

The Shelton Planning and Zoning Commission held a special meeting on September 22, 2009 in the 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.

Commissioners Present:

Chairman Anthony Pogoda
Commissioner Virginia Harger
Commissioner Chris Jones
(arrived 7:35 p.m.)
Commissioner Thomas McGorty
(alternate for Comm. Lopera)
Commissioner Ruth Parkins

Staff Present:

Richard Schultz, Administrator
Anthony Panico, Consultant
Patricia Gargiulo, Court Stenographer
Karin Tuke, Recording Secretary

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.

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Pogoda began the meeting at 7:00 p.m. in Room 104 and announced that the meeting would reconvene in the Auditorium across the hall. At 7:01 p.m. the Chairman reconvened the meeting with the Pledge of Allegiance and a roll call.

PUBLIC HEARINGS

APPLICATION #09-28 WHITE HILLS EAGLES RC CLUB FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (NON-PROFIT MEMBERSHIP CLUB), 178 BIRDSEYE ROAD (MAP 43, LOT 12, R-1A/R-1 DISTRICT)

Richard Schultz read the Call of the Hearing and several of pieces of correspondence into the record.

***See attached letter from Fire Marshal, James Tortora to Richard Schultz dated 9/22/09.**

***See attached letter dated 9/22/09 to P&Z Commission from former Pack #24 Cubmaster James Gutter in support of the White Hills Eagles RC Club.**

***See attached letter to Richard Schultz from Cubmaster Eric Conte, in support of the White Hills Eagles RC Club.**

***See attached letter to Richard Schultz from Douglas Halley, 4 Cranberry Lane, Shelton in support of the White Hills Eagles RC Club.**

Additionally, Mr. Schultz indicated that he had a list of nine signatures over the statement "we are neighbors of the Sam Stern's Farm; we have no objection for members of the club to fly their model aircraft on Sam Stern's property."

***See attached petition with signatures**

***See attached letter to Richard Schultz from Gary Duhaime, 331 Huntington Street, Shelton, in support of the White Hills Eagles RC Club.**

Mr. Schultz added that there were also a host of photographs submitted that he would show to the Commissioners.

Before beginning the public hearing, Chairman Pogoda reviewed the procedures and conduct for a public hearing with all audience members.

Dr. Carmen Luciano, podiatrist and President of the White Hills RC Eagles Club, 409 Booth Hill Road addressed the Commission. Dr. Luciano indicated that he wanted to explain what they do, who they are, and the purposes of their Club. He stated that he would have another club member discuss the safety and noise abatement issues that they have had and how they are controlled.

Dr. Luciano indicated the White Hills Eagles RC Club is a non-profit club incorporated in the State of Connecticut. They recently received their tax exempt 501C7 federal designation a couple of weeks ago. They were established in July of 2004. They are a chartered and sanctioned club through the Academy of Model Aeronautics (AMA). They adhere to the strict safety codes of the AMA. They presently have 53 members in their club, and they are all members of the AMA. Of the 53 members, 44 are active flyers and the other 9 enjoy spending time in the field, attending meetings and helping out at the various community events that the Club sponsors. Twenty-one of the 53 club members are Shelton residents with ages ranging from 12 – 90 years. The average age is approx. 62 years. They are comprised of doctors, attorneys, business owners, retirees, commercial pilots, engineers, and wide array of other professionals.

Dr. Luciano explained that the purpose of their club is to promote, develop, educate and encourage family participation of model aeronautics. They offer youth programs, aviation demonstrations and displays at various libraries, schools, and communities centers. The events that they sponsor are basically “learn to fly” events. Dr. Luciano showed newspaper documentation from previous years with articles about their activities with the Boy Scouts, Cub Scouts, Girl Scouts, and Senior Centers. These events are sponsored by their Club and are usually held on Saturday mornings from about 9 a.m. – 2 p.m. The events are well controlled and the members of the club help to participate with students. Dr. Luciano pointed out that they do not just exist for the benefit of their own members; they are a community service organization and they enjoy doing this. He added that the upcoming events that they will have in Shelton include three indoor flying events at the Huntington Community Center with micro-electric airplanes and helicopters that will be open to children and families.

Additionally, they will have a static display in the Library and hopefully, they will also be setting up a program providing an opportunity to teach the Seniors at the Senior Center to learn to fly.

Dr. Luciano stated that the Club functions under strict rules and regulations. They have specific bylaws aligned with the AMA for the safety of their members and spectators as well as abutting property owners. The regulations for safety and noise abatement are aligned with the FAA, the AMA and their own regulations that they established germane to the property of the Stern’s Farm.

They have established strict no fly zones, spotters to prevent flying over the abutting properties and they have done numerous tests of decibel ratings which they will present. They have prepared graphs to depict exactly what their decibel ratings are and how they are aligned with the noise ordinance for Shelton.

Dr. Luciano indicated that they have liability insurance coverage that is supplied to them through the Academy of Model Aeronautics. It is \$2.5 M excessive umbrella coverage over and above their own personal liability coverage. This is

the reason why all of their members have to be members of the AMA. All their rules and regulations are club-enforced. In the event of a breach of a no-fly zone or breach of noise control, that individual would be sanctioned and they have, in the past, stopped some of their pilots from flying until they corrected the infraction.

Dr. Luciano addressed some of the flying time statistics that they compiled from all 44 active pilots. He stated that 90% of the time they fly from 9:30 a.m. – 12:00 noon; 5% of the time they fly from 9:00 a.m. to 12:00 noon; 5% of the time they fly from 4:00 p.m. – 6:00 p.m. He added that between the hours of 1:00 p.m. and 4:00 p.m. the sun is directly in their eyes making it impossible to fly without being blinded the sun due to the positioning of their runway.

Dr. Luciano presented other statistics including the number of pilots that fly on particular days. Mondays rarely have any flyers; Tuesdays and Wednesdays have approx. 8 -9 pilots per day (between the hours of 9 a.m. – 12 p.m.). On Saturdays and Sundays, retirees relinquish their flying to those fliers who have to work during the week. There is more family participation with children on the weekends. On a Saturday, there can be anywhere from 10 – 18 pilots on the field and Sundays have approximately 11 pilots. He reiterated that most of the flying is done in the mornings.

Fly times are limited if they have up to 18 people on the field. Three pilots are allowed to fly at one time – no more than three airplanes are allowed in the sky at any one time to limit the noise and to insure safety. With only three planes in the sky, it allows the spotters to follow the plane appropriately and provide real time information to the pilot.

Dr. Luciano explained that they limit the amount of time that each pilot can fly in each period to 10 – 15 minutes. After 10 minutes, it becomes too difficult to continually look upward without experiencing neck pain anyway.

In regard to the parking, Dr. Luciano provided an aerial photograph of the area showing a roadway approx. 70' x 300' long. He pointed out that there are 10 spaces under the tent with five spaces to the right of it. He added that Sam Stern has graciously allowed them to use the top of his hill for overflow parking; however, it seldom occurs.

Dr. Luciano used the same photograph to show the establishment of appropriate no fly zones to infringe upon abutting properties. He indicated that to the south they have a no fly zone to prevent flying over the Hudak Farm. He pointed out a tree to the left, about 800 feet from their runway, which is considered their fly zone and they try to keep the planes away from that fly zone so as not to affect properties on Pearmain Road. He indicated that these were specific zones for flying. He stated that the photo showed how many feet away they are from the homes that are shown (approx. ¼ mile from the runway).

Dr. Luciano indicated that it is very difficult to see the airplanes if they fly over those houses which is why they try to stay away from those homes. This is not only due to safety and noise control for the neighbors but also for their own safety and to prevent losing their planes. The planes that they fly are expensive pieces of equipment running anywhere between \$500 - \$800 per plane. Therefore, they don't fly down there – it may have happened in the past and accidents do occur, but they have specific rules and regulations to prevent their flyers from flying over those homes. He won't deny that it occurs, although very rarely, but it does occur.

Dr. Luciano wanted to correct some fallacies regarding a few crashes that have been claimed to have occurred. One incident in 2002 was not their club. After

researching this, he discovered that this plane was from another club, the Connecticut Model Airplane Club that flies out of Stratford but was utilizing their field on an impromptu basis without the regulations that are now established. Unfortunately, someone flew there without any spotters or supervision and crashed a plane on 28 Pearmain Drive. No one was hurt and there was no destruction of property; it landed on the ground. However, he does not know how serious it was.

Dr. Luciano reported about another crash that occurred while they were controlling the field three years ago when a plane crashed near and on the wall of the property line of the Stern's farm. It did not breach anyone's property, and it couldn't of breached it because there is a 200 foot easement that the town of Shelton owns between that wall and the property of 22 Pearmain Road. It did not breach the property but it did land next to it. The individual was sanctioned and not allowed to fly for approx. two months and returned under probation until it was determined that they were safe enough to fly on their own.

Dr. Luciano indicated that the crash could have happened from a loss of control, it got too far away, he couldn't see it, the orientation was wrong and instead of bringing it back, he tip rolled and it dove into the wall.

Dr. Luciano indicated that he did not know where the third incident occurred. He indicated that he and other club members (the Club Vice President, Treasurer and Secretary) had discussions with the owners – two specifically, Mr. Woods and Mr. Naples. He believed that they had positive negotiations, achieved some resolve and major changes were made in their bylaws to accommodate these neighbors. Namely, no fly zones were extended, property regulations were elevated, spotters were instituted, and all members were advised of the changes. Additionally, the members were informed that infractions would occur and they would lose flying privileges if they breached the property.

Dr. Luciano wanted to dispel another fallacy that the whole neighborhood is up in arms. They canvassed the whole neighborhood and they have signatures, specifically the nine that Mr. Schultz already read, that support their Club. One of the neighbors who signed and supports them lives closer than the property owners who are complaining about them.

Dr. Luciano concluded that he hopes that the P&Z Commissioners give them a favorable response. Their Club helps the community as well as its own members. They are a safe club, but accidents do happen. It is extremely rare and he hopes there will be none in the future. He thanked the Commission for their time.

Comm. Harger asked Mr. Luciano when their season starts.

