

SHELTON PLANNING AND ZONING COMMISSION OCTOBER 27, 2009

The Shelton Planning and Zoning Commission held a special meeting on October 27, 2009 at 7:00 p.m., Room 104, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairman Anthony Pogoda
 Commissioner Chris Jones
 Commissioner Joe Sedlock
 (alternate for Comm. L. Sylvester)
 Comm. Virginia Harger
 Comm. 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. with the Pledge of Allegiance and a roll call. He indicated that he would need to change the order of the Agenda items for tonight's meeting. They would begin with Application #09-28 under Old Business.

OLD BUSINESS

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) (PUBLIC HEARING CLOSED ON 9/22/09)

Mr. Schultz indicated that the Commission directed Staff to prepare a draft resolution which Mr. Panico would be reading. He will then provide some additional requested adjustments that will need the attention of the Commissioners voting; insofar as they will need to make some adjustments to the draft resolution. A consensus will be needed. It involves some issues including the times of operation. All Commissioners have copies of the draft resolution that Tony will be reading.

Mr. Panico stated that before he gets into reading it, he wanted to comment that they felt that the recommendations that they are making were a digest of the concerns that the Commission had expressed and the direction of ongoing negotiations that have been occurring between the Club and the two most affected property owners. They were trying to keep them in balance and yet have them reflect what the discussions were about. Rick is going to get into some of the requests, the Commissioners will see that they are a little bit different from what they were a couple of weeks ago when they started putting this draft resolution together.

Mr. Panico read the Staff Report regarding Application #09-28 dated October 27, 2009.

***See attached Staff Report/Resolution dated 10/27/09 for Application #09-28 White Hills Eagles R.C. Club Special Exception/Site Plan Approval for Non-Profit Membership Club.**

Comm. Harger asked a question regarding Proposed Conditions of Approval on Page 4 as to how the Ground Observer, who is supposed to be at the northerly limits, would be in contact with the Pilot.

Mr. Panico responded that it could be walkie-talkies or visual signals.

Comm. Harger also asked, from the Public Hearing, when the R.C. Club normally has their flying season – because she did not recall that it was a 12 month, year round thing.

Mr. Panico responded that there could be periods of time in the off seasons that might be conducive to flying. If they put in any calendar restrictions, then those options are out.

Mr. Schultz asked the Commission to refer to the first three conditions. These are the two components that have been addressed by the Club. The first condition has to do with the limits. He thinks that what Staff has provided on the map and explained is that they are shifting down the landing area approx. 100 feet. This is a large, open field and there are Hudaks to the south; there are no homes in that immediate area. The Club should be able to comply with that.

He indicated that the 500 feet is from the property lines of the homes and Tony can show that on the area map. Mr. Schultz continued that, as indicated, the markings will be in the field so that everyone can see it. He concluded that he thinks that particular issue has been addressed and should no longer be an issue.

Mr. Schultz stated that the second condition is about the Observers. They do have an issue with the Observers. The Club made reference to spotters, but Staff used the terminology of Observers.

Mr. Panico added that they were referring to spotters as the person standing next to the pilot policing the limit of the fly zone.

Mr. Schultz commented that the Club believes that imposing this is hazardous and against the FAA policy regarding flight lines and accredited buffer zones which should be kept clear of people. To place someone in that position on a regular basis would well-invalidate their insurance.

Mr. Schultz added that the Club has consulted with the AMA (Academy of Model Aeronautics) about their experience of maintaining the integrity of the no-fly zones and they have been advised that the issue is usually caused by a pilot's lack of experience with the aircraft size and field boundaries causing them to miscalculate the distance of their aircraft. Their solution to this problem is about instigating a mandatory flight training syllabus in which all pilots are required to fly to the boundary lines while spotters at those boundaries monitor their progress. Mr. Schultz concluded that the Club is of the opinion that this is not needed, and that is a call to be made by the Commission.

Mr. Schultz addressed the third issue that the Club has, which is very critical, is with the hours of operation. He asked the Commissioners to go over what Staff has recommended, because they are now being asked to modify it.

