 387 LONG HILL AVENUE, HOME OFFICE

Mr. Schultz indicated that home business was to occupy 50 square feet for one employee who does marketing research and full time hours that are varied. Staff recommends approval.

On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #7072.

SEPARATE # 7074, NICHOLAS HAVEN, 500 HUNTINGTON STREET, HOME OFFICE

Mr. Schultz indicated that this was for a 50 square foot home business, one employee providing car detailing services that are not done on the premises.

Hours of operation are Saturday and Sunday, 9 a.m. – 5 p.m. This is a mobile car detail service. Staff recommends approval.

On a motion made by Chris Jones seconded by Leon Sylvester, it was unanimously voted to approve Separate #7074.

SEPARATE #7077, VINCENT ONASTI, 11 LILY LANE, HOME OFFICE

Mr. Schultz indicated that this was for a real estate appraisal service, 120 square feet, one employee, hours of operation are 24/7. Staff recommends approval.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to approve Separate #7077.

SEPARATE #7081, CHRIS SPINELLA, 32 STRAWBERRY LANE, HOME OFFICE

Mr. Schultz indicated that this was for a power washing business similar to the car detailing business, 50 square feet, one employee, part time. He uses a pick up truck with no commercial signage. Staff recommends approval with the standard conditions.

On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously voted to approve Separate #7081.

SEPARATE #7089, DAVID SAMPSON, 72 SHINNACOCK TRAIL HOME OFFICE

Mr. Schultz indicated that this was for a plumbing contractor, square footage 30 square feet, hours of operation, 8 a.m. – 4:30 p.m. Monday-Friday, one unmarked pick-up truck. Staff recommends approval.

On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Separate #7089.

NEW BUSINESS

APPLICATION 08-11, TERRA DEVELOPMENT, LLC FOR SUBDIVISION APPROVAL (3 LOTS: MARSHAL MEADOW), 151 NELLS ROCK ROAD (MAP 90, LOT 5) R-1 DISTRICT – ACCEPT FOR REVIEW

Mr. Schultz indicated that this was the stately white colonial right before L'Hermitage on Nells Rock Road. They are proposing two new building lots with the existing colonial house on one lot on the right hand side.

Chairman Pogoda asked for a motion to begin the 65 day review period.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to accept Application #08-11.

Comm. Sylvester indicated that some residents that he knew from L'Hermitage were in the audience, and he thinks they need an explanation of what will transpire with this application. He's concerned that they think this application has been approved while it has only been accepted for review at the present time.

Chairman Pogoda explained to members from the public that the P&Z Commission has just accepted Application 08-11 for review. At the next meeting, Staff reports will become available and the Commissioners will be able to have a discussion regarding this application.

Mr. Schultz responded that when applications are brought in, notifications are sent to neighbors. They are asked to come to the meeting and voice their concerns or ask questions regarding that application, such as drainage, blasting, etc. Many times their issues will be referred to Inland Wetlands or City Engineering.

Chairman Pogoda responded to an audience member that he could address the Commission tonight if he would like to.

James Gallagher, 27 L'Hermitage Drive, Shelton, CT addressed the Commission. Mr. Gallagher stated that he hoped to find out more information about the application tonight; however, from what has just been said, he understands that the information will be forthcoming. He commented that one of their primary concerns is about sewage and how that will be handled; would their hook-ups through the L'Hermitage facility or simply septic tanks. They also have questions about the wetlands. They don't fully understand what part of the area is considered wetlands or even if there are any wetlands back there. If there are wetlands, he wanted to know if they are taken into consideration in this review and how would they be impacted.

Mr. Schultz responded that wetlands would be considered and Inland Wetlands meets this Thursday; they will be accepting this application for review at that time.

Mr. Gallagher indicated that they do have concerns about the wetlands issues.

Comm. Lapera suggested that he attend the Thursday night Wetlands Meeting to address these same concerns at that meeting.

Mr. Gallagher stated that other concerns have to do with access into the place and things like that. They realize that they will be neighbors and only want to know how their property would be impacted in advance of anything occurring.