Dr. Luciano responded that it's about the beginning of April through May, June, July, August, September, October and then they are pretty much closed because it is too cold and there might be snow or ice.

Chairman Pogoda asked how often they hold the special events mentioned, and at the time of those events, generally how many people attend.

Dr. Luciano responded that they try to hold at least two special events per season with the Scouts. They've have about 25 – 30 people on the field at one time including members, scouts and parents with the parking overflowing onto the upper portion of the Stern's property.

Chairman Pogoda asked if that was how many were flying the planes – or was it a spectator event.

Dr. Luciano responded that they don't hold spectator events; it is strictly learning to fly events. Their own events include one Fun Fly a year usually held in July or August and it includes the families of the pilots. There are usually about 25 people on the field at one time – but not all of them are flying – but there are 25 people including spectators and pilots.

Chairman Pogoda asked for the dimensions or length of their fly zone.

Dr. Luciano explained that the runway is exactly 300 feet x 70 feet. The fly zone is approx. 1400 – 1600 feet total length, north to south, and the width is approx. 1200 feet wide. That gives approx. another 800 feet to the boundary of the wall that borders against the properties nearby.

Chairman Pogoda asked if they had monitors or spotters during the time when the planes are flying.

Dr. Luciano responded yes, spotters.

Chairman Pogoda asked how many spotters are out in the field and where are they positioned, and are they positioned at the times that the planes are flying or do the spotters just walk out and come back.

Dr. Luciano explained that spotters are supposed to stand next to the pilot to provide real-time feedback as to where that plane is at any moment in time. Therefore, if he is flying, there will be a spotter standing next to him making him aware that he is getting too close to the no-fly zone; therefore, he knows that he has to start to turn his plane. That is ideally what takes place. It doesn't always happen, but according to their rules, no one is allowed to fly at that field by themselves. There must be other people there observing and watching.

Chairman Pogoda indicated that he recalled it being said that there are three planes at the maximum in the air at one time; therefore, he inquired if there were times when the planes would over fly and go into the no fly zone. He asked if there was any possibility of someone standing at the end of the fly zone providing two way communications to insure that no planes go into the no fly zone.

Dr. Luciano responded that stationing anyone out in the field is a safety hazard. They try not to have anybody out there because it is too dangerous.

Comm. Parkins asked if there were any demarcations or indicators of where the no fly zone is.

Dr. Luciano responded that they do have a demarcation. They have a tree that sits at 800 feet from the runway that they use as a point for turning. The red line on the aerial photograph shows it. In regard to it being dangerous – driving a car or riding a bike can be dangerous and flying a model plane can be dangerous; however, they try to control as much of the safety as they possibly can. There is always a possibility of something going wrong. However, it does not happen very often.

Chairman Pogoda commented that he was unfamiliar with flying model airplanes or the dangers of it. It was mentioned that no one would be positioned in the fly zone because of safety issues; he asked if someone can be positioned outside of that, in the no fly zone, while the planes are flying, so that there is no chance or less chance of an occurrence taking place because someone could radio a message to the spotter. Because safety had been mentioned, Chairman Pogoda asked if there was a chance of that plane coming down and hitting that person.

Dr. Luciano responded that if they watch them fly, they would be able to see that they have to make an approach to land. Just as with a real airplane, there is downward leg, a base leg and the final back to the runway. When coming back to the runway, that plane is on a downward spiral flight path – therefore, he wouldn't want to be standing out there when that plane is coming in for a landing because accidents often happen when a plane is coming in for the landing – not to a property owner, not to an individual, but to the airplane. Dr. Luciano concluded that the landing and the take-off are where the serious situations develop. No one wants to be in that glide path when the plane is coming down. Therefore, if accidents happen, they take place in the fly zone, not in the no fly zone. He stated that they could position someone out there but it would present a problem of safety for their own club members.

Chairman Pogoda indicated that he didn't mean anywhere in an area where someone would be hurt. However, if there is the possibility of a plane flying out of the zone – even it occurs once a month, once every two weeks – then it is a problem. And if the spotter is not actually spotting, then perhaps someone in the no fly zone can be positioned with a two-way radio to alert that the plane will affect a homeowner. Chairman Pogoda stated that he does not know what things are occurring - but if there are some occurrences, whether its every week or once a month – it is too much, especially to the person that is affected. He asked if there was a possibility of the plane dropping or crashing into a house or causing some other safety problem. He realizes that they say there have only been two accidents, but if there is that possibility, he would hate to have a child in the yard or something. If someone is injured seriously, than once is too much in five, ten or twenty years.

Dr. Luciano responded that is why they have specific no fly zones and spotters. Their own pilots are experienced and fly a lot. Some of the aerobatics that are done over the fly zone are amazing. They have good control. As a pilot, he feels that he has complete control of that airplane but anything could happen. He hasn't seen it happen in the last 4 or 5 years but he doesn't deny that it could happen.

Chairman Pogoda asked about the individuals that are not club members, whether they are boy scouts or girl scouts-

Dr. Luciano responded that they have never had an accident at any of the events they've done with the Boy Scouts – not one accident or complaint from a neighbor. It is very difficult to train a pilot while on a Buddy Box System. They have to take control of that plane instantly if they run into a problem. The instructors that they have are trained pilot instructors who have been doing this for quite some time. They have a trainer program to train the pilots in order to become training instructors.

Dr. Luciano explained that they have tried to institute as much safety as possible within a structured model aircraft program. They have not had one accident with any Cub Scout, Boy Scout, Girl Scout or Senior group that they have trained in this area in the last four years. He's been a member and a president of other model airplane clubs and they hadn't had any accidents there either. He has flown out of Stratford and Monroe at another club. They have had no serious accidents whatsoever with any neighbors. Occasionally, they have had complaint and they've tried to adjust and accommodate for the neighbors. He wants peace and quiet in his neighborhood as well. He has a neighbor who uses a weed-whacker for 4-5 hours straight on Sundays, but he doesn't complain to the Planning & Zoning Board. He went over and spoke to his neighbor and resolved the situation.

Dr. Luciano indicated that is what they try to do as a club if a neighbor comes to them with an issue. They have a meeting of club members and try to resolve the situation so that they don't infringe upon the rights of the neighbors. That is the most that they can do.

Comm. Parkins commented that putting someone at the end of the fly zone would remedy the situation for anyone approaching the no fly zone area.

Dr. Luciano responded that it can be done. He indicated that they do this as tests and they conducted one recently with members standing by the properties providing real time feedback about the plane position. He added that they could put a spotter in that area and they could have real time information brought back to the pilots.

Comm. Harger asked how they established the size of their fly zone.

Dr. Luciano responded that it was bigger when they first started but they have condensed it to be considerate of the neighbors.

Comm. Harger asked if the operation of the planes required a certain amount of space.

Dr. Luciano responded no, and a really good pilot could fly within the confines of the runway. They limit the size of the airplanes and they size of the motors. There are certain motors and certain airplanes that are just not appropriate for that field.

Chairman Pogoda asked if he had any information about decibel levels.

Dr. Luciano responded that another club member, Dan Frankel would provide that information to the Commission.

Comm. Jones arrived at 7:35 p.m.

Dan Frankel, 52 Pinetree Hill Road, Shelton, CT addressed the Commission. Mr. Frankel stated that he was a 30 year resident of Shelton in the White Hills area. He has five children that he has raised and educated in the Shelton school systems. He is on the Board of Managers for the YMCA representing Shelton, he heads the Indian Guide/Indian Princess Programs for the YMCA Valley children, and he has done it for about 18 years. His wife is an educator in the Shelton School System as a paraprofessional. He added that he has a son who is a fire fighter in Shelton. He believes he has raised his children well with values. This is one of his hobbies and he's proud to say that he is a member of this club and has been for about 3 years.

Mr. Frankel indicated that this Club has always been about safety and about where they can and cannot fly. He considers himself to be a good pilot and he has been trained through the AMA program and passed all their tests.

Mr. Frankel explained that they are all members of the AMA and they have to be members in order to fly in a sanctioned club. The AMA is the largest model aviation association with more than 150,000 members presently. They have more than 2,500 charters – model airplane clubs such as this one – and they have to adhere to certain rules. Mr. Frankel explained the vision and principles of the AMA and its worldwide mission for the purpose of promotion, development, education, advancement and safeguarding of model aviation activities.

End of Tape 1A 7:50 p.m.

Mr. Frankel stated that he joins the AMA every year for the insurance policy. They all need an insurance policy when they fly. The AMA presently provides comprehensive coverage and general liability for \$2.5M per person. The site owner insurance is up to \$5M for his location, \$25K per accident for medical coverage for each member, \$10K maximum for accidental death, \$1K fire protection. Mr. Frankel concluded that it is something that they need. In regard to the amount of claims the AMA has, he went to their website and it was a handful, quite low, in proportion to the number of flights that take place in all the different clubs.

Mr. Frankel addressed the mishaps that Carmen mentioned are one or two out of the thousands of flights that go on there over the years. In regard to a plane coming down on a person's property, they usually glide down on a turn – it is not like a bullet hitting the ground. As far as safety, they have heard myths about the power sources used. They don't use gas, they use methanol which is an alcohol-based, water-based fuel that is very safe for the environment. It is mixed with a castor oil which comes from a plant. When it goes into the ground water, it will dissipate within seven days, unlike gasoline which takes 6 months to one year.

Mr. Frankel explained that the model airplanes do not use a spark or any spark plugs. They use a glow plug which is only ignited by the phenomena of methanol. Methanol makes it glow; so as the engine turns and fires off once with the use of a battery to get it going, then it glows. When they hit the ground or stop, then the glow is gone. He has never seen one explode or catch fire. There are gas-powered airplanes, but they are way too big for this field and they won't be seen up there.

Mr. Frankel indicated that electric is the latest technology used for RC. At the club this weekend, about 80% of the flyers had electric planes which are very quiet and neighbor-friendly. The technology is going in that direction even for the larger planes – they can be powered by regular laptop batteries. It is very exciting and more people are going to them.

