

SHELTON PLANNING & ZONING COMMISSION FEBRUARY 10, 2009

The Shelton Planning and Zoning Commission held a regular meeting on February 10, 2009 at Shelton City Hall, Auditorium, at 7:00 p.m., 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

The following members were present: Chairman Anthony Pogoda
Comm. Virginia Harger
(arrived 7:12 p.m.)
Comm. Patrick Lopera
Comm. Thomas McGorty
(alt. for Comm. Parkins)
Comm. Leon Sylvester
(departed 7:45 p.m.)

Staff members present: Richard Schultz, Administrator
Karin Tuke, Recording Secretary

Tape (1) 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 7:00 p.m. with the Pledge of Allegiance. He indicated that Commissioner McGorty would be the alternate for Commissioner Ruth Parkins for this meeting.

PUBLIC HEARING

APPLICATION #08-26 UNITED RECYCLING OF SHELTON, LLC FOR SITE PLAN APPROVAL (CONSOLIDATION & EXPANSION OF RECYCLING FACILITY), 46 AND 90 OLIVER TERRACE (MAP 63, LOTS 13 AND 14), IA-2 DISTRICT – REQUEST FOR WITHDRAWAL (APPLICANT INITIATED)

Mr. Schultz read a letter dated 1/20/09 from Atty. John Fallon representing United Recycling requesting withdrawal of the application.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to accept the request for withdrawal for Application #08-26. Comm. Sylvester recused himself from participating or voting on this application.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

Mr. Schultz indicated that there were a total of 3 Standards. They have been inspected and comply with Shelton Zoning Regulations, and Staff recommends approval.

On a motion made by Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to approve the Applications for Certificate of Zoning Compliance, Standards 1-3.

SEPARATE #5037, TOROK BLDRS, LLC, 19 RIDGEFIELD ROAD, HOME OFFICE

Mr. Schultz indicated that this was for a home improvement/remodeling home office, 120 square feet, one full-time employee, pick-up truck with no commercial lettering. Standard conditions will apply for no materials stored on the premises. Staff recommends approval.

On a motion made by Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to approve Separate #5037.

SEPARATE #5053, DAN PELLOTH, 274 SOUNDVIEW AVENUE, HOME OFFICE

Mr. Schultz indicated that this was for marine surveying and consulting business. Office area is 75 square feet, one full time employee, no commercial vehicles. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5053.

SEPARATE #5046 DEV. DISABILITY COUNSELING SERVICES, 21 CATLIN PLACE

Mr. Schultz indicated that this was a licensed professional counselor with a license from the State of Connecticut provided with their application. Floor area of the office is 108 square feet, one part-time employee, no clients visiting residence. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5046.

SEPARATE #5044, LEO POISSON, JR., 222 GARDENS AT SUMMERFIELD, HOME OFFICE

Mr. Schultz indicated that this was for a snow plowing service business occupying 50 square feet, part time employee, and one pick-up truck.

Comm. Lopera asked if the applicant had obtained condominium approval from Summerfield Gardens.

Mr. Schultz responded that he doesn't have that information with him, so if they'd like, they can table it.

Chairman Pogoda stated that there was nothing wrong with the application, but they need to be consistent in requiring approval from the condo associations.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to table Separate #5044 in order to verify approval by the condominium association.

SEPARATE #5069, ZINSKY PAINTING, 117 LONGFELLOW ROAD, HOME OFFICE

Mr. Schultz indicated that this was a 75 square ft home office for painting services business with one employee, one truck with non-commercial plates. Staff recommends approval with standard conditions.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5069.

SEPARATE #5043, STEPHANIE ROSE, 495 RIVER ROAD, BUSINESS

Mr. Schultz indicated that this was located in the new Santo's Plaza at the corner of Petremont and River Road on the upper floor area which is 1475 square feet. This is for the Step by Step Dance Academy, LLC; it's a dance studio and it's a permitted use. The other occupant in the building is the package store. Hours of

operation are Mon. & Wed. 4 p.m. – 9 p.m. and Tues. & Fri. 4 p.m. – 6 p.m. There are 10 -15 parking spaces designated. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Leon Sylvester, it was unanimously voted to approve Separate #5043.

SEPARATE #5052, DAVDAN, LLC, 127 CENTER STREET, SIGN

David Oraziatti presented several pictures for the proposed signage to be used for this building. Staff likes the earth tones and sun logo as opposed to the other chili logo because it's representative of another franchise. The commissioners reviewed the drawings of the proposed signs but the discussion was inaudible.