Tim Walsh, 42 L'Hermitage Drive addressed the Commission. Mr. Walsh stated that he had some major concerns about the wetlands because the wetlands are right behind his unit. He indicated that a few weeks ago, there were surveyors in those wetlands. The surveyors informed him that they were going to run a sewer because of this development through the wetlands to hookup to the L'Hermitage sewers. He noted that if they are going to run a sewer, they would have to dig through there to get the L'Hermitage sewers. Mr. Walsh indicated that he had a diurnal pond behind his unit that does fill up. With the heat right now, it is dry, however, it does fill up and he has flowers and other vegetation there. Therefore, he is concerned that this would run through the wetlands. He knows that there are wetlands behind him because many of the trees have ribbons around them that say "wetlands" on them.

Mr. Panico responded that the wetlands concerns will be addressed by the Inland Wetlands Commission, conceivably, this Thursday night. The P&Z can't take any action until any approvals needed from Wetlands have been received. However, P&Z will start its review process.

Mr. Schultz added that the Applicant is proposing individual septic systems and public water. They have to get a letter from Valley Health confirming that it has been approved.

Comm. Lapera suggested that the residents get a copy of the application and the plans available on file with Rick Schultz.

Chairman Pogoda suggested that they could obtain a copy of initial development plans that Staff has received from the developer. Attending the Thursday Inland Wetlands Meeting might be helpful as well.

Mr. Schultz recommended that they come into the office in a week or two because the application will be distributed to the other departments tomorrow. Reports will take about a week to come in from the Conservation Commission, who needs to address the open space issues, Inland Wetlands, City Engineer and Valley Health. The next P&Z meeting will be July 15th.

APPLICATION 08-12, HEALTH NET, INC. FOR DETAIL DEVELOPMENT PLAN APPROVAL (PARKING GARAGE), ONE FAR MILL CROSSING, (MAP 39, LOT 18) = ACCEPT, DISCUSSION AND POSSIBLE ACTION.

Mr. Schultz indicated that Staff has prepared a draft resolution. They had a public hearing on this, and one of the only issues was the potential glare of the lighting off the parking garage. He showed a drawing to Commissioners of the detailed development plans. Health Net would like to proceed by the end of this summer. This issue will be addressed in the resolution to be read by Mr. Panico.

Mr. Panico indicated that he and Rick Schultz sat down with the Applicant to go through each item to address all issues before preparing the summary report which he read.

Mr. Panico added that Health Net provided all the necessary details including a lighting intensity plan to show the level of foot candles at various parts of the parking structure. They've worked with Staff to ensure that they would keep the lighting down to the minimum required for safe operation of the facility. Architecturally, it is a precast concrete structure consistent with the other buildings up there. It's as attractive as it can be and nestled into the hillside nicely. He commented that fortunately, with the 47 car lot that is already there, the majority of the grading has already been accomplished. They do not anticipate the need to do any blasting.

Comm. Sylvester asked what would become of the parking lots that Health Net said none of the employees were using.

Mr. Panico responded that for the present time it would remain as an overflow parking lot that could be removed later if necessary. Typically, paved areas that remain unused go to pot after five years and deteriorate.

Mr. Schultz indicated that there was still some shared use of that parking lot with other organizations.

Mr. Panico commented that this discussion occurs so often with applicants – having enough parking is one thing, but having it properly located is a more important thing. He added that they had that experience with Pitney Bowes and on the other side of town up near Research Drive.

***See attached report - Detail Development Plan and Adoption of Modified Planned Development District for Application 08-12, Health Net, Inc. Major Modification of PDD 1A for Proposed Parking Garage.**

On a motion made by Leon Sylvester seconded by Virginia Harger, it was unanimously voted to accept Application 08-12.

On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously roll call voted (6-0) to accept the draft resolution for Application #08-12.