Mr. Frankel stated that they took some db ratings out of the field this past weekend. He distributed some data to the Commissioners regarding the decibel findings. Mr. Frankel indicated that they did their due diligence and in accordance with Noise Ordinance #824, which puts them in Zone B, it puts them in 75 db to 85 db rating for 6 minutes at any one hour period. He showed that they fall below that. There were three calculations taken. One at the property line, one at mid-field (400 feet from property line) and one at the turn tree (at the property line). The decibel ratings range from 60 db's to the highest at 74 db's. Of course, they try to maintain the same altitude. They don't have altimeters and read-back information but they have two-way communication and they try to do that as efficiently as possible. Mr. Frankel indicated that he made a graph depicting their compliance to the noise ordinance.

Mr. Frankel stated that he knows that there have been complaints about noise and safety. He referenced information handed out to the Commissioners and indicated that the club could limit some flying time. The bulk of the flying time is concentrated on the weekends with the bulk of the members flying from 9:00 a.m. until 12:30 or 1:00 p.m. However, they aren't limited to that time; it is just when they get together with their club.

Mr. Frankel commented that even though they are within the decibel range, they do want to be good neighbors and limit their noise. Therefore, they could limit the amount of use of their engines during the afternoons.

Comm. Parkins asked why it seems that the db went down for each pass on each plane. For instance, one plane went down on each pass. She asked if he could explain that.

Mr. Frankel responded that as they get farther away, for every 200 feet, the decibel rating will go down.

Comm. Parkins commented that according to this graph at the property line - it measures 74 then 72 then 70 – same plane – different passes.

Mr. Frankel responded that it had to do with the altitude. They can't really control exactly how high they go. They just took the readings – first pass, second pass, third pass...

Comm. Parkins asked if they used a Radio Shack or stock noise meter – and if it is calibrated.

Mr. Frankel responded that he didn't know the brand of the noise meter they were using – it's just the one they always use. Additionally, when they had their Fun Fly, the first thing they did from 9 feet was check the db of all the planes that were going to fly that day. If there is a large fly-in the decibel ratings are checked to keep the noise down. He added that they are very sensitive to the issue of noise. He reiterated that these db readings were taken 200 feet away from Mr. Wood's property line.

Comm. Parkins asked which property lines were used to create the graph.

Mr. Frankel responded that it was taken at the end of their runway which was probably about ... (he was interrupted by individuals in the audience speaking directly to him and not to the Commission and an inaudible discussion began...)

Chairman Pogoda asked them to stop talking and told them that he would be giving everyone an opportunity to speak. The Chairman asked about some of the evening flying times that were given – such as 4:00 p.m. – 6:00 p.m. He read from some information provided that someone flew weekdays from 6:30 p.m. to dusk – that could be until 8:30 p.m. at night in the summertime. He added that was longer than the 6:00 p.m. time given. Dusk is closer to the time when homeowners would like some peace and quiet – especially in the summertime when the windows may be open.

Mr. Frankel responded that they don't know if that person flies gas or electric.

Chairman Pogoda commented that it doesn't mention that but it does say 6:30 p.m. to dusk and in the summertime dusk is 8:30 p.m. – almost 9:00 o'clock at night – that is sort of late, in his opinion. It was stated that 5% of the people fly from 4:00 p.m. to 6:00 p.m. but 6:30 to dusk seems late.

Mr. Frankel responded that if it was an electric plane they wouldn't hear it – and if it was a gas powered plane, he really doesn't know if it would be heard.

Dr. Luciano asked what club members were flying later.

Chairman Pogoda responded that it said Tim Ciminera (sp?) and Peter Wisniewski (sp?)

Dr. Luciano responded that Mr. Ciminera uses only electric and works all day that why he flies later.

Chairman Pogoda asked about Peter Wisniewski – weekdays 6:30 until dusk and Saturday and Sundays 10:00 a.m. – 5:00 p.m.

Mr. Frankel asked if this is a violation of a sound ordinance because they are below the sound ordinance.

Chairman Pogoda responded no – but it was stated by Mr. Luciano that the Club does not fly past 6:00 p.m.

Mr. Frankel responded that they worded it incorrectly then and this person does fly from 6:30 p.m. to dusk.

Chairman Pogoda responded OK, but what are the rules of the Club?

Mr. Frankel responded 9:00 a.m. to dusk - they don't have a rule that they can't fly at night but as Carmen mentioned, flying in the late afternoon is difficult because of the sun is directly in their eyes.

Comm. McGorty indicated that he'd like to see the noise measurements with a professional calibrated instrument to get a true noise profile done. The instrument they are using may not be that accurate and the test is not as controlled as it could be; with a better meter, they will get more accurate reading.

Mr. Frankel responded that they just did their due diligence as they saw fit this weekend so he had someone out there with the db meter that the Club uses.

Comm. McGorty commented that it is great to get some sort of a baseline but as far as the equipment, he doesn't know if it is calibrated or what kind of meter it is.

Mr. Frankel responded that it looked very professional to them when they were out there measuring the planes before take-off, how they measured it and used a line going from his plane to the (inaudible).

Chairman Pogoda commented about the application that was prepared for the P&Z Office. He read that it states that the hours of operation are 10:00 a.m. – 1:00 p.m. Monday – Friday/Saturday and Sunday 10:00 a.m. – 1:00 p.m. The application does not show any evening hours from beginning to end.

Mr. Frankel responded that he couldn't speak to that because he didn't fill out that application.

Dr. Luciano responded that he filled it out that day with Mr. Schultz and he would like to stand corrected because he didn't thoroughly fill it out.

Mr. Schultz commented that it is just something that has to be addressed because the Commission will also be hearing from the public, and hours of operation are going to be important.

Chairman Pogoda asked if there were any other questions from the Commission. Since there were none, the Chairman directed the complainants to begin.

Mr. David Naples, 28 Pearmain Road, Shelton, CT addressed the Commission. Mr. Naples indicated that he was not an eloquent speaker but he was present to protect his family. He stated that Mr. Woods could handle the facts. He stated that he is the closest to this property line. He asked the Commissioners to look at the map to see that his property abuts the turn around that they use and that wall is City property. The City's wall is 30 feet from his

property. The day they did a test was his 2-year old grandson's birthday party in his backyard. They decided to fly that plane right there, not according to their maps with the turnaround by the tree, with no respect to his home. Mr. Naples said that he wasn't notified that the test was being conducted and his family did not know they shouldn't be in the backyard.

Mr. Naples commented that the Club said it doesn't want to put a spotter in front of that plane - but they will put his family in front of that plane. This is his biggest concern. He wanted to address the one point that the Chairman made – that one child is too many.

Mr. Naples indicated that he is in the swimming pool industry where very few children die from entrapment in suction drains – but now they have federal laws against it because a few children died. He wanted to make the point that his backyard is directly there – it is not easy to dodge a plane that is coming at them, obviously out of control. It is difficult to dodge a plane when you have a small child with you – that plane landed and left a crater into his property. Mr. Naples commented that was his concern.

Mr. Naples indicated that he hopes that his grandchild will become a Cub Scout and a Boy Scout – and he doesn't deny anyone their fun. He asked them to just move several feet down the field. It may be just one child – but that is his point – children are the future. He isn't worried about his insurance or his property because there is no amount of money or no number of attorneys that could be enough if he unfortunately had to bury one of his children. It is emotional but the fact is that he dodged the plane that day – he's the closest neighbor. Whether twenty neighbors want that, he's the only neighbor that confronts it. He invited the Commission to come to his property and see where the turns are and understand that map before making any decisions because it is very important to him.

Comm. Harger asked Mr. Naples if this incident is the same incident that Mr. Luciano referred to.

Mr. Naples responded yes, that was correct.

Comm. Harger asked when that happened.

Mr. Naples responded that was in 2002.

Comm. Harger commented that the 2002 incident was different club - according to Mr. Luciano.

Mr. Naples responded that to him - a plane is a plane --when it is coming at him.

Mr. Naples added that he met with Carmine and his Club and they went to their properties and they stated that the tree would be the turn around. So he felt comfortable with that, but they have a police report showing that these planes have violated that already. That turnaround is not working...

Chairman Pogoda asked if the noise level was intrusive to him and his family or if it is more the safety concerns.

Mr. Naples responded that the noise does not bother him. He wants people to enjoy their rights. All the club members mentioned what they've done things for the community – well, he has also served for his country and he believes that everyone has the right to enjoy themselves. He would never disrupt that and he tried to work with them to move it out. It is purely about safety for his family.

If he hadn't dodged that plane – well, his grandson is the most important thing to him and he's afraid to let him in the backyard now.

Jeff Woods, 22 Pearmain Road, Shelton, CT addressed the Commission.

Mr. Woods stated that the reason for the slips on the application is probably because most of these guys came from the Connecticut Model Airplane Club. Due to incidents with the neighbors there, their times were limited so much that they were basically forced out. Mr. Woods read the rules from the field in Monroe, the Connecticut Model Airplane Club. He cited that Monday through Friday, flying is from 10 a.m. to 1 p.m.; Saturdays are for electricians only from 10 a.m. to 1 p.m. and no flying on Sundays. This is the initial conversation that he had with Dr. Luciano when they spoke on his deck.

Mr. Woods clarified that the second plane actually crashed in his backyard. He pulled in the driveway and heard his kids screaming. He found a strange man in his backyard fumbling around near his pool. The plane had gone down; the man continued to ignore him, didn't say anything, picks up his plane and continues to walk away. Mr. Woods continued to say that his dog chased him and he fell on his own plane at the wall and that is where the plane broke.

Mr. Woods indicated that he has two kids, his neighbor to the left has four kids and his neighbor to the right has two kids. They did not receive the letter to attend tonight. Their properties are in between Mr. Naples and his property, so it is hard for him to understand why they aren't involved with this as well. He indicated that he called them today to find out if they would come to this hearing but they couldn't find babysitters and had Little League going on.

Mr. Woods commented that he has coached Little League for six years and coaches girl's softball and he loves the fact that the RC Club does community service. He doesn't want them to stop doing community service. But when he purchased this home seven years ago, there were no planes flying in his backyard. He would never have purchased a home with flying weed whackers, 5 feet in length, and sometimes weighing 40 -50 lbs. Mr. Woods continued to say that some of these planes are enormous.