Mr. Schultz referenced page with the Proposed Condition and Stipulations of Approval, Hours of Operation.

Monday – Friday: All planes may fly from 10 a.m. to 1 p.m.

Saturday: All planes may fly from 10 a.m. to 1 p.m.; Electric powered planes only may continue to fly until 4 p.m.

Sundays: There shall be no flying of fuel powered planes; Electrical powered planes may fly from 10 a.m. to 4 p.m.

Mr. Schultz continued that the Club recommends that Electrics can fly from sunrise to sunset. He commented that sunrise to sunset is a very broad period of time and Staff really wants them to lock in hours. This is something that is always done for zoning related issues.

Mr. Schultz continued with the Club recommendations for fuel-powered planes at 9:30 a.m. (Staff suggested 10 a.m.) until 1 p.m. Monday through Saturday and 10 a.m. – 12 noon on Sunday.

Mr. Panico commented that Staff had been thinking about 9:30 anyway but put down 10 a.m. and decided to leave it to the Commission's discretion. He stated that he didn't think 9:30 a.m. was an unreasonable alternative.

Mr. Schultz reiterated that they have requested 10 a.m. to 12 noon for fuel-powered planes on Sunday and Staff has suggested no flying of fuel-powered planes on Sundays. This had been the request of the adjacent neighbors.

Mr. Panico commented that there had been some initial communication between the homeowners and the Club about a 9:30 start time and it seemed to be acceptable to everybody. Later, the homeowners focused more on 10 a.m., but initially, they had indicated some agreement with that 9:30 a.m. time.

Mr. Schultz summarized that those are the three components and he suggested to the Chairman that they should get a consensus regarding the second condition.

Comm. Harger asked for clarification of what would be happening from 10 a.m. – 12 noon on Sundays.

Mr. Schultz responded that it has been requested for the fuel-powered planes only.

Mr. Panico indicated that he understands what the Club is saying in regard to the spotters; however, the end of the flight zone is approximately where the tree is going down to his road. If a tree is there, and somebody can sit under that tree, he doesn't see that they are in any greater danger than having the tree there. However, he doesn't know what the FAA rules are so...

Chairman Pogoda asked about the location of a row of hedges beyond that tree – he saw it when he was up there – there is a large tree and a smaller one farther away. He asked why that person could not stand next to that row of hedges. He added that when he went up there, he noted that with depth perception, the spotter standing next to the landing strip, would not be able to see where that no-fly zone is coming into effect. As Mr. Panico wrote, if these infractions are going to occur, and they are legitimate infractions, they are going to mandate a logbook be kept with the times, dates, people, etc. He doesn't think that the Club really wants to go there...and he doesn't think that the people living there want to see that either. Chairman Pogoda indicated that he thought it was a small thing to ask to have another person standing out there. He doesn't want the person standing out there to get hurt either; however, as Mr. Panico noted, that spotter standing next to that tree – well, the plane is going to hit the tree, the hedge row or him anyway.

Mr. Panico clarified that there can be no dialogue between the Applicant and the Commission; otherwise, they are going to be in violation of a public hearing rules. They can only communicate to Staff.

Dan Frankel, 52 Pinetree Hill Road, Shelton, CT addressed

Administrator, Rick Schultz. He wanted to communicate that to put someone in that location is breaking the flight line rules by putting a person in the flight area. They aren't allowed to break that flight line. They basically have to stay on the field or off the field.

Mr. Panico, Staff Consultant, asked Mr. Frankel if they could station someone 25 feet beyond the flight line – beyond the fly-zone, out of the fly-zone...

Mr. Frankel responded that out of the fly zone would be 500 feet closer to person's driveway.

Mr. Panico indicated that the fly zone is cut off approximately 500 feet from those homes. If someone was stationed 475 feet, at least – give or take 25 feet...

Mr. Frankel responded that he did not know of any club having that unless the person was to wear a hard hat. If someone goes out into the field, he knows this because he also does pylon racing, there are even more rules because the AMA does not want to see someone on that field.