APPLICATION #08-13, E&E QUALITY HOMES, LLC FOR RE-SUBDIVISION APPROVAL (3 LOTS), 168 GROVE STREET (MAP 93, LOT 9), R-3 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Atty. Stephen Bellis, 47 Perch Road, representing the applicant, addressed the Commission. Atty. Bellis stated that this was an existing home on Grove Street with additional land that the applicant wants to subdivide into two additional lots. He indicated that when he did the research, he found that there had already been a split off of this property from another existing home and that is why it's considered a re-subdivision requiring a public hearing.

Atty. Bellis added that it was a simple subdivision that met all the standards. An application is pending Thursday because there are Wetlands on the property.

Comm. Jones asked how far down on Grove Street the property was from Coram Avenue.

Atty. Bellis responded that it was about 1/2 mile; an old dilapidated one story home that is being remodeled.

On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to accept Application #08-13 and schedule a public hearing for July 15, 2008.

On an unrelated matter, Atty. Bellis informed the P&Z Commission that the Charter Revision Commission is considering changing the size of the P&Z board. If they don't receive a letter from this Commission, there are some members that would like to increase the membership to eight with two alternates. Atty. Bellis indicated that he sits on the Charter Revision Board and would like to have the P&Z's input about this as soon as possible. Nothing has been voted on yet.

Comm. Sylvester asked if there had been any discussion as to minority representation.

Atty. Bellis responded that the minority representation discussed on the charter was to have it reflect a schedule in the state statutes. Whatever the state statute under Section 9 cites – he couldn't remember the exact number – which specifies that if there are *this many* members for any board or commission, there should be *this many* minority members.

Chairman Pogoda asked if that meant that all boards and commissions were regulated by state statute.

Atty. Bellis responded that was what the Charter Revision Commission was thinking about doing – making it across the board – go all with the state statute except for the BOA because they're an exception because they're voted by wards.

Comm. Sylvester commented that the Chairman had asked for a recommendation to the Charter Revision and his recommendation had been to increase the minority representation from 4:2 to 4:3.

Atty. Bellis added that they were looking for some input from this Commission about this by letter or something.

Chairman Pogoda asked when the next Charter Revision meeting would be.

Atty. Bellis indicated that it would be in about two weeks.

Mr. Schultz responded that it would be included in the Staff report. Chairman Pogoda assured him that a letter or something would get out to their Board.

APPLICATION #08-14, SPORTS CENTER OF CT FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #30 (VIDEO ARCADE ADDITION), 784 RIVER ROAD (MAP 12, LOTS 37 AND 38) – ACCEPT FOR REVIEW AND SCHEDULE A PUBLIC HEARING.

Mr. Schultz indicated that the applicant was proposing a modification to the video arcade addition that this Commission approved. The application is only being accepted tonight, but Joe Mingoello is present to go over some of the proposed modifications.

Joe Mingoello, Mingoello & Hayes Architects, 90 Huntington Street, Shelton, CT addressed the Commission.

Mr. Mingoello indicated that Mr. Soffan was unable to attend this evening, so he asked him to come and present an overview of these changes to the Commission. Mr. Mingoello wanted to go over the revision - two program and two safety issues modified from the original plan. He has the original plan with him and he'll describe the differences between the two plans.

Mr. Mingoello displayed the approved plan to the Commission and indicated that about 8 or 9 months ago they received P&Z approval for a 5600 square foot video arcade. He indicated that the video arcade was never really attached to the Golf Center building. Mr. Mingoello stated that he was part of the design program and the reason being for that was because golfers coming to the Golf Center pick up tokens at the Reception Desk and go out to the driving range, drive their golf balls and then leave. Most of those golfers would not go back in through the Golf Center building again. Therefore, the sidewalk around the perimeter of the building was planned to be left there to provide that convenience for golfers, and the video arcade building would not be attached to it. In that way, the video arcade building would act independently of the Golf Center building.

After reviewing it for a while and taking into consideration the issue of safety and the issue of unsupervised children, often dropped off by parents at the skating rink, they decided that this alley way might be a potential problem area in terms of security and safety.