Mr. Woods cited a case that Atty. Bill Neary is handling in Shelton – a woman was walking on Sherwood Island, was nailed in the leg, and a crucial ligament is torn now and she is suing both Sherwood Island and the Model Airplane Club that flies out of Sherwood Island. That attorney is right here in Shelton if they need to confirm anything.

Mr. Woods commented that he would have no problem with the rules for Monroe along with the condition that they stay away from the tree line where there is a glide angle factor. They don't know what the glide angle is. It doesn't matter if there is a spotter or not to radio the pilot about how close it is to the tree line – because if the pilot loses control of the plane, it won't stop it. It will still come down in straight line where it crashed in his yard or Mr. Naples yard.

Mr. Woods indicated that there are 8 children there at any given time playing in a big open field of backyard. He prefers the electric planes over the gasoline powered ones which do explode – anyone can see a video of that on youtube.com if they type in "RC plane crashes." He added that the electric ones are like silent killers because no one can hear them coming.

Mr. Woods stated that he wrote a letter to Mayor Lauretti and he received a call from Mr. Sedlock asking for details about the incident. His advice was that he should call the Police. Mr. Woods indicated that he really doesn't want to get the police involved because it is a petty issue – it is giant weed whacker buzzing

around his house 9:00 a.m. to dusk. It is a nuisance and it is dangerous. It will cause bodily harm if it hurts you.

Mr. Woods read a police report - that on 6/30/09, Officer Giordano was dispatched to 22 Pearmain Road about airplanes flying over his house and "upon arrival he spoke to Jeff Woods who states that there are radio controlled airplanes flying over his house and property, mostly on Tuesdays and Saturdays. While talking with Woods, he observed three planes flying over Wood's property. Mr. Woods wanted this incident documented because he has a filed a complaint with City Hall. He located the RC airplanes base located at Stern Farm. He spoke to the Carmen Luciano, the President of the White Hills Eagles who stated that the planes flying over Woods' property were new pilots and they accidentally flew that way. Luciano also said that he is aware of Woods' complaints now and in the past and stated that his Club would not do it again."

Mr. Woods indicated that they are going back to 2002 and this is continuing. Nothing is changing; planes are still flying over the no fly zones and the noise is still there. Ninety five decibels is pretty loud – that could make someone deaf. The planes are at the 70 db or 75 db limits but listening to it continuously from 9:00 a.m. on Saturday - after working all week and trying to sleep in. He is trauma sales rep and his hours can be at any given time. He can't leave his windows open – he has to run the air conditioning constantly just to suppress the sound.

Mr. Woods stated that Dave Naples's house is different than his because he sits below and he has a nice big area of trees sheltering him from the noise but not from the planes. Therefore, they have two unique oppositions to this Club. Again, he doesn't want to destroy this Club or tell them that they can't have fun. Mr. Woods cited that the average pilot age is 12 – 90 years old. He indicated that Dr. Luciano swears his pilots have said that they weren't over the tree line. He stands below the tree line and he has video of the planes going over his head – and they are taking the word of an 90 year old, 80 year old, 75 year old man from 300 yards away over him standing right there. There is no way to try to make this work in between.

Mr. Woods indicated that he had a realtor come by and look at his home. He stated that he would like to read and submit the realtor's comments for the record. He read "in reference to our recent conversation regarding the value of your property, any consistent loud noise around a residential area would be a major deterrent for potential buyers. Homes located on busy streets or in earshot of highways are obviously not as desirable as homes in quiet neighborhoods." Mr. Woods stated that there wasn't a quieter neighborhood that he could find than 22 Pearmain Road. "Any consistent increase in the noise level surrounding your property would not only affect the value of your home but would adversely affect the number of buyers who might consider purchasing your home if you ever decide to sell. If I can be of further assistance...signed Linda Bittner, Realtor, William Pitt Sotheby's."

Mr. Woods added that he took a slogan off of the website for the Connecticut Model Airplane Club which Dr. Luciano is a member. "How often had you heard someone say don't fly over the house, don't fly over the road, don't fly over the barn, the park is too crowded to fly today, the field is being cut, the plane is too noisy, the field is flooded, you can't fly before 10, you can't fly after 1, can't fly on Sundays – at Plymouth you only hear one thing – lock the gates. " Mr. Woods stated that his point is that there are designated areas where they do not cause a disturbance, a decrease in property values or safety issues where they can have fun and enjoy a hobby.

Mr. Woods showed a newsletter written by Dr. Luciano dated July 1, 2009 in which he tells club members to stay late and bring camping lanterns because they stay at the field after dark for some night flying. Mr. Woods added that if they are having difficulty seeing these things during the day from distances, than certainly they can't be seen well at night or at dusk.

Mr. Woods cited that the newsletter mentioned outdoor flying in the winter and there are pictures on their website of these gentlemen in ski hats, winter coats and snow and the planes are there. It is on the AMAC website today.

Mr. Woods commented that the incident on Sherwood Island occurred four weeks ago and it will be million dollar lawsuit – at the very least. This woman was having fun, minding her own business with her two kids and out of nowhere this plane comes and clips her in the back of the leg. She's seeing an orthopedist and a plastic surgeon because of this ordeal.

Mr. Woods provided more information that he obtained from Google regarding tragedies surrounding remote control planes. He read about incidents that have occurred in other countries but added that it can absolutely happen anywhere.

Mr. Woods referenced an RC flight website stating that RC planes can cause serious injury if they run into a person. He stated that Dr. Luciano even said himself that it can happen. He stated that he wouldn't build or put his pool next to an airport – no, but the airport appeared afterwards.

Mr. Woods continued to say that RC airplanes are quite noisy and tend to disturb others who are trying to have quiet outings. RC planes scare away the birds and make an incessant buzzing sound that is incredibly annoying to anyone who is not directly involved in the actual flight of the aircraft. To avoid hurting or severely disturbing people, they need to fly their planes where there are not too many people around. There is no one around at the place in Plymouth. These guys all share Christmas events together and combine with other clubs. That is why a member of the other club was at their field. They combine and have outings together and there are articles on their website about it. They have charitable events, have contests, do stunt flying events, etc.

Mr. Woods concluded by providing a definition of "nuisance" as conduct by one landowner that unreasonably interferes with the use and enjoyment of the land of another and includes conduct on property that disturbs peaceful, quiet and undisturbed use and enjoyment of a nearby property. He indicated that was all he wanted to say – and he is a taxpayer in Shelton. They just heard that the Club has 53 members with 21 from Shelton – so, less than half of them are Shelton taxpayers. He asked the Club members to abide by the Monroe rules, which are in similar field location with a new home section at the end - and keep them out of their neighborhood and keep their neighborhood White Hills – it's quiet, enjoyable, relaxing and peaceful. If he wanted to live in the hustle and bustle, he would have gone to Fairfield or Southport. He thanked the Commission.

Comm. Harger asked Mr. Woods and Mr. Naples to mark on the aerial photo/drawing approximately where their homes are located.

Chairman Pogoda indicated that they are going to need to find some common ground between the Applicant and the abutting homeowners. They are going to have to establish some rules for fly zones and non-fly zones as well as hours of operation. Hopefully, they can come to a satisfactory compromise for all parties – both the affected homeowners and the Club. The Commission will need to discuss this and won't be acting on it tonight. Chairman Pogoda recommended that the Club get together with Staff and provide some recommendations to

bring back to the next meeting for discussion. The issues seem to be the fly zones, hours of operation and possibly, the spotters. Many good points were brought out about visibility of these planes, especially around dusk. Chairman Pogoda stated that his personal opinion is that the hours are too late but it needs to be discussed by all the Commission members.

Justino Rua, a resident from Ansonia who owns property on 43 Pearmain Road, Shelton, CT addressed the Commission. Mr. Rua commented that Mr. Woods stated that a plane crashed on his property and that is untrue; no plane has ever crashed on his property. He indicated that his mother owns 6 acres on Pearmain and he owns 2 acres.

Mr. Panico asked him to clarify that the plane never crashed on his property.

Mr. Rua responded correct, no it did not – Mr. Woods said it did. He added that he has 11 nieces and nephews, and on any given day there are about six of them outside playing. He has no concerns about these planes. He has more concerns about people driving above the speed limits on the roads. He has no problem with the noise either. It is a good club that gets kids outside enjoying, watching and learning – there isn't more he could ask for.

Mr. Terry Jones, neighbor of the Stern Farm, addressed the Commission. Mr. Jones indicated that he has lived in the area for quite a few years. He commented that he thinks the Chairman has a good, balanced reflection on this, and he has high hopes that it can be worked out.

Mr. Jones recalled that in the 1950's on his farm, Bill Jennings flew model airplanes; however, the difference in the planes then and now is like night and day. They were extremely loud and it seemed like every 2nd or 3rd flight went out of control. He has been to the Stern Farm recently to watch and it is a whole new generation of technology. The planes are much quieter and they are incredibly controlled.

Mr. Jones added that he has driven over with his tractor to help Mr. Stern on his farm spraying and his life was more in danger being on the highway to get there than in being in the field with the model airplanes. He feels pretty safe there. Mr. Jones added that if they go there and see it – the Club is neat as a pin.

End of Tape 1B 8:38 p.m.

Mr. Jones commented that he thinks the Scout activities are a credit to the community. He concluded that the Commission had a lot of wisdom a few years ago when the homes were built. They were required to have an open space buffer and they have learned that these are a good thing and do help.

Mr. Jones indicated that these farms, whether it's the Hudak's with their equipment festivals, the Beard's with their apple-picking, or the Stern's airplanes etc. - these larger farm areas in White Hills are a real treasure to the community because they allow a diversity of activities that other towns could not have. He hopes the Commission uses its wisdom to figure out a way to have this activity continue.

Chairman Pogoda asked other audience members to limit their comments if they are along the same lines because they still have three public hearings on tonight's agenda. He doesn't want to deny anyone the right to speak but if it is the same comments as a previous speaker, then perhaps that could have a show of hands for a positive or a negative on this issue.