Chairman Pogoda indicated that Staff will work with the applicant to finalize the signage.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5052.

SEPARATE #5049, ROBERT ZUKOWSKI, 445 RIVER ROAD, BUSINESS/SIGN

Mr. Schultz indicated that this was the strip shopping center across from Sunnyside School. The applicant will be occupying the left side of the building which is currently unoccupied. It is 1200 square feet; the overall building is 3600 sq. ft. This is for a retail bedding store. They have submitted a drawing for a proposed wall sign and added that it was consistent with the other signs presently there. Chairman Pogoda asked that Staff monitor the parking.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5049 for the business and the signage.

SEPARATE #5040, ECHO HOSE AMBULANCE CORP., 286 HOWE AVE., BUSINESS/SIGN

Mr. Schultz indicated that this was the Shelton Party World next to the gas station. The building overall is 5,500 square feet. Echo Hose Ambulance Corp. is recommending to the Commission to allow a training center and office. Hours of operation would be four evenings per week, two Saturdays a month, and three to four mornings.

Chief Chaffe, Echo Hose Ambulance Corp addressed the Commission. He provided samples of proposed signage for a flat sign over the door with their logo and another sign for the window. They discussed the location of the parking spaces that they would be utilizing and sharing with Party World during their off-business hours.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5040 for the business and the signage.

OLD BUSINESS

2009 DRAFT OPEN SPACE PLAN: DISCUSSION AND POSSIBLE ADOPTION AS SUPPLEMENT TO THE 2006 PLAN OF CONSERVATION AND DEVELOPMENT (PUBLIC HEARING CLOSED ON 11/25/08).

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve the 2009 Draft Open Space Plan and adopt it as a supplement to the 2006 Plan of Conservation and Development.

Chairman Pogoda indicated that some of the Commissioners met with members of the Conservation Commission to resolve some questions that had been discussed.

Mr. Schultz added that the Commission has agreed to make the subdivision regulation amendment a high priority and to take that to a public hearing. He read the draft resolution dated January 28, 2009.

***See attached Draft Resolution for the 2009 Open Space Plan (Revision Date February 2009)**

Mr. Schultz summarized that this plan had been prepared by the Shelton Conservation Commission in accordance with the recommendations of the 2006 POCD and under the provision of Section 23 of the Connecticut General Statutes. He indicated that it was entitled the 2009 City of Shelton Draft Open Space Plan and it consists of Introduction; #1: Manage City Owned; #2: Increase Qty of Open Space; #3: Develop Greenways; #4: Preserve & Protect Natural Resources; #5 Preserve Historic Resources; #6 Preserve Scenic Resources; #7 Provide for Current & Future Recreational Needs; #8 Preserve Agricultural Resources; #9 Prepare a Community Resource Inventory, Action Plan and supporting maps. The Commission has filed a copy in the office of the City/Town Clerk and the Valley Regional Planning Agency.

He added that the public hearing was held on November 25, 2008 to consider its adoption. The Commission, in its detailed review of the plan, found areas of confusion and inconsistency, which were modified and clarified after discussion with the Conservation Commission. These modifications are reflected in the latest revision dated February 2009.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously roll call voted (5-0) to approve the 2009 Draft Open Space Plan and adopt it as a supplement to the 2006 Plan of Conservation and Development.

APPLICATION #08-23 RICAR LLC AND MIANUS FOR FINAL SITE DEVELOPMENT PLAN APPROVAL FOR PDD #66 (MIX USE MARINA DEVELOPMENT) RIVER ROAD – REQUEST FOR EXTENSION ON REVIEW PERIOD

Mr. Schultz indicated that they received a letter authorizing a 65-day extension on the review period.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept the request for an extension on the review period for Application #08-23.

APPLICATION #08-24 JOHN PAUL DEVELOPMENT LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #61 (STONE WALL/FENCE), COMMERCE DRIVE – REQUEST FOR EXTENSION ON REVIEW PERIOD.

Mr. Schultz indicated that they received a 65-day authorization for this proposal, which is before the BOA that has to authorize the work for city-owned property. They will be seeing an 8-24 Referral on this before the Commission acts on the application, but it is moving along.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to accept the request for an extension on the review period for Application #08-24.

NEW BUSINESS

APPLICATION #09-02 PRIMROSE COMPANIES FOR FINAL DETAIL DEVELOPMENT PLANS FOR SITES C AND D (MULTI-FAMILY AND COMMERCIAL USES), PDD #60, CANAL STREET (MAP 129, LOTS 17 AND 18) – ACCEPT FOR REVIEW

Mr. Shultz stated that at the last meeting when the STC permit that was granted, the Commission was advised that the next phase, Sites C & D, would be submitted. They've been submitted and the review period would begin tonight.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to accept Application #09-02 for review.