Mr. Panico responded that if the AMA thinks it is unsafe to have a club member out there, then it is unsafe to be flying near anybody's property.

Mr. Frankel indicated that he was talking about – within their designated limits though.

Mr. Panico responded that he is talking about going beyond their limits – going 50 feet behind their limits. He asked at what point it becomes safe – he doesn't know or have an answer to it either, but if the rule says that no one can be in the fly zone area – then station someone behind it – 10, 25 or 50 feet, whatever it is. He'll agree to that. It does not necessarily have to be right there in the fly area. It can be slightly beyond it. The important thing is to prevent an undue violation of that limit. Somebody could stand looking down, approximately down the limits of the fly zone. He could see the plane and know whether there is any encroachment or not.

Comm. Harger commented to the Chairman that she went up there on Columbus Day at approx. 12:30 p.m. and there was a gentleman flying, in what they call the runway. On the illustration, she noted that there was another man, standing under a covered area. Comm. Harger indicated that she had assumed that the spotter was going to be right next to the person flying, but he was in the covered area leaning casually against a picnic table – so she was a little surprised by that.

She continued to say that she also had a conversation with the man as she watched him doing the plane maneuvers. She was surprised at how quickly the plane moved and how easy it was to lose sight of it. Comm. Harger concluded that she did not think the Commission was asking for too much with the boundaries and having a spotter out there. She agreed with Tony that if standing there is considered dangerous then go beyond it; because it just validates the arguments that the neighbors have about it. She added that she also visited the homeowner's property.

Mr. Panico added that they weren't asking that observer to be out there if there is only one flyer. They have said that if there are two or more flyers – then there has to be someone out there.

Comm. Jones commented that maybe they could set up an outpost fifty feet beyond that fly zone.

Mr. Panico agreed that Staff could work it out with them and they know the flexibility (inaudible).

Comm. Jones suggested putting a small structure there with a roof on it for safety purposes.

Mr. Panico commented that if it was a wide open field with no obstructions there whatsoever, then he could understand the arguments that are being made. The fact of the matter is that there are fairly significant trees there, a significant hedge row down the side – all of which are right off the corner of the fly zone.

Chairman Pogoda agreed with Tony's point about that and asked the Commissioner's what their take was on these requested changes – he mentioned the change that has been requested for Sundays about fuel-powered planes being allowed to fly from 10 a.m. to 12 noon, which would be the same as Saturday.

He also asked how they felt about changing what Tony wrote down about all planes flying from 10 a.m. to 4 p.m.

Comm. Jones responded that 10 a.m. was OK for Sunday, but thought that weekdays could be a little bit earlier like 9:30 a.m. He noted that they should allow fuel-powered time for people that don't have the opportunity to fly during the work week; at least give them a couple of hours more on the weekend – Sunday for fuel-powered.

Mr. Panico requested that they go through the hours of operation one at a time. He asked the Commissioners how they felt about the Monday thru Friday start time of 10 a.m. – 1 p.m. He asked if they would like to change that start time to 9:30 a.m. instead of 10 a.m.

Comm. Harger suggested 9 a.m. so they would have at least four hours; the kids are in school then.

Chairman Pogoda noted that most of their season is the summertime though (April thru October).

Mr. Panico changed the Monday – Friday start time to 9:30 a.m. for all planes.

Comm. Jones indicated that the electric planes should be 9:30 a.m. to 4:00 p.m. instead of 1 p.m. because they are quiet anyway.

Dr. Carmen Luciano, podiatrist and President of the White Hills RC Eagles Club, 409 Booth Hill Road addressed Staff Administrator, Rick Schultz. Dr. Luciano commented that in regard to the electric-flying models; they are flown in a controlled environment with their Club. He wanted Staff to be aware that as a park flyer, which these are listed as, he could go into any ball field or any field and fly this plane – any many people do. He is not concerned about the electrics. Dr. Luciano indicated that he would not want to sit anywhere with a gas-fueled plane flying over his head. It is a very dangerous entity. Even the neighbors are concerned about that.