Janet Wheeler, 203 Foxrun, Shelton resident addressed the

Commission. Ms. Wheeler stated that she is a mother, grandmother and the wife of Wesley Wheeler, the treasurer of the White Hills Eagles RC Club. She commented that radio-controlled flying isn't new to her. Her former husband of 26 years and her two sons were radio control flyers from the age of nine. She learned how to fly herself and it was and still is a very healthy hobby which teaches young people discipline and to think outside the box in a responsible manner. Years ago the RC engines really roared. The DEP put restrictions on the manufacturers of the engines and for some years the decibel level has been in accordance with government mandates which are strictly adhered to. All of the equipment used today is in compliance with these laws. Every year the RC Clubs of America have the objective to welcome any man, woman or child into the world of model aviation. The local Boy Scouts come to a popular yearly event which she won't elaborate on because it was already discussed. Many individuals in the Club were children when they started and many have gone on to work as engineers. When a child has a hobby, they are less likely to enter a world of crime and drugs; in fact the RC teachers serve as role models and encourage them to be outstanding citizens who contribute to their family and country.

Ms. Wheeler commented that as a mother, she commends them for their efforts. As a wife, she knows she won't find her husband at the local bar drinking the day away. She believes anyone that has any doubt about the value of flying RC airplanes should visit the Stern Farm when they are flying. Those who have accepted this invitation in the past were delighted with flying exhibitions and also saw firsthand how fun and exciting it can be. This is an all American, wholesome hobby. As an RC flyer, mother and grandparent of RC flyers she invites the Commission to the magic evoked from this hobby.

Ms. Wheeler added that she is 70 years old and during the many years that her ex-husband, her two children and grandson and she flew RC planes, there was not one injury. She thanked the Commission.

Mr. Sam Stern, Birdseye Road, Shelton, CT addressed the Commission.

Mr. Stern indicated that he was one of the managers of his family's farm in town. They are here tonight to discuss the zoning application for this non-profit club to use a section of his family's farm to enjoy this hobby. He won't discuss the particulars of any zoning laws, schedules or how they fly.

Mr. Stern commented that he did want say what offense he takes to the letter that Mr. Woods originally sent to Mayor Lauretti that was forwarded to this Board. First, on the subject of placing our children at risk – he's been a 29 year fire fighter in the City of Shelton and he has risen to the rank of Asst. Chief in the past - and he does not think that life, safety or significant property damage is an issue here. If it was, he would never allow the planes to fly on his property.

Mr. Stern continued to say that in Mr. Woods's letter he states that the White Hills Eagles are destroying a once peaceful neighborhood. He reminded the Board that when Mr. Beardsley decided to subdivide part of his farm land and sell building lots on Pearmain Road, adjacent to his family's farm, at a public hearing, just like this one he stated that (and he urged them to go back and check the minutes) "I perceive problems in the future with so-called neighbors moving in and attempting to make this area something that it is not." He stated as he has the few times that he's come before this Board, regarding the subdivisions that have been proposed adjoining his family's farm, it is their property and they can do what they want.

Mr. Stern added that this Board and the City created a buffer zone separating homes from their farm. He reminded Mr. Woods that this is City of Shelton Open Space – not his private domain.

In his letter Mr. Woods asked “Why are they letting residents from other towns enjoy our area more than our own taxpayers?” Mr. Stern responded to that question by saying – who is he to question who he allows on his property and in that vein, he reminds the Board that he and any guests of his can do anything they want on the property as long as it is legal. Mr. Stern stated that the housing boom of the past years is gone. His family chose not to cash in and lose the precious farm land forever trading it for manicured lawns and paved driveways. Just think how much traffic would be on quiet Pearmain Road if was improved all the way to Sawmill Road with homes on the available road frontage, and PRDs and subdivisions on Spur Road.

Mr. Stern concluded that he did not just roll into town yesterday and start demanding things. He has lived here and worked here all of his life. And he will not be pushed around by unreasonable people. He thanked the Commission. He received a lot of applause from audience members for his comments.

Joseph Waselski ? 178 Birdseye Road, Shelton, CT addressed the Commission. Mr. Waselski stated that he has lived there for the last 12 – 13 years and he has lived in Shelton since he was three. He commented that these gentlemen are very considerate, and very safe. He watches them fly constantly because he lives on the farm and the complainant’s comments disturb him because the whole world is dangerous. They might as well put everyone in a bubble. As far as noise is concerned – one weed whacker 800 feet away is louder than the sound of these planes flying. He has lived there a long time and it is nowhere near what the complainants have been saying.

Gail Morano, 200 Birdseye Road, Shelton, CT addressed the Commission. Ms. Morano indicated that her property abuts the flying space and they have never had a problem with noise. It seems as if the people that are having a problem with the noise issue don’t realize that they are in farm country. She wonders if they object to the tractors there because the tractors actually make more noise than these planes have ever made. She just wants the Commission to know that her property abuts the space and there are no problems. They’ve never seen anything flying over their space. They are very courteous gentlemen and she doesn’t want to lose them because it is great bonding experience for the old and the young alike.

Boris Pittorie, 34 Sharon Court, Shelton, CT addressed the Commission. Mr. Pittorie stated that he is 83 years old and has been in this hobby since he was 12 years old. The gentlemen, Mr. Woods, stated that they were tossed out of their field in Stratford, and that is not so. They were asked to leave because they were developing a factory on that field – and that is why they left. He belongs to 4 or 5 different clubs and they were never asked to leave.

Mr. Pittorie stated that he has been in this hobby for years and he remembers one accident in the last 60 years. He added that if they take the field away from him, then they might as well come to his house and collect all his airplanes – hundreds of them – because they are useless without the field. He thanked the Commission.

Guy Beardsley, 276 Leavenworth Road, Shelton, CT addressed the Commission. Mr. Beardsley stated that he has about 500 feet that border on Pearmain Road, not far from the flying club. Mr. Beardsley commented that he thinks they are an outstanding organization that provide education and entertainment for anyone interested in aviation. He suggests that if anyone is

complaining about noise that they complain about the ATV's that run up and down Pearmain – that is much noisier. He pointed out to Mrs. Parkins that the wind conditions are very important in regard to what the decibel levels is and the wind conditions are very important to when they can and cannot fly – so that may have something to do with the decibel level. He thanked the Commission.

Richard Roberts, Vice President of the White Hills Eagles RC Club, 22 Fairfield Terrace, Norwalk, CT addressed the Commission. Mr. Roberts stated that he was an international and national judge at model airplane competitions. He explained that is comparable to being an umpire at the World Series. He joined this club because of the safety aspects, and the hand-picked, best pilots around in this area. He wanted to answer any questions the Commissioners had. He asked if they understood what a spotter is.

Chairman Pogoda responded that he's assuming it is someone watching the plane but he really has no idea except for what Mr. Luciano mentioned.

Mr. Roberts responded that a spotter is a co-pilot. He said that when he is flying, he has another person standing right next him. His eyes are on the airplane and the spotter's eyes on everything else – any other plane in the air or if he is approaching the no fly zone. The spotter is his other set of eyes.

Mr. Roberts clarified another issue about gas. He stated that there are no gas airplanes at this field. There are gasoline airplanes - but they are not allowed at this field. There is fuel but there is no ignition source for this fuel once an airplane hits the ground. There is no outside ignition; it is all contained within the engine.

Mr. Roberts indicated that he has been flying for 30 years, airplanes burn because they are gasoline – and there are large gasoline airplanes – that have crashed and the fuel tank has split open. He noted that another thing that can be found on youtube.com is turbines. There are turbine, jet aircraft. He's seen a \$30,000 jet airplane go in the ground, burn – and it looked real too. However, this will never happen at White Hills.

Mr. Roberts clarified that the weight of the airplanes at White Hills is not over 10 lbs. and even that is an exaggeration. A 7 lb. airplane is probably unlikely at White Hills. The average airplane weight at White Hills is about 5 lbs. at the most.

Mr. Panico asked what the average duration of any one flight would be.

Mr. Roberts responded that it can vary depending upon the battery capacity or tank but the average flight is 5 to 7 minutes. It doesn't seem very long but when a pilot is looking up and controlling the plane – it adds up. That is why they limit their time.

Mr. Panico asked if that would be about one circle around the field.

Mr. Roberts responded that it would be multiple circles around it and with the various sizes of aircraft and the restrictive area – it can go back and forth many times.

Comm. Parkins asked what the approx. speed of the planes would be.

Mr. Roberts responded that it could be anywhere from walking speed – he's guessing the max would be 25 mph.

Comm. Parkins asked if the co-pilot stands next to the pilot.

Mr. Roberts responded that they always do.

Comm. Parkins asked if they see the exact same visual as the pilot.

Mr. Roberts responded yes, and more because the pilot is watching the airplane but the co-pilot is watching everything else.

Chairman Pogoda asked if there were more than three planes flying at any one time.

Mr. Roberts responded that three would be the maximum.

Chairman Pogoda asked if there was a spotter for each pilot. Mr. Roberts responded yes. He added that if he sees someone without a spotter, they are told to get down or get a spotter. When he's at that field, no one flies without a spotter.

Comm. Parkins asked what happens when he isn't there.

Mr. Roberts responded that the reason he joined this Club is because of the people involved – they know what they are doing. They aren't "fly by night."

Comm. Parkins asked if it was part of the regulations of this particular club – that there must be a spotter.

Mr. Roberts responded yes.

Chairman Pogoda asked if that applied to mornings, afternoons and evenings – and if there was a safety umpire, or officer there at all times. He asked if that was a rule of the AMA or a rule of the Club.

Mr. Roberts responded that no, it isn't.

Mr. Panico asked if a member could just drive up and fly his plane.

Mr. Roberts responded – a gypsy? Yes, it's possible but it is a club rule that no one flies alone. AMA rules state that a pilot doesn't fly alone. But someone could go up there and do it – it can't be controlled 24/7.

Comm. Parkins commented that a spotter doesn't necessarily have his credentials, correct?

Mr. Roberts responded no – he just wanted the Commission to know he had national and international experience.