APPLICATION #09-03 PREMIER AMERICA REALTY CORP. FOR SITE PLAN APPROVAL (BLDG. RENOVATION AND PARKING RECONFIGURATION), 42 AND 44 BRIDGEPORT AVENUE (MAP 117C, LOT 3), CB-2 DISTRICT – ACCEPT FOR REVIEW

Mr. Schultz explained that this was the old Bondos Printing Building on lower Bridgeport Avenue – leaving Center Street and Bpt Avenue begins, there are several multi-families, and it is the first commercial building on the left side. There is an apartment in that building too. There is a new investor who bought and wants to renovate it. They would like to establish on site parking because the parking in the front is in the street right of way, and has to be eliminated. Therefore, they propose to do some parking reconfiguration.

He explained that it was a difficult site – the ground floor would be for contractor storage because of the high ceilings, but the first floor would be professional offices.

On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously voted to accept Application #09-03 for review.

APPLICATION #09-04 SHELTON TRUCK CENTER SALES AND REPAIR FOR SITE PLAN APPROVAL (AUTOMOTIVE REPAIR AS AN ACCESSORY USE), 445 ACCESS ROAD (MAP 63, LOT 7), IA-3 DISTRICT – ACCEPT FOR REVIEW.

Mr. Schultz explained that this was the site between Viking Tool and Walmart. It is owned by Viking Tool. Bartomeli and ? are in there and they are proposing, as an accessory use, truck repair, which is a permitted use in that area. It requires site plan because ZBA doesn't get involved with automotive licensing. There is presently a fence along the front of the site; it's a contractor's business and zoning allows automotive repair, and in this case it would be truck repair as an accessory use.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to accept Application #09-04 for review.

APPLICATION #09-05, LONG HILL CROSS ROAD, LLC FOR FINAL SITE DEVELOPMENT PLAN APPROVAL FOR LOT A (INDUSTRIAL BLDG), PDD #69, LONG HILL CROSS ROAD (MAP 51, LOT 29) – ACCEPT FOR REVIEW.

Mr. Schultz stated that this is the Mike Salemme project. They have a public hearing for the re-subdivision at the February 24th meeting, and this will also be put on the agenda for discussion.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept Application #09-05 for review.

APPLICATION #09-06, MARK AND SOPHIA BELADE FOR SUBDIVISION APPROVAL (3 LOTS), 353-357 SHELTON AVENUE, R-1 DISTRICT – ACCEPT FOR REVIEW

Mr. Schultz indicated that this location was at the corner of Pine Street off of Shelton Avenue. The Belades live there and have acquired property adjacent and they would like to subdivide everything; there's an existing house. He indicated that the applicant has complied with the notification requirements.

Atty. Steven Bellis, 47 Perch Road, Shelton, CT addressed the Commission representing the applicants to provide a brief overview.

Atty. Bellis indicated that it was a straight subdivision; a pre-existing, non-conforming lot that has been there a long time. They've had some problems with the lot; there's no frontage on the road, and it's an odd-shaped parcel. He showed a site map of the property location. There are two houses on the parcel, the Belade's house and the now unoccupied house which would be removed. Variances were granted; he made a conforming rear lot in terms of zoning and improved the Belade's house by giving them a 30 foot access way to Shelton Avenue, giving them more land and increasing the setbacks to conform more to the existing zone. Additionally, for the third lot he got some variances such as frontage which was granted and the square on the lot. All of the parcels are over an acre – he pointed out one as 1.65 acres and 1.01 acres, and in this neighborhood the houses are on $\frac{3}{4}$ acres or $\frac{1}{2}$ acres; so these lots are bigger than the other lots in the neighborhood.

Comm. Harger asked about the access way from the rear lot.

Atty. Bellis showed the location of the shared driveway. He concluded that he's been trying to clear up a situation that was pre-existing, non-conforming in such a way that it would conform to zoning regulations as best he could by creating a rear lot, and making the other lot less non-conforming. He added that they spoke to the neighbors when they applied for the variance, and they were all in favor of what they are trying to do there.

Mr. Schultz asked about the Wetlands regulations.

Atty. Bellis responded that he went to Wetlands and there's no regulated activity and they asked for administrative ruling from John Cook to get a 25 foot buffer for a yard, and he had no issues with that. All the deep hole tests and septic have been approved.