Mr. Naples, homeowner on Pearmain Road began an inaudible dialogue with Dr. Luciano until Chairman Pogoda indicated that there should be no discussion between parties – because the public hearing is closed.

Dr. Luciano addressed the fact that it is inappropriate to place an individual in an area where – even though they are 50 -100 feet out, they are still in a field where Mr. Stern is doing farm work with farm machinery. He noted that being out in a field with farm equipment isn't very safe either. This is just his point of view.

Mr. Panico asked the Commissioners for a consensus in regard to allowing the flying until 4 p.m. making it 9:30 a.m. to 4 p.m. during the week for electrics.

Comm. Jones agreed that he did.

Mr. Schultz specified that the fuel-powered planes would be 9:30 a.m. – 1 p.m. during the week.

Mr. Panico restated it as: All planes from 9:30 a.m. until 1:00 p.m. – Electric planes may continue until 4:00 p.m. for Monday through Friday.

Comm. Harger and Comm. Parkins, Comm. Sedlock and Comm. Jones agreed.

Mr. Panico indicated that was for the weekdays. He asked about the Saturday hours of operation, and advocated keeping the 10:00 a.m. start time.

Comm. Jones stated that he thinks it should be 10:00 a.m. until 1:00 p.m. with the electrics being able to fly until 4:00 p.m.

Mr. Panico indicated that is the way it is stated – so they will leave that in. In regard to Sunday, Rick stated that the Commission was asked to reconsider having the fuel-powered planes for some period of time.

Chairman Pogoda suggested 10 a.m. – 12:00 noon because neighbors like to have visitors on the weekend and enjoy being outside. He suggested 10 a.m. – 12 noon for all and electric may continue until 4 p.m. on Sunday.

Chairman Pogoda moved to the next issue regarding the spotter. He commented that he still wants to see a spotter. He didn't care if he was 50 feet or 75 feet in the no-fly zone.

Mr. Panico revised the wording on the draft motion to read under Proposed Conditions, Item #2, "in addition, there shall be a ground observer situated at or beyond the northerly limits of the Fly Zone..."

Comm. Jones suggested having it be something highly visible – like yellow caution tape or something so the farmer won't ...

Mr. Panico responded that he didn't think the farmers would be haying out in the head rows so he wouldn't be in anybody's way.

Comm. Harger suggested that the "in contact" phrase regarding the pilot, spotter and observer was too vague.

Mr. Panico suggested that the observer has to visually signal to the spotter or pilot regarding the limit.

Chairman Pogoda suggested it could also be a simple Radio Shack walkie-talkie.

Comm. Parkins suggested that it would be better to have "communicate with" rather than "in contact" with - it could be visual, hand signals, or verbal -walkie-talkie...

Mr. Panico revised it to a verbal or visual communication. He added that Staff is going to need to work with the applicant as to how they are going to address these conditions, so they just need some direction from the Commission.

Chairman Pogoda asked if any of the Commissioners had any other comments.

Comm. Sedlock asked about the noise level of the fuel-powered planes and if they were extremely loud.

Mr. Panico responded that they can be, but they do not interfere...

Comm. Sedlock asked if the fuel-powered planes would interfere with the comfort level of the people living close by, especially on a Sunday morning.

Comm. Parkins commented that during the public hearing, they really did not indicate that noise was the big issue.

Mr. Panico added that the noise measurements from where they were flying, which was closer, were still within the limitations. And now they have been pulled even farther back so the noise conditions should improve. The period of time that the fuel-powered planes can fly is very limited.

Chairman Pogoda asked for a motion and a roll call vote, if there were no further questions or comments from the Commission.

On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously roll call (5-0) voted to approve Application #09-28 based upon the modified conditions made to the Staff Report/Resolution.

Mr. Schultz indicated that Staff would be providing a copy of all the conditions. He wanted to remind everyone that, as with any decision by the Commission, it can be revisited. It would come through Staff. If there are problems, Staff would receive the complaints and, if they find that the standards are excessive, Staff will deal with it accordingly. He noted that obviously, this was a compromise and it is difficult for the Commission because in many ways, this is the first time they have had a situation such as this; however, he feels that they have addressed all of the parties, and they can take it from there.