Mr. Mingoello continued to show the adjacent Golf Store in that building. It has already been reduced considerably to about 1200 square feet. He showed the new plan with the elimination of the Golf Store and a hard connection. There were previously no toilet facilities in the original plan; the kids would have had to go back through the Golf Center to use the toilet facilities there. They felt that there needed to be something which made more sense for that issue as well.

He showed the dotted line representing the existing building; he showed the wall they proposed to eliminate, and a pair of doors that would lead to either the miniature golf or the video arcade. He added that there would be a reception desk, also serving as supervision, to the video arcade. It would be a direct connection and provide dedicated toilet facilities that the kids can use in there. There would be adults and employees right there watching all the time.

Mr. Mingoello indicated that this was a second story facility. He pointed out the location of the staircase with open doors to monitor who goes up and down. He summarized that they would be eliminating the alley way and one stair; therefore, the new plan would have a stair at either end – a total of two staircases instead of three. They picked up some square footage by eliminating

the stair and alley way. He stated that the plan went from an approved 5600 square feet to a proposed plan of 6400 square feet.

He showed an open area on the plan designated to be video arcade equipment. There would be three small party rooms as part of it. When they eliminated the 1200 square foot Golf Store, they incorporated three party rooms totaling 900 square feet.

Mr. Mingolello commented that this plan provided more control and convenience with the kids and no safety issues. They feel it's a better, cleaner plan that functions better. The footprint remains the same – the proposed plan eliminates the golf store and alley and incorporates that space into the video arcade/party rooms. It is a total of 900 square feet more than the approved plan that they'd like the Commission to consider.

Comm. Lopera asked if the parking was going to be adequate for the additional 900 square feet because they would be changing the uses from retail to party rooms.

Mr. Mingolello responded that people have already been going there to purchase golf equipment and this is just kids.

Comm. Sylvester added that there is no comparison though – he was just going to ask something similar to Pat's question. He commented that his family has used that bowling alley for children's parties; it brings a large attendance of parents taking their children to these parties. It is an all together different function than a golf shop, which really doesn't generate large groups of people at one time into it.

Comm. Sylvester continued that if they plan to add three party rooms, it could result in three parties taking place at one time. Maybe the plan works from a safety point of view, but from a parking/accommodating point of view – it needs to be looked at more carefully.

Chairman Pogoda agreed and asked the other Commission members if they felt that this was considered a major change requiring a public hearing.

Comm. Sylvester agreed that he felt it was a major change. He was speaking as a customer who has used the facility and attended a birthday party for his granddaughter. There was a lot of people coming there and parking there at the same time for a single event – it is an all together different environment than what this thing had started as. Adding three party rooms to it with all those functions going on at the same time....

Comm. Harger asked where the outside wall to be removed was located. Joe Mingolello showed her the dotted line indicating the proposed entrance to the video arcade/miniature golf.

Mr. Panico commented that going from a golf shop to party space is a significant change in regard to the degree of activity and parking.

Chairman Pogoda indicated that the Commission deems this to be a major modification because the parking issue could be critical, and he asked for a motion to schedule a public hearing. In the winter, the parking is crowded enough there with the skating rink and if there are three more party rooms, it would be even busier.

Comm. Sylvester added that all the cars certainly showed that the Sports Center was a successful, well-run and clean operation that attracts a lot of people.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to accept Application #08-14 and schedule a public hearing for July 15, 2008.

APPLICATION #08-15, LONG HILL CROSSROAD, LLC FOR PDD ZONE CHANGE (INITIAL DEVELOPMENT CONCEPT PLAN: LIGHT INDUSTRIAL BUILDING, CONTRACTOR'S STORAGE BUILDING AND LONG HILL CROSS ROAD (MAP 51, LOT 29) LIP/R-1 DISTRICTS – ACCEPT AND SCHEDULE A PUBLIC HEARING.

Mr. Schultz stated that this was an undeveloped, split-zone property going up Long Hill Cross Roads up towards Long Hill Avenue. It is across the street from the last commercial building on the left hand side. There are a lot of wetlands in the back.