Robert Mcguire, 162 Birdseye Road addressed the Commission. Mr. Mcguire indicated that his family owns the property at 190 Birdseye Road. He commented that he thinks he is the closest property owner to this field and they have never had a problem.

Jack Eck, 190 Birdseye Road, Shelton, CT addressed the Commission. Mr. Eck stated that he has a range finder and it is 100 yards from their airfield to his house and backyard. He's never had a problem with these guys. He goes down all the time to watch them. They are safe and some of them fly high and it does look like it's flying over the house but it actually isn't. It is really over the field. He's never seen anything fly over any house.

Dr. Luciano responded to the issue of an umpire and a safety presence. He clarified that they have a safety committee made up of 4-5 members that review the rules. However, they don't have one particular safety engineer on the field that comes down everyday – it's impossible, but every member of this club is an umpire when they are on that field. If they see anything going wrong, they report back to the Board. It would be checked out, and if there's an infraction, then reprimands are made to that pilot and they could even be eliminated from the club. Dr. Luciano wants the Commission to realize that there are controls at all times when members are on that field because everyone polices themselves.

David Naples, 28 Pearmain, Shelton, CT addressed the Commission. Mr. Naples responded to the comments made and stated that he realizes that everyone wants to have this and they are all from the same town. But it isn't about the 100 or 200 that want it, it is about the one life and that is what he is concerned about – his child. He hopes the Commission can decipher all this information without forgetting the one life and not just the 300 people that want this.

Chairman Pogoda asked for a motion to close this public hearing.

ON A MOTION MADE BY RUTH PARKINS SECONDED BY THOMAS MCGORTY, IT WAS UNANIMOUSLY VOTED TO CLOSE THE PUBLIC HEARING FOR APPLICATION #09-28.

Chairman Pogoda called for a five minute recess at 9:05 p.m.

APPLICATION #09-25 BRIDGE TO PRESCHOOL, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (PRESCHOOL), 917 BRIDGEPORT AVENUE (MAP 8, LOT 13), OP DISTRICT.

Mr. Schultz read the call of the hearing and two pieces of correspondence.

***See attached letter to Richard Schultz dated 9/22/09 from James Tortora, Fire Marshal.**

***See attached letter to Richard Schultz dated 9/22/09 from Robert Kulacz, City Engineer.**

Linda Maude, 11 Split Rock Road, Bethany, CT addressed the Commission. Ms. Maude indicated that she is the owner of two businesses in Shelton and she is here seeking a special exception for another business, Bridge to Preschool. The exception to the preschool also includes an outdoor play area which is outlined on the proposed plan. It is an enclosed area with fencing. She brought a sample of the proposed 6 foot fencing to be used with a gate access to it.

Ms. Maude stated that the maximum number of children in this preschool at any given time would be twenty. The operational hours would be 9:00 a.m. to 1:00 p.m. The maximum number of employees for the school would be between 5 and 6.

Chairman Pogoda asked if the children would be dropped off and picked up.

Ms. Maude responded yes.

Chairman Pogoda indicated that he is familiar with the area and there should be sufficient parking. He asked if this preschool would be five days a week.

Ms. Maude responded yes, 5 days a week.

Comm. Harger asked if there was something existing in that particular area of the building right now.

Ms. Maude responded that she presently owns a business in the building.

Comm. Harger asked if she had a canopy outside.

Ms. Maude responded that Masterpiece has a canopy and she also has a canopy – Pediatric Rehab and Fitness Center.

Ms. Maude commented that the Commissioners also have a copy of a sign that she is proposing to do that was included with her application.

Chairman Pogoda asked if the fencing would be six feet high.

Ms. Maude responded that the fencing around the outdoor play area would be 6 feet high – gated and locked. There is a lot of traffic going up that way now because of the condos behind them – it has changed the whole perspective over the last four years.

There were some questions regarding the site plan and the location of the grass area and the play areas and the parking lot.

Ms. Maude responded that on the plan, the play area is to the left of the building – a grass area. There will be a door accessing the play area from the inside of the building.

Comm. Harger asked if anyone could go directly into the play area from outside or would they have to go through the reception area to enter the play area.

Ms. Maude responded that they had to have a locked gate outside because they must have two forms of egress.

Ms. Maude commented that the signage samples presented are concepts because they haven't really decided but that is basically what they are looking at. It will be a vinyl material that adheres to the window to give that appearance and then they would have a small sign to either side of the building just providing the name of the company.

Chairman Pogoda asked if there were any other questions or comments.

Comm. Harger asked what the ages of the children would be.

Mrs. Maude responded that they would be 2 and 3 year olds.

Comm. Parkins asked if this was in any way affiliated with the rehab business that she has or is it a separate daycare facility.

Mrs. Maude responded that it is a separate company; however, it's a part of it because she has three children there and this is another program.

Comm. Parkins asked if the children in the pediatric rehab would then be utilizing the daycare.

Mrs. Maude responded that no, not typically, especially not during these hours. The preschool hours are 9:00 a.m. – 1:00 p.m.

Chairman Pogoda asked about the Pediatric Rehab facility and if those children would come in, do their rehabilitation, and then be taken home.

Mrs. Maude responded yes, but it is not in conjunction with the other business.

Mr. Terry Jones, 606 Walnut Tree Hill Road, Shelton, CT addressed the Commission. Mr. Jones wanted to help the Commission in their deliberations because sometimes if they know the character of an applicant, it says a lot about the quality of the proposed business. He indicated that Linda Maude is the physical therapist that brought him back from severe injuries after a tractor accident a year ago. He added that she runs one of the best physical therapy businesses that he's seen. Knowing that her true love is children, and that she helps disabled children, he is certain that this new endeavor of hers will also be a class act and an asset to the community.

With no further questions or comments, Chairman Pogoda asked for a motion to close this public hearing.

ON A MOTION MADE BY THOMAS MCGORTY SECONDED BY VIRGINIA HARGER, IT WAS UNANIMOUSLY VOTED TO CLOSE THE PUBLIC HEARING FOR APPLICATION #09-25.

APPLICATION #09-26 DOMINICK THOMAS ON BEHALF OF PAM JOHN, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVERSION OF MIX USE TO SIX FAMILY DWELLING), 82-84 HILL STREET (MAP 117D, LOT 70), R-4 DISTRICT

Mr. Schultz read the call of the hearing and two pieces of correspondence.

***See attached letter dated 8/27/09 to Richard Schultz from City Engineer, Robert Kulacz**

***See attached letter dated 9/22/09 to Richard Schultz from Fire Marshal, James Tortora**

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

Atty. Thomas presented the notices and a map for the Commissioners to review that he will be referring to. He indicated that it is a lot of certified mails; Milford has adopted certification of mailing especially when they want to send out that many. He suggested that at some point, when they review their zone changes, they might consider certification mailings, which is a little bit cheaper for applicants than certified mail.

Atty. Thomas indicated that he didn't want to repeat what went on at the ZBA but he wanted to show everyone the site plans. He stated that this was the old Stanley's Market. On the first floor is a market and a package store; there are actually two retail bays. Above it are two 3-bedroom apartments that have been jerry-rigged (?) as these apartments evolved over the course of the years, and added rooms but did not meet codes. He provided a copy of the variance because there were certain conditions that were put on it by the ZBA when they granted the variance.

Atty. Thomas did not want to get into the history of the site; it is obviously a site that has a non-conforming use besides a non-conforming building with two retail bays and 6 bedrooms in two 3-bedroom apartments. Anybody who is going to develop this property and remove the non-conforming use would need a variance because the R-5 zone that it is in has a strict limitation with respect to the amount of square footage that is required per dwelling unit.

The map that they see from the Assessor is a map that they presented to the ZBA to show the areas. He added that some of the white blocks in there are also non-conforming, but if they didn't have 100% assurance that it was a multi-

family house, then they marked it in red. But they were showing the ZBA the fact that there were numerous residences in this area of two's, three's and four's which have a small amount of property per dwelling unit. So, it is a typical inner city neighborhood.

Many of the homes in this area are well-maintained, but this one is not, and it has not been, and it is vacant. His client is under contract and the reason that he is talking fast is because he is going to ask the Commission at the end if they can act on it tonight because they are under contract and have a timeframe.

He wasn't certain if the sellers were here; they attended the ZBA meeting and the first P&Z meeting and they have some issues about trying to get this closed as soon as possible.

Atty. Thomas stated that he is giving them the variance and he asked them to note two things with the variance. The first thing is that the Commission required a parking space and a half per unit; they put nine spaces on there. However, they have accepted a restriction to one bedroom apartments; therefore, it could very well be nine bedrooms if someone took the bottom floor and made a 3-bedroom apartment. They are going to have a restriction that they have accepted in the variance for the special exception that these can only be one bedroom apartments.

The Commission should have the architectural and floor plans that were submitted with this application. There are two floor plans for the first floor because his client has not decided upon the exact layout of it. It shows the second and third floor where there will be two one-bedroom apartments.

Earlier discussions with the City Engineer, an effort was made – and he showed photographs of the property and stated that his client intends on paving the driveway. In conversations with the City Engineer, he was going to propose a split driveway off of Division Street to save the tree. They are interested in sitting down with Staff and reviewing this as much as possible. They got a variance down to seven spaces because no one seems to want spaces #8 and #9.

Atty. Thomas provided some statistics. Mr. Sal Matto, who is a principle of Pam John. He owns the Franklin School Apartments in Derby with 28 units. Nineteen of the units are one bedroom units. In those 19 units are 19 cars and 20 people. The 2 bedroom units have had 12 cars and 12 people with one car per unit. In Coram Gardens, where he has 8 units with 7 one-bedrooms he has 7 and 7. So they don't believe that there is really any need for any more than six spaces. Additionally, they want to preserve as much green on the site as possible.

Atty. Thomas stated that Mr. Matto is aware of the Engineer's Report and he is going to try to save the big tree - that's the tree that is on City property on the sidewalk because the roots are raising the sidewalk up. If not, he will plant another tree in its place.