Members of the R.C. Eagles and the neighboring homeowners thanked the Commission for their work on this issue.

**APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE
SEPARATE #5060, TIM KEOGH, 19 FOREST PARKWAY, SIGN**

Mr. Schultz showed the Commission photos of the existing sign and the proposed sign because there had been some confusion about it at the last meeting. Staff recommends approval.

On a motion made by Joe Sedlock seconded by Virginia Harger, it was unanimously voted to approve Separate #5060 for signage.

SEPARATE #5156, HOTEL SIERRA, 828 BPT. AVENUE, SIGN

Mr. Schultz showed the Commission a photo of the proposed monument sign for Bridgeport Avenue with the Hotel Sierra and TD Bank. Staff recommends approval.

Chairman Pogoda asked if this sign was going to be lighted.

Mr. Schultz responded that the text would be internally illuminated.

On a motion made by Virginia Harger seconded by Joe Sedlock, it was unanimously voted to approve Separate #5156 for monument signage.

SEPARATE #046, ROBERT STOCK, 334 RIVER ROAD, OFFICE TRAILER

Mr. Schultz indicated that the Commission gave the green light to have Staff deal with this internally; however, this is the official action. The Commission asked Staff to impose a condition that they put a decorative lattice on it. He added that this would be out of sight, and Staff recommends approval.

On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Separate #046 with the noted changes.

APPLICATION #09-29, STOP AND SHOP SUPERMARKET, LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #2 (FAÇADE AND SIGNAGE ALTERATIONS), 898 BPT. AVE. (MAP 9, LOT 14)

Steve Brewer, Blackett Engineering representing Stop & Shop Supermarket, LLC addressed the Commission. Mr. Brewer stated that on October 5th they submitted a letter including a request for a new elevation and new signage. He stated that since that time, Stop & Shop has decided to step back from making the side elevation changes and has subsequently revised their signage application dealing with this same building.

Mr. Brewer distributed the proposed signage to the Commissioners for their review and presented a large schematic of the Stop & Shop building exterior. He indicated that the existing building would be painted. The front façade would be painted in light gray and beige – the colors are called “seagull gray” and “Alaskan white.”

Mr. Schultz commented that he doesn't want to go against what they are requesting but he'd like to comment on what was submitted even if they don't want to proceed right now. He indicated that Steve is going to go over the signage, but Staff wants the Commission to know that they can still act on the architectural because the Site Plan Approval is good for five years – so if they want, they can phase it in because this upgrade – as shown, is something very positive.

Comm. Parkins noted that it is how all the other ones look.

Comm. Sedlock asked if there was a reason why they are holding off.

Mr. Brewer responded that they are re-prioritizing their list of stores – and Shelton has moved down on the list so that they can allocate the funds to some other stores first. They are phasing this so that they can use the existing façade because it is in better condition than some other buildings that they have. They would like to paint it and they would like to use the light seagull gray in the mid-field and then the piece at the top, the trim piece would be in the Alaskan white or cream color. They have also modified the signage request from what was previously submitted. They will see that there is no purple band on this and the number of so-called department signs have been reduced to a more minimal number of signs – they have the bank, the pharmacy, and two welcome signs and then they have the “great food” and “low costs.”

Mr. Panico asked which of the signs were being illuminated.

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

Mr. Brewer responded that the "Stop and Shop" and the logo are – it says right there that the "low prices" and "great food" are illuminated and the others are non-illuminated.

Chairman Pogoda asked why the pharmacy sign has to specifically say Stop & Shop Pharmacy – it's not going to be Shop Rite Pharmacy or Shaw's Pharmacy. He noted that in the area, none of the Stop & Shop stores in the area have illuminated signs for their departments or for "great food" and "low prices." He noted that he noticed that in Monroe, Seymour, and Amity.

Mr. Brewer asked if the Stop & Shop part was illuminated.