On a motion made by Thomas McGorty seconded by Patrick Lapera, it was unanimously to accept Application #09-06 for review.

APPLICATION #09-07, BRUCE BUTLER/BUTLER COMMERCIAL SERVICES, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL FOR NEW FOOD ESTABLISHMENT WITH DRIVE-THROUGH, BUILDING/CANOPY RENOVATION AND PARKING RECONFIGURATION, 99 BRIDGEPORT AVENUE (MAP 117, LOT 1), CB-2 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz indicated that this was the Shell Station, Shelton Auto Parts Building on Bridgeport Avenue. The building owner wants to consolidate the parts store to the central section of the building, freeing up space on the left hand side which is currently occupied by the parts store. He would also like to put a drive through window in the back, and to regrade it - that triggers a special exception and a public hearing. He wants to add a third occupant into that building with a drive-through with a regraded lane that can go through the back.

He added that it would also entail enhancing the canopy in the front and reconfiguring the curb cuts and the on-site parking on the left side where the auto parts store is located. He recommended the 4th Tuesday in March for the public hearing – March 24th.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #09-07 for review and schedule a public hearing for March 24, 2009.

PUBLIC PORTION

Chairman Pogoda asked if there was anyone from the Public wishing to address the Commission about any item not on the Agenda.

Atty. Dominick Thomas, Cohen & Thomas, Main Street, Derby, CT addressed the Commission. He indicated that he appeared before the P&Z in January '09 prior to a ZBA meeting on 60-64 Huntington Street.

Mr. Schultz told the Commission that this ZBA item has been included on his Staff Report which he will discuss at the end of this meeting.

Atty. Thomas referenced the application and summarized that, historically, it has gone back and forth numerous times, with different owners, different architects, different engineers, etc. Presently, the design submitted only has one variance. In January, this Commission took a hands-off approach until the public hearing took place. They had a lengthy public hearing, and the representatives of the Beard family and the Scanlon family appeared. Atty. Thomas commented that he had commented many times during the ZBA hearing that many of the issues brought out were issues that belonged at a P&Z Meeting, because they were not ZBA concerns.

Atty. Thomas indicated that the adjacent land owner with issues no longer has any variances along their property. The issue now is the size of the building, the parking (shared parked) and who the tenant would be – these are all Planning & Zoning issues. The proposed building that they have before the ZBA fits all the CA-2 Zone requirements – impervious coverage, floor space coverage, footprint coverage, etc...They were only there for the front variance. The existing building is 10 feet and the new building is 10 feet. They've shown the ZBA pictures of how it looks, but he has reiterated to the ZBA that how it looks is really a P&Z matter.

Atty. Thomas told the Commission that he was fearful that this Commission would empower the ZBA, in this case, to act as P&Z, because he has to come back before this Commission. This Commission has to determine whether or not all the standards are met. He reiterated the problems that have emerged with this piece of property and its owners. Presently, he is working with a family member of the owner who is cooperating to take a reasonable approach by eliminating variances, and who realizes that the ultimate decisions need to be made by P&Z, not ZBA.

He had the renderings of the proposed building available for the Commissioners to review again, as well as the plan. Atty. Thomas indicated that if Commission plans to take position, he hopes that the position includes issues such a parking, size, aesthetics, pedestrian walkways, snow removal locations, etc. He urged them that in any response the Commission makes, he suggested that it be stressed that these are P&Z issues. Atty. Thomas summarized that this proposal has taken four variances – four non-conformities – and reduced it to one.

Chairman Pogoda responded that at this point the Commission would like to reserve the right to hold off until the ZBA reaches a decision regarding the setback in the front. The Commission will not be sending anything positive or negative until the ZBA does their job.

Atty. Thomas recommended again that they tell that to the ZBA – that the P&Z Commission will take care of those issues (size, parking, aesthetics...) because at the last ZBA meeting there was a lot of discussion and questions about issues that belong at the Planning & Zoning meeting. His client is taking the risk by coming back before this Commission with uses and abilities (shared parking, special exceptions, etc.). Atty. Thomas concluded that he wasn't asking for any favors; he only wants to clarify of statute ability.

Chairman Pogoda asked if there was anyone else in the audience with any comments.