Atty. Bellis, representing the Applicant, addressed the Commission. He indicated that it was a three acre parcel. It has a significant amount of wetlands, and that is why the Applicant is going in for a PDD so that he can get some relief for the setbacks. A small part of it is zoned R-1, but most of the land is in an LIP zone. He is going to have two buildings. One building about 9000 square and one about 8000 square feet. They would be used for light industrial and contractor space. Atty. Bellis added that it seems to fit in well with what it is; the reason they are requesting the PDD is due to the significant amount of wetlands and it is a split zone.

Chairman Pogoda asked Atty. Bellis if he was going before the Wetlands Commission on Thursday.

Atty. Bellis responded that he could work with a July 15th public hearing date.

The Commissioners discussed possible public hearing dates in which enough members could be present for a majority vote.

On a motion made by Leon Sylvester seconded Virginia Harger, it was unanimously voted to accept Application #08-15 and schedule a public hearing for August 19, 2008.

PUBLIC PORTION

Chairman Pogoda asked twice if there was anyone from the Public in attendance that would like to address the Commission on any matter not on the agenda. There was no one.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to close the public portion of the meeting.

OTHER BUSINESS

APPROVAL OF THE MINUTES

On a motion made by Ruth Parkins seconded by Patrick Lopera, it was unanimously voted to accept the minutes from 4/8/08, 4/22/08, and 5/1/08. Comm. Sylvester abstained from voting.

INFORMAL DISCUSSION: 350 HOWE AVENUE PROPERTY

Mr. Schultz indicated that this was the Johnny's Pizza property on the corner of Cornell and Howe Avenue. He indicated that Atty. Dominick Thomas was present to provide an update regarding this matter which has been written up in

the newspaper. Atty. Thomas will indicate the direction that his client would like to go. This will impact the Downtown Subcommittee.

Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission, representing the applicant.

Atty. Thomas stated that even though everyone is probably familiar with the building on Howe Avenue, he distributed photos to the Commission. As a result of the Town taking some action against this property, he was asked to represent Mr. Agni Kalici who is a member of Kalici Development and the owner of the property. The matter involving this building has been going on for many years - most significantly over the last two years.

Atty. Thomas indicated that two years ago in July, a car belonging to one of the tenants at 350 Howe Avenue accelerated into the side of the building. Prior to that time, the building had a slight lean to it but had been inspected by engineers and insurance companies and had been pronounced safe. There were some supports put in it. As a result of all this, his client has been dealing with insurance companies and other legal representation until a couple of weeks ago.

Atty. Thomas stated that the insurance companies rely very heavily on upon the statement of the building official for the City of Shelton. The Building Official, Elliot Wilson, went to the scene of the accident and indicated that it was minor damage. Atty. Thomas added that from his experience with property damage and injury cases, insurance companies often latch on to statements such as that, made early on by someone with some expertise. Several months later, other engineers became involved. While they couldn't pinpoint the cause of it, there may have been a greater lean than earlier cited and they ordered structural changes.

Atty. Thomas continued to say that as a result of those structural supports, the pizza business had to close because the structural supports caused him to lose one of his exit doors. By losing that exit, he could not continue the business. Since that time over the last 14-15 months, there have been extensive battles with the insurance companies who have refused to acknowledge that they have any liability with respect to the building repair.

Atty. Thomas indicated that 2 or 3 weeks ago, the City of Shelton issued a raise order based on the report of an engineer. They have some issues with that report. Mr. Kalici is faced with two cases – the litigation with the City of Shelton and a case with the three insurance companies involved in which they need to litigate whether or not that building can be supported in a sufficient fashion. They have two engineers looking at it to prepare their report indicating if it can be sustained the way it is.

Mr. Kalici is not a developer with the ability to quickly finance a reconstruction; he needs to resolve these issues with the insurance companies. The first steps are some unique legal issues that relate to that. The Shelton regulations for non-conforming use section has regulations that relate to the repair of the building and regulations that relate to replacement of a building that has non-conforming use that has been damaged by some catastrophe (i.e. fire). Their position is that a raise order would be a catastrophe. His client would like to construct the building giving him the same thing that he had – size, footprint and square footage.