Chairman Pogoda responded yes, the Stop & Shop letters were illuminated, but nothing else.

Mr. Brewer responded that he was not aware of that – because it is their standard.

Chairman Pogoda commented that even the brand new store in Monroe, did not have the illuminated signs – that's a new store, not a refurbished one.

Mr. Brewer responded that they just did one in Cromwell.

Mr. Panico asked if the colors being used were consistent with the other stores.

Mr. Brewer responded yes, the seagull gray and Alaskan white. They just got the purple approved in Hamden, New Britain and Southington – that is their preferred way to go, and as they move through, they try to do that.

Chairman Pogoda commented that he is basing a lot of these things on the store that just got built and opened up in Monroe. The banner isn't on there, the purple is not there and none of the signs, besides Stop & Shop, are illuminated.

Comm. Harger stated that a couple of years ago when Walgreens came to the Commission regarding their Split Rock location, the Commission was very conservative in their approach in regard to the wording on the exterior building. So, she wasn't certain about the "low prices" and "great food" type of thing on the outside there. She added that the Stop & Shop Pharmacy and Bank seems OK.

Chairman Pogoda commented that's a PDD.

Comm. Parkins asked if it would be a wooden façade, would it be painted and how would it blend in with the rest of the complex - in regard to the color scheme – the gray and cream.

Mr. Brewer responded that at the far end they have Bed, Bath & Beyond and the inner retail buildings have a canopy that projects outward. Those projections that sort of stick out are sort of an aluminum type of color, so he thinks the gray will be compatible.

Comm. Parkins responded that even though she is there all the time, she's having difficulty visualizing it right now.

Mr. Panico stated it's a significant enough element there in the Center that it could stand alone and be different from the others. In looking at the Center right now it really consists of three elements – the Stop & Shop element, the

other end Bed, Bath & Beyond element, and in between its filled in with all those little retail stores.

Mr. Schultz stated that the central part has to be addressed by the owner - with the flat roof, the hodgepodge of signs.

Mr. Panico responded to Rick that is why he doesn't think he would to step out and approve the modifications to Stop & Shop – suppose in a year or two when they start to deal with those other store owners - they'll want to be sure everything is consistent.

Mr. Schultz agreed and he's listening to all the concerns.

Mr. Panico suggested limiting themselves to the signage and be done with it.

Mr. Schultz commented that the bank on Bridgeport Avenue was completely overhauled and it looks beautiful with all the brick. At the Staff level, they would like to see that continue – that is why he voiced his support of the gabled ends.

Mr. Panico agreed that he'd love to see those two gabled features done in brick. It could be done – they have the brick skirt and all they need to do is continue with it. He commented that he thinks the Stop & Shop in East Haven is the most handsome store in the chain with all that brick work and that logo used throughout the downtown area of East Haven.

Mr. Brewer indicated that they are going to defer on the façade approval tonight.

Mr. Schultz informed that Commission that they need to vote on the signage and get a consensus on internal versus non-internally illuminated.

Chairman Pogoda responded that he would like to just see the Stop & Shop done – but that's his personal opinion. He added that Ansonia which just redid their store recently with the entire inside being redone. They only have two signs – the People's Bank and Pharmacy across their entire broad façade. Again, he hopes they do have low prices – and the great food – he hopes they have it – as any good supermarket should have.

Mr. Panico responded that he didn't have a problem with the "low prices" and "great food," although you'd expect Stop & Shop to have low prices and great food...

Comm. Parkins asked if they were moving the bank or if they were just placing the sign down there.

Mr. Brewer responded that they are just putting the sign there – the bank is still on the other side of the store.

Comm. Harger asked if they could table this since the Applicant has indicated that it has been lowered on the list because this is the first time she is something like this. She'd like to go and take a look at some of the other stores.

Comm. Parkins commented that the façade remake is lower on their list – not the signage.

Mr. Brewer responded that the signage is what he has come here for tonight – the façade redo has been deferred.

Mr. Schultz added that they are essentially looking at a master signage plan.