Atty. Thomas commented on the three spaces in the back, he is considering graveling them instead of paving them; but they would like that the #8 and #9 spaces not be ordered, because they don't think they are needed and they don't want to take out that grass. They got a variance for the front porch which he is going to put over existing concrete which is a walkway to the two retail units. He is removing two of the four sidewalks and he's repaving the driveway.

Atty. Thomas indicated that they have provided photos of the neighborhood and he hopes the Commission can find it within their timeframe to act upon it tonight

because they are under contract. He concluded and stated that Mr. Matto was also present to answer any questions.

Mr. Panico asked about the floor plans – he asked about a stairway that was indicated to be going between the first and second and the second and the third -that is in where the porch is right now. He asked if that was intended to be an outside stairway under the roof of the porch, but exposed.

Mr. Matto responded that yes it is.

Mr. Panico commented that some Commissioners feel very strongly that it just conveys a bad visual impression – a tenement like impression, and that it would be more appropriate to enclose that space and treat it architecturally with a couple of windows but make it part of the structure. He indicated that he hadn't looked at the details of this variance, and he doesn't know if the variance allows it or if they need to go back and clarify it with ZBA.

Atty. Thomas responded that the variance has nothing to do with it – this was a pre-existing, non-conforming structure. They would not be enlarging the structure. The porches are part of it. They don't have to ask for any variance.

Mr. Panico asked if he had a problem with enclosing that open space.

Atty. Thomas responded no, as long as they aren't required to add on to it.

Mr. Matto asked if they were talking about closing the porches in or just closing the stairways in.

Mr. Panico responded that he didn't know – but he thinks that they really need to enclose the entire porch. Unless it can be worked out – they just don't want to see stairways when they are 15 feet off the street.

Mr. Matto responded that he would work with anyone that the Commission wanted him to work with and they'll come to an agreement.

Atty. Thomas added that the Fire Marshal would also have to be part and parcel of any discussion.

Chairman Pogoda commented that it should be done for safety and weather-related issues.

Atty. Thomas added that this is a corner piece and the porch is not in the back as it would normally be.

End of Tape 2A 10:00 p.m.

Chairman Pogoda indicated that he looked at the piece and asked if they were going to try to save that tree, if it's possible – but if it damages the structure...

Atty. Thomas responded that when Mr. Matto went to the City Engineer, the entire purpose of the split driveway was to save that tree. An effort will be made to attempt to save the tree, but it is a City sidewalk and cities get sued when people trip over tree roots – it's a fact of life. He hopes they can save it but if not, Mr. Matto has agreed to replace the tree with an appropriate pear or flowering tree.

Mr. Panico commented that the condition is only going to get worse when they take away the lawn area inside the sidewalk and the lawn area between the

sidewalk and the curb adjacent to the tree where the second driveway is going to be constructed.

Chairman Pogoda agreed that it would probably create more problems. He asked if anyone had any questions or comments.

Sheila Karnath, 192 Division Avenue, Shelton, CT addressed the Commission. Ms. Karnath indicated that she owns the home directly across from this property. It is a beautiful, red home, 1920's, maintained in its original splendor. She had concerns before and now that she just heard about the stairwell, which her wrap around porch will probably be facing, she has even more concerns. She's been an owner there for almost 3 years, and she has seen more owner occupied properties in the area – which she was pleased about because she purchased her home to maintain the 1920's perspective.

Ms. Karnath stated that parking is already a problem and there's the issue with the magnolia tree possibly being cut down. It would be a tremendous shame because it is a tiny piece of beauty on the property. She is concerned about the amount of trash pickup too. She goes out on and around her property several days a week to pick up just to have things look nice. She foresees this becoming a bigger problem. The other issue is the alternate side of the street parking for snow time. It isn't enforced and it is a major problem. She has actually had her car damaged trying to get into her driveway because of the snow piles. She thinks it is also a safety issue.

Ms. Karnath indicated that she is concerned about the stairwell that was just discussed. Her porch is beautiful and if they saw it, they would understand why she is so concerned.

Chairman Pogoda asked Ms. Karnath if she was opposed to the stairway being enclosed.

Ms. Karnath explained that it is going to be what her front porch looks out at. She is concerned about it being subsidized housing. She hoped that the neighborhood would improve with more homeowners coming into the area. A home was purchased across from her and it is being remodeled and fixed up. She is concerned about seeing a very unattractive structure because she purchased her home for its true beauty; it has a beautiful wraparound porch and she really doesn't want to look at something like that. It is an eyesore right now – no question about it – but taking out the magnolia tree, the increased parking concerns and this stairwell – the aesthetics could become worse.

Chairman Pogoda responded that Mr. Panico explained that the stairwell would be totally enclosed. It would look like the side of a house. The stairs won't be seen.

Ms. Karnath commented that she is afraid of what it is going to look like and the quality of work that is going to be done. It could look like a tenement. It is an eyesore right now but she was hoping it could become a better structure and she hoped it would be owner occupied. She is concerned about the parking getting worse. She likes the present quietness of the neighborhood and she's concerned that six more neighbors could change that.

Ms. Karnath indicated that she had hoped it could be restored to the beauty of a hundred year old home that is owner occupied. It doesn't have to be a one family home but the percentages go down if it becomes a three or four family home across the street.

Ms. Karnath stated that she's concerned about the safety and the parking. The chance that someone won't have a spouse, partner or older child with additional cars is highly unlikely.

James Oram, 181 Division Avenue, Shelton, CT addressed the Commission. Mr. Oram indicated that he and his wife, Patty have lived next to Stanley's Market for the last 35 years and they are very interested in what is to become of it. He stated that he had a letter that he wanted to read into the record and some photographs showing what the property looks like from his house.

In the interest of time, Mr. Oram read the letter,

We respectfully request that you approve the referenced application for a special exemption that will allow Pam John LLC to convert the existing structure at 82-84 Hill Street to a residential building consisting of six one-bedroom apartments. We have reviewed preliminary plans and feel that the proposed conversion including lot coverage, parking arrangements and setbacks will have no detrimental effects on their property or on their neighborhood. Their support of this project is contingent upon the developer's agreement to refurbish the exteriors of the buildings and to provide adequate protection to prevent cars from damaging the fence that separates the properties.

The existing structure is vacant and deteriorated. They have often seen trespassers on the property and have notified the police on several occasions. Children seen climbing on the deteriorating third floor railings could have easily fallen to their death. Trespassers seen attempting to open doors and windows could make way for vagrants and drug dealers. Two months ago the building was the victim of an arson attempt that was extinguished by the Shelton Fire Department. A successful arson attempt could result in injury or death to fire fighters and damage to their property and other adjacent neighbors. Leaving this building vacant creates a danger to life and property that is unacceptable.

After approval of this special exception, the city of Shelton needs to take steps to mitigate these risks. Past use as a neighborhood market and liquor store are no longer commercially viable. The present lot size precludes family size 2 or 3 bedroom apartments because there is little or no off street space for children to play. Families would also require more parking as children reach driving age. The City of Shelton has expressed no interest in taxpayer funded revitalization or reuse of the property. Prior to Pam John's proposal, no private investors have stepped forward during the 18 months the property has been on the market, that could actually be corrected to 24 months after speaking to one of the owners.

It is our opinion that the Pam John proposal addresses the highest and best commercially feasible use of the subject property. We welcome and applaud Pam John's investment in their neighborhood and in light of the ongoing deterioration and vandalism on the property they ask that you quickly approve the subject application. Anyone opposed to this proposal should come forth with a better idea of what to do with Stanley's Market and a willingness to make the financial commitment to make it happen.

Mr. Oram concluded that sums up his feelings on that.

Beverly Matthews, 75 Hill Street, Shelton, CT addressed the Commission. Ms. Matthews stated that her family has owned the house and some member of her family has lived in it for approx. 80 years. She questioned the gentlemen who spoke about many 4 families in the neighborhood. There may be two on Hill Street and perhaps there is one on

Franklin. If there's a one bedroom apartment, there are two cars – sometimes there are two cars plus a truck. She is concerned about that.

Looking at the diagram, it looks as though the sidewalk on Division Avenue is going to be narrowed.

Chairman Pogoda responded that it won't be narrowed – it's the scale shown on the diagram.

Ms. Matthews commented that Hill Street is a two lane road and there are cars that go up and down it 50 mph every day. There is parking on both sides of the street and school buses stop at that corner, so with cars backing out and children – it is dangerous.

Ms. Matthews is concerned about the first variance from 5000 to 1400 – that would be akin to her requesting to have 3 houses put on the 3 acres that she owns in Huntington – and P&Z would laugh at that.

She agreed that the property is deteriorating and they want to see something there but she doesn't think that 6 1-bedrooms is the way to go. And if some of the apartments are subsidized and although they are one bedroom, it could be a mom and three kids. Ms. Matthews commented that even though she lives across the street, she didn't get the first letter or see the plan – her neighbors gave it to her. She asked the Commission to consider those things because it is already a congested area and they don't need to make it more congested. She thanked the Commission.

Mrs. Kleczkowski, 136 Soundview Avenue, Shelton, CT addressed the Commission. She stated that she has owned the house next door to 82-84 Hill since 1996. She indicated that she doesn't want to cause a problem for anyone but the traffic, the noise, and the parking space comments are true.

Mrs. Kleczkowski indicated that when she bought this property it was an investment for her retirement. Putting a 6 family house there without knowing how many people in each apartment – she knows that there will be many cars. When she bought that house, there was a beauty salon across the street and there was a serious problem with the parking. She always had to go over to the shop and ask them to move the cars from her entrance.

Also, she came to City Hall Zoning, but she doesn't remember the exact date, after she took out a loan and updated the house when she bought it. There was a pre-existing 6-car garage space/storage that she wanted to make into an apartment with a 3-car garage. She was told that she could not do it because it did not meet zoning regulations of 5000 square feet. This is difficult for her because she thought that the same zoning rules should apply to everyone in the City. She doesn't understand how the house next door can convert to 6 family because they don't meet the 5000 square feet.

Mrs. Kleczkowski made some additional comments regarding the cars, traffic, sidewalk access and difficulties parking over the years but they were somewhat inaudible. She expressed her hope that the Commission would understand her concerns despite her accent. She informed them that she is a resident of Shelton and a taxpayer of Shelton and she abided by the zoning rules.