Atty. Thomas noted that obviously this is an old building with a flat roof and the residential two floors have 9 foot ceilings. Any building that would be constructed would be different simply because it would need to be built up to modern standards. His client, if he is able to resolve his financial issues, would

like to be able to reconstruct this building in the same square footage and have retail in the front and have the second two floors be some combination of 1-bedroom and 2 -bedroom apartments instead of the original four 3-bedroom apartments that were there. This would rent to a different clientele. In order to accomplish the rebuilding simply in the same fashion with 4 3-bedroom apartments, he could go under the non-conforming use and rebuild.

Another option that Mr. Kalici has would be to look at working with Pietro Pettas, who has a PDD next door. They have obtained information from his engineer concerning the elevation if it were approved. His client would be willing to sit down and discuss with him making this property part of the planned development district that would allow him to construct a building that had a similar look to it. He did some preliminary investigations into whether or not his client's request for a three-story building with a roof line could tie in with a two-story building with a mezzanine. He was told that, initially, that was an acceptable thing.

Atty. Thomas indicated that they are here for an informal discussion tonight; to get the Commission's input as to whether or not they would look at making the four 3-bedroom units into 1 and 2-bedroom units. Atty. Thomas indicated that was what his client was facing, and that he is trying to obtain as much funding as possible through the insurance companies and accomplish the things that have not been done over the last 18 months.

In order to make repairs or replace anything would be to do a PDD, but this property is too small to do a PDD. So the only way to accomplish the changes and give this Commission control, assuming the client has the financial ability to do it, would be to create an extension of Mr. Pettas' PDD – to amend it and add it to his since his has already been approved.

Atty. Thomas noted that if that is done, the Commission won't want an alley way between those two buildings so it would have to be a common wall building with similar building materials. He informed his client that he's looked at the Pettas proposal and it calls for brick and brick is quite expensive. He would have to address that issue and commit to brick on two sides, definitely on the Howe Avenue side.

Atty. Thomas commented that they wanted to know if extending the PDD appealed to the Commission. Additionally, they wanted the Commission's input about changing the 4 3-bedroom apartments into more apartments with 1 & 2 bedrooms - but not to exceed a total of 12 bedrooms.

Comm. Lapera asked where the parking for this building was right now.

Atty. Thomas indicated that there was no onsite parking for this building.

Comm. Lapera commented that there would probably be more cars for a bunch of 1 & 2 bedroom apartments as opposed to 4 3-bedroom apartments.

Atty. Thomas noted that they could use the parking lot across the street and the building is two blocks away from another municipal lot.

Mr. Panico responded that those lots are already oversubscribed.

Chairman Pogoda responded that they would probably lean toward the PDD and the next step would be to bring this to the DSC to have a go at it. Leon, Ginny and Ruth can bring their comments about it back to the Commission.

Atty. Thomas commented that the building would be rebuilt in the same footprint – boundary line to boundary line. As far as the parking requirements and bedroom size, his client just didn't want to deal with as many families.

Chairman Pogoda stated that everyone that brings in an application for the downtown area indicates that they will use that same parking lot. Eventually, it is going to be too full.

Mr. Panico noted that it would be in everyone's best interest – the Commission, the City, the applicant to get that building out of there and replace it with a modern, up-to-date building within reasonable standards.

Comm. Sylvester commented that Mr. Pettas would be very cooperative to work with.

Mr. Panico stated that the minimum size criteria go away if that PDD goes away. There may be a good element of cooperation to produce a good corner there.

Chairman Pogoda suggested that Atty. Thomas and the applicant work with the DSC, Rick Schultz and Mr. Pettas on this to get it moving.

Comm. Harger requested that they bring as much detail as possible to the Downtown Subcommittee.

Atty. Thomas cautioned them that he would move as fast as he could but he was dealing with all these insurance companies.

8-24 REFERRAL: WIDENING & INSTALLATION OF TURN-AROUND ON WOONSOCKET ROAD

Mr. Schultz indicated that the Street Committee forwarded an 8-24 Referral to the Commission. He read the City Engineer's report dated 6/5/08 recommending a traditional turnaround.