Irving Steiner, 23 Partridge Lane, Shelton, CT addressed the Commission. Mr. Steiner commented that the previous speaker, with respect, is not a resident of Shelton. Also, he is bringing up official business here, without his applicants even being present. Mr. Steiner asked to have a few guidelines as to who can use this podium for such activities. Atty. Thomas is in a way, asking for a review of his application, and there's no formal procedure here. He added that he respects Mr. Thomas as a lawyer, but he thinks that this podium should be used for other matters – the public of Shelton to speak about their concerns – not business.

Chairman Pogoda asked again if there was anyone with any comments or questions.

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

Comm. Sylvester departs at 7:45 p.m.

OTHER BUSINESS

APPLICATION #08-17, RE-SUBDIVISION OF LOT 1, NOLAN SUBDIVISION: MODIFICATION OF CONDITIONS OF APPROVAL (ELIMINATION OF PAYMENT IN LIEU OF OPEN SPACE) AND 90-DAY EXTENSION TO RECORD MAP.

Mr. Schultz indicated that this is the two lot subdivision across from the Bronson Country Club. At the time, the condition of approval was payment in lieu of because they were going to sell the lot on the market. There is a provision in the State Statutes for subdivisions of five lots or under if it stays in the family, a waiver of open space is permitted. The owner has submitted a request that he would like to keep that new interior lot in the family. They'll have to provide a note on the record map. A motion must be made to modify the conditions of approval by acknowledging that.

Mr. Schultz indicated that another motion would be required to allow a 90-day extension to record the Mylar map.

Comm. Lopera asked if waiving the open space for a family member was the normal course for them to take, would the payment in lieu of be required again, if they decide not to transfer it to a family member?

Mr. Schultz responded that yes, then, the payment in lieu of would be required again.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve the modifications to the conditions of approval (elimination of payment in lieu of open space) for Application #08-17.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to approve the request for a 90-day extension to record a Mylar map for Application #08-17.

CRESCENT VILLAGE CONDOS: REQUEST FOR REDUCTION OF SEDIMENT & EROSION CONTROL BOND

Mr. Schultz stated that RGR, LLC requests that the cash bond in the amount of \$50K being held by the City for the completion of improvements associated with the site plan known as Crescent Village Condos be reduced to \$25K. He indicated that this would be the second reduction; they had a \$100K bond reduced to \$50K and a further reduction is in order because the site has been stabilized to satisfaction.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to reduce the Sediment and Erosion Control Bond for Crescent Village Condos to \$25K.

HEALTH NET GARAGE: REQUEST FOR RELEASE OF SITE BOND AND SEDIMENT AND EROSION CONTROL BOND

Mr. Schultz commented that the completed garage at Health Net is, architecturally, something that they'd like to see done throughout the community. He urged the Commissioners to go and take a look at it because, architecturally, it would be good to replicate for downtown.

Mr. Schultz continued that the garage fits in nicely. There are no lighting or light glare issues which had been brought out at the public hearing.

Chairman Pogoda added that the public was quite concerned about the light issues, especially in the winter months, and they have not heard any complaints about it. They've positioned the lights to shine downward; they did a beautiful job with the structure and preserved the trees in the area.

On a motion made by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to release the \$10K Performance Bond and the \$5K Sediment and Erosion Control Bond for the Health Net Garage.

828 BRIDGEPORT AVENUE: REQUEST FOR RELEASE OF SEDIMENT AND EROSION CONTROL BOND

Mr. Schultz indicated that Crown Point Real Estate Investors LLC – this is Commerce Bank and Longhorn. A cash bond in the amount of \$10K is being held for the completion of improvements at 828 Bpt. Avenue. Staff inspected

the site on 2/6/09, and found that site improvements have been satisfactorily completed.

On a motion made by Thomas McGorty seconded by Patrick Lapera, it was unanimously voted to release the \$10K Sediment and Erosion Control Bond for 828 Bridgeport Avenue.

PAYMENT OF BILLS

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

STAFF REPORT/CHAIRMAN REMARKS

Mr. Schultz summarized issues regarding the ZBA issues including the 60-64 Huntington Street. He added that McCallum Enterprises is challenging his Cease & Desist Order; he'll be attending that 2/17/09 public meeting.

He relayed that Staff met with Verizon regarding the monopole structure at Bronson Country Club. He was happy to report that the monopole has changed dramatically. He will show the Commissioners digital photos of it; several have been done in the southern Vermont area where he will be going next week.

Mr. Schultz also reported on the Zoning Subcommittee and the Downtown Subcommittee.

ADJOURNMENT

On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to adjourn the meeting at 8:00 p.m.

Respectfully submitted,

Karin Tuke

Recording Secretary, Planning & Zoning Commission