Comm. Parkins asked Mrs. Kleczkowski if she was living there presently. She replied no but it is occupied – rented and she still has that empty space above that she updated with new siding, windows, everything...around 1996 – 1998.

Mr. Panico explained to Mrs. Kleczkowski that the ZBA granted the variance that would allow the extra four residential units, and they did that, in order to remove any possible use of the commercial part of it. The applicant was giving up his ability to use the ground floor for commercial and put it to residential use. The ZBA thought that was a reasonable thing that would be beneficial for the neighborhood to get rid of the threat of a possible commercial occupancy. He reminded her that she had problems in the past with the beauty salon across the street – so if the ZBA hadn't granted that variance, part of that bottom floor could very easily become another beauty salon or similar type of commercial activity.

Mrs. Kleczkowski responded that she would be happier with a commercial operation because it would only be busy from 9 a.m. to 5:00 p.m. or 6:00 p.m. and after that they are out of the neighborhood. She only wanted to express her concerns and frustration that she could not convert her space for another apartment after spending money to update it.

Chairman Pogoda responded that he was glad Mr. Panico explained the ZBA variance - it never came to this Commission. The ZBA thought the business might generate more traffic, even though a business does close at night.

Mrs. Kleczkowski reiterated that there is not enough space for 6 apartment's cars. She explained the parking problems at her house next to it but the comments were inaudible. She thanked the Commission.

John Todice, 130 Wakelee Avenue Ext. Shelton, CT addressed the Commission. Mr. Todice indicated that he also owns property on Division. He commented about Mr. Oram speaking in favor of this particular application and he'd like to know – outside - why he spoke against his application.

Chairman Pogoda interrupted and told him that he needs to direct any comments to the Commission, not Mr. Oram.

Mr. Todice continued to say that Mr. Oram spoke about the good of this project and two years ago he approached this Board and spoke against his application to turn a two family house into an additional living space on the third floor. Mr. Todice commented that he has a Cease & Desist going on right now with the City because he didn't have enough square footage and this apartment came out too nice according to the Zoning Board. He added that right now he is in litigation with that.

Mr. Todice indicated that, like other people here are saying, this area is oversaturated – and nothing against Mr. Matto at all – but if they have 500 square foot per dwelling, each floor, 6 units – 30,000 square. How much is the lot square of this lot? And how did the ZBA...

Mr. Panico responded that this conversion is being made within the limits of the existing structure.

Mr. Todice commented that he did that too.

Mr. Panico responded that he was mentioning 5,000 square feet per floor – it is not in that ballpark.

Mr. Todice commented that when he went to ZBA he needed 5000 square feet per dwelling at today's code in order to make a three-family house – so he needs 15,000 square.

Mr. Panico responded that he means lot area.

Mr. Todice replied OK, so he needs 15,000 square. He stated that he is hearing that this has already passed ZBA and it is already a done deal, but at least he has something legal to go against the City on his own particular case.

Mr. Panico responded that as he indicated to the lady who just spoke, he doesn't think that the ZBA would have considered the variances that were requested if it was not for the fact that there was potentially active commercial space that was being eliminated in order to remove the pre-existing, legal non-conformity from the neighborhood. He believes that was a major driving concern to the ZBA.

Mr. Todice commented that years ago he approached Rick Schultz and the P&Z to purchase this property himself. Rick said to him that the best he could do would be a two unit storefront downstairs, pre-existing, and a two-family upstairs.

Mr. Panico responded yes, because that is what is there. He added that he didn't speak to anybody about the possibility of eliminating the commercial and converting it to a residential unit.

Mr. Todice replied yes, that is right, he did not.

Mr. Panico commented that he doesn't know what that answer would have been.

Mr. Todice responded that it would have probably been no. He thanked the Commission for their time.

Chairman Pogoda asked Mr. Matto if he was going to rehab the whole house – new siding, roof and windows because when he took a look at it – it's in sad shape.

Mr. Matto responded yes, and that if they look at some of his properties at 9, 13, 15, and 9 Coram Avenue – gray with burgundy siding that he just did. He also mentioned the Franklin School in Derby – Derby is very happy with what he did there. He likes to do one-bedroom units. He added that he takes care of dumpsters so that there aren't garbage pails all over the street. Additionally, every building he has uses assigned parking spots and it belongs to that apartment.

Comm. Harger asked if there was some specific reason why the garage would not be taken down.

Mr. Matto responded that it is two ideal parking spots – inside and it is a place for lawn mowers and things like that.

Comm. Harger commented that it will be utilized for storage too. Mr. Matto responded yes.

Comm. Harger asked about the photographs where she sees a small attached shed behind the staircase – is that staying.

Mr. Matto responded yes, it is staying and his intent is to put all the garbage pails there but it will, of course, be redone.

Mr. Panico asked if he would be relying on street pickup for trash.

Mr. Matto responded yes, no dumpster – his son will put the pails out and bring them back in. He doesn't rely on the tenants to do that.

Chairman Pogoda asked if the garage would be rehabbed. Mr. Matto responded yes, siding and windows – the roof is fine though.

Comm. Harger asked Mr. Matto, if this was approved, was he talking about redoing the front entrances.

Mr. Matto responded yes, it still might look like a storefront, of course. He showed her a proposed drawing and explained that the glass would come out and the porch will become the size of the existing sidewalk that is in front of the building now.

Comm. Harger commented that she has been on the second floor of this building for an estate sale and she recalls that there was only one kitchen. She asked him if he was planning to gut the interior.

Mr. Matto responded that yes he would be.

Comm. Parkins asked Mr. Matto if he was going to do a spindle railing along the front porch. Mr. Matto responded yes, something along those lines.

Atty. Thomas wanted to have it on the record that these references to subsidized housing are exactly how rumors get started. People cannot say that they would or would not accept Section 8 tenants – it is against the law to say that. Mr. Matto has a track record in the types of apartments he has but it is often a function of how much rent is charged and how much is put into it. Atty. Thomas stated that they have the number of parking spaces off street as required by Planning & Zoning. The reason he got the variance was to reduce spaces #8 and #9 which is something that ZBA was very interested in doing until –there is a need shown - because those spaces would be along Division Avenue.

Atty. Thomas stated that based upon the experience from a number of apartments, not guesswork, but experience with it, they don't believe that they will be needed. He uses assigned spaces – anyone who rents are going to get Garage #1, Garage #2, Driveway #1, Driveway #2, Division Street #1 & #2 and #3. If they have a 3 family, most lots there range from .11 to .17 – there are a few .2 lots. When it was zoned R-5, practically the entire area became non-conforming except for one-family homes because there are very few lots in that area that are .25 acres which would be required to achieve a two-family. If they use the per dwelling unit requirement, they range from 1300 per dwelling, 1200 per dwelling up to 2400 or 2500 per dwelling unit – some may reach 3000. That is just a function of their zoning.

Chairman Pogoda asked if the driveway would be repaved.

Atty. Thomas responded yes.

Drew Matthews, 77 Hill Street, Shelton, CT addressed the Commission.

Mr. Matthews indicated that he has lived there for approx. 7 years. He is the son of Mrs. Matthews who spoke earlier. He would love to see the place redone – he's been dying too see that happen. But when they talk about 1400 square feet, they aren't talking about the area to raise a family and it is not the area to have two people in there, if that is what is being said. These will be transient people that are not going to put down roots in this community.

Mr. Matthews commented about the enclosed staircase on the exterior – he understands that it will keep the occupants safe but it will also create a large slab. They will have to look at that. They can put openings in it or other things but it will still be a slab. They can't say what the cosmetic appearance of the building will be but it is more than likely what they will have to look at. He

understands that the commercial building went away from underneath and he's happy for that – but 6 units is a lot. That is a lot of one-bedroom units, 1400 per person – speaking personally, if he was put in a 1400 square foot apartment, he wouldn't be able to wait to get out of it– so they are talking about people that will come into the neighborhood for a couple of years and leave. He understands that everyone wants to make money on this but if this is the price they have to pay to get this blight taken care of – he realizes that nobody has had the money to fix this place and make it commercially feasible.

Mr. Panico agreed that it has been sitting there for awhile.

Mr. Matthews responded yes, it has been sitting there a long time, but at the same time, if this is the price that they have to pay – he has to say no – too many units. Maybe it is better to have a beauty salon underneath and a couple units up above because at the night the business is closed and there are only a couple more neighbors to deal with. He thanked the Commission.

With no further questions or comments, Chairman Pogoda asked for a motion to close the public hearing.

ON A MOTION MADE BY VIRGINIA HARGER SECONDED BY RUTH PARKINS, IT WAS UNANIMOUSLY VOTED TO CLOSE THE PUBLIC HEARING FOR APPLICATION #09-26.

APPLICATION #09-27 DOMINIC THOMAS ON BEHALF OF CROSSROADS AT EXIT 13 FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS FOR PDD #53 (SPLASH CAR WASH), 376 BPT. AVE. (MAP 77, LOT 19).

Chairman Pogoda stated that he was going to open the public hearing for application #09-27 and have Rick read the call and then continue without discussing it this evening.

Mr. Schultz read the call of the hearing. There was no additional correspondence.

Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission. Atty Thomas stated that he assumes the hearing will be continued to October 13th. He presented the notification letters, photographs of the sign, and an Exhibit 1 packet of minutes prepared from previous meetings that cover the initial application through to the detailed development plan for the Commissioners to review before the next meeting. He thanked the Commission.

Chairman Pogoda asked for a motion to continue this public hearing until October 13, 2009.

ON A MOTION MADE BY RUTH PARKINS SECONDED BY VIRGINIA HARGER, IT WAS UNANIMOUSLY VOTED TO CONTINUE THE PUBLIC HEARING FOR APPLICATION #09-27 AT THE NEXT MEETING ON OCTOBER 13, 2009.

ADJOURNMENT

On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to adjourn at 10:15 p.m.

Respectfully submitted,

Karin Tuke

Recording Secretary, Planning & Zoning Commission