***See attached correspondence from R. Kulacz dated June 5, 2008.**

Chairman Pogoda and Mr. Panico agreed that the traditional turnaround would be more desirable instead of a hammerhead turnaround for snowplows and other vehicles of that size. The other commissioners agreed.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to report favorable with a recommendation for a traditional turn-around.

JEFFREY ESTATES SUBDIVISION: REQUEST FOR EROSION CONTROL BOND RELEASE

Mr. Schultz indicated that this was for the area next to Mohegan School. All the vegetation had been removed at the site line there for the three lot subdivision. The entire side is stabilized.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve the request for erosion control bond release.

PAYMENT OF BILLS

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to pay bills, if funds are available.

STAFF REPORT

ZBA

Mr. Schultz summarized the ZBA Agenda which included an appeal of a pre-existing non-conforming lot on Bridgeport Avenue and the additional lot on Plumtree that encroaches on the utility easement. They are both scheduled to be acted on.

Regarding new ZBA business, Comm. Parkins commented that she has received phone calls from a couple of residents concerned about blasting in the area for two building lots on Buddington Road.

Mr. Schultz responded that was why the public hearing was continued. He would be sending them the Blasting Sub Committee's policy adopted by the BOA.

Comm. Parkins added that one of their concerns was the proximity of the blasting to one of those pipelines. As far as she knew, Iroquois had not been notified of any public hearing.

Mr. Schultz responded that he would send that letter to them.

Zoning Subcommittee – Sign Regulations

Mr. Schultz stated that a comprehensive draft has been prepared, an entire rewrite of the sign regulations, and it will be discussed by the Subcommittee before being brought back to the full Commission. He anticipates that it will be reported on at the July meeting.

McCallum Enterprises

Comm. Parkins asked why the property owner pulled out their application with the Army Corp. Mr. Schultz responded that it was due to the ongoing discussions with the Mayor's Office and potentially buying the development rights of the property. In the spirit of cooperation, the applicant has pulled their application before the Army Corps of Engineers. The Chairman is going to recommend that the July meeting be rescheduled to the August meeting. They are watching this and there are ongoing discussions with the Mayor's Office.

Comm. Harger asked if the Army Corp. meeting in June had been cancelled. Mr. Schultz responded that it was canceled because the application was withdrawn. The applicant has asked the P&Z Commission to hold off on the zone change until something more definitive has occurred. However, if the talks stall, the Commission will proceed because the long range plan calls for rezoning that area.

Housatonic Rise Cluster Development

Mr. Schultz indicated that there has been revision to the Housatonic Rise Cluster Development – Monty Blakeman's development going up Howe Avenue to Indian Wells on the left side. There was a collapse of the retaining wall. They are reengineering it and going with a precast two tier retaining wall system. He'll be showing the Commission the revised plan after he receives it from the engineer. They've indicated that they want to proceed with spec housing. Otherwise, the two issues are the two acres requiring vegetation stabilization and the retaining wall.

Chairman Remarks

Chairman Pogoda made comments about recommending that the MacCullum Enterprises discussion be rescheduled until August in order to allow discussions to take place with the Mayor's Office and the applicant. Rick Schultz will keep the Commission advised as to its status.

Chairman Pogoda informed the other Commission members that there had been an FOI complaint made by a citizen regarding the meeting about the Fairchild

Heights Mobile Home Community. At that meeting, there were a considerable amount of people in attendance and there were some people standing up. He indicated that there were no public comments made regarding their dissatisfaction with the meeting room at the time or a the possibility of rescheduling the meeting in order to find a larger room. However, a member of the public brought an FOI complaint that the meeting should not have been held.

Chairman Pogoda stated that the Assistant Corporation Counsel indicated that the Commission had been cited with a violation. Assistant Corporation Counsel has spoken to Staff and requested that the Commission take a proactive stance, and if the Auditorium isn't available for a public hearing such as that one which draws a lot of people, the Chairman will have to cancel the meeting for that application and reschedule it.

Chairman Pogoda added that there has been a scarcity of available rooms due to the fact that the BOA has often been using the Auditorium, especially during budget planning periods. Furthermore, the schools are closed, they would be difficult to get into, and they would have to pay to use any of the school buildings after hours anyway. Finally, it is too cumbersome to expect Staff to transport all the required materials and information that may be needed for the discussion of each application.

So, at this point, if need be, Chairman Pogoda indicated that he will cancel the meeting if it is expected to draw a lot of public attendees. It will create difficulty in scheduling, but they have to take a proactive stance to avoid any future FOI complaints.

Comm. Sylvester added that this was not unusual, they were subject to this all the time when they had meetings about the budget or whatever. It is not unusual for people to be upset if they can't get in; however, the FOI complaint is unusual.

Mr. Panico commented that at the time of that particular hearing, there was no sense of anyone present being upset.

Comm. Harger agreed that no one raised ...anything.

Comm. Sylvester stated that they had to move the Board of Education meetings often for that reason.

Comm. Parkins asked for clarification about which meeting the FOI complaint applied to because there were two meetings regarding Fairchild Heights. There was a lot of discussion about the emotional subject matter of the meeting. It was noted that no public comments were going to be taken at the second meeting anyway.

Comm. Sylvester added that he didn't think it was their fault...but it's not unusual for people to get upset like that.

Chairman Pogoda commented that he agreed it wasn't a good situation if there wasn't enough space. He didn't think that people at that meeting were upset; he thought those standing out in the hallway were waiting for their applications to come up.

Mr. Schultz stated that whenever they have a meeting and people cannot attend, Assistant Corporation Counsel is saying that they should not take action on that application – find another room and another date. Mr. Schultz added that April and May are difficult times to schedule meetings because of the budget process in this community. The auditorium is always occupied, and they have lost any

available space downstairs with Room 104 temporarily being used as office space. It was a timing thing. They just have to reschedule it and let the people know when it is.

Comm. Lapera indicated that then there will be complaints about the change of date and location.

Chairman Pogoda stated that if that's the case, he'll inform them that it is a matter of FOI and it's the procedure that they have to follow.

In regard to the Charter Revision Committee request, the consensus seemed to be that seven members with two alternates was acceptable.

Mr. Schultz commented that the Charter Revision was recommending 8 members with 2 alternates.

Mr. Panico commented that they could relay to the Charter Revision Committee that the Commission feels it was working fine with 6 members. The addition of one member would not upset the administrative process but going to 8 members would create a burden to get sufficient attendance for a quorum and sufficient affirmative votes to take a zoning action.

He added that it is another administration burden that potentially gets placed on the Commission with respect to any petition and opposition to a zone change. Until now they have never had to analyze the petition in terms of the geographic areas they represent because all of the zoning matters require a 2/3 vote. With 6 members, 2/3 would be 4 for a 2/3 vote; however, a majority to pass zoning with 8 members, and if there is a petition with opposition they would need to validate that petition because if it is a valid petition that needs a 2/3 vote, now instead of 5 they would require 6 out of 8 votes. It does impact the nature of the votes; it would just be something that they would need to be aware of.

Chairman Pogoda commented that he would like to stay with what they have; if not, the most he would like to see would be seven members with two alternates. He added that for the Charter Revision they would only be making a recommendation not a decision anyway.

Comm. Parkins agreed with the recommendation that it was fine as it is; but if they feel compelled to increase it, she'd like to see no more than 7.

Comm. Sylvester indicated that he'd just like to see an increase in minority representation. Comm. Jones agreed with Comm. Sylvester about an increase to seven and an increase in minority representation.

There was a lot of discussion about the minority representation with differing scenarios but the consensus remained to keep the status quo with any increase only being up to 7 members.

Chairman Pogoda asked Rick to strongly relay that decision to the Charter Revision Committee.

On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to adjourn at 9:37 p.m.

Respectfully submitted,

Karin Tuke