Chairman Pogoda commented that he would just like to see the Stop & Shop, welcome signs, the People's Bank and the Pharmacy – that's it. He asked the Commissioners for a consensus and a motion.

Comm. Sedlock asked if the other stores were consistent with the low prices and great food and (inaudible)...

Mr. Brewer responded that the sign plans that they really would like are on the old sign, which has more. The amount of signage shown here is about 40% less than what is on the building right now.

Mr. Panico commented that this is very reasonable with the amount of signage here.

Mr. Brewer indicated that is what he is saying – their preferred sign plan is what was submitted back in the beginning of October.

Comm. Harger stated that what is existing there now includes cards, books, bake shop and that kind of stuff.

Comm. Parkins asked if they were without the illumination.

Chairman Pogoda asked what the consensus was – to stay with what is shown on the drawing or what?

Comm. Parkins responded that she had no problem with what is on the drawing as long as it is not illuminated.

Mr. Panico indicated that right now, it is very clear that Stop & Shop is illuminated, and the logo; it's very clear that the façade signs are not illuminated.

Comm. Parkins asked where it says that they are illuminated.

Mr. Panico showed her where it denotes illuminated on the drawing.

Comm. Jones stated that they agree on the illumination of Stop & Shop sign and that's it – OK.

On a motion made by Chris Jones seconded by Virginia Harger, it was unanimously voted to approve the signage request as modified for Application #-09-29.

PUBLIC HEARING

APPLICATION #09-27, DOMINICK THOMAS ON BEHALF OF CROSSROADS AT EXIT 13 FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS FOR PDD #53 (SPLASH CAR WASH), 367 BPT. AVE. (MAP 77, LOT 19), (PUBLIC HEARING CONTINUED FROM 10/13/09).

Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission representing the Applicant. Atty. Thomas stated that they were just here to conclude the public hearing. They have a Site Plan and some numbers to address Comm. McGorty's questions, and Comm. Harger wanted an aerial photo from the other direction. He distributed those documents to the Commission.

Atty. Thomas stated that he would be addressing the parking and did not want to reiterate everything. He recalled that Comm. McGorty has asked questions about what would happen if this becomes so popular that everybody wants to go

there and get an oil change. He spoke to the owner who indicated that he'd be glad to accept four bays for oil change, if the Commission wants them to increase it, then they would be glad to do that.

Atty. Thomas commented that with the three bays for oil change – there is really no planning reason and no zoning reason that he could think of given the area... This is not changing the building and as the Commission heard from Jay Frankel, there is not going to be a change in the employees.

Atty. Thomas indicated that what they have done is gone back and given him the statistics from the four car washes with oil changes that they operate. And basically, 80% - 85% of the oil changes are people who get car washes.

Atty. Thomas stated that Comm. McGorty was concerned about people that went in there and just wanted an oil change. He indicated that the oil changes take about 15 minutes, not including the time it takes to bring the car in and take it out. Therefore, if they have the three bays – and assuming that most people aren't going to wait for an oil change much more than ½ hour to 45 minutes.

Atty. Thomas noted that this has been designed for an extremely unusual situation – which statistically, would never happen. The statistics that have been shown from their other four car washes – in looking at it, he could give them a statistic which is skewed – and that statistic is that the average ranges from 8 cars a day to 12 cars a day. He realized that the best thing to do is look at a couple of months and pick out a peak day. In the months that he looked at there was no more two days and always a Saturday, in which they have a maximum of 20 cars per bay in the course of a whole day. The highest number that he saw was a four bay car wash that had 58 cars on a Saturday. They have to remember that those cars are spread out throughout the whole day – people are not going to be waiting there all at once.

He used the site drawing on the easel to show how people would enter the car wash for Express Wash or Full Wash.

Mr. Panico asked if he was going to show the situation where people are just coming in for the lubrication.

Atty. Thomas responded yes – lubrication or car wash, either one. They all have to go through the same line. He indicated that they would probably hang a sign there stating "oil change only" on the inside. They have cash registers set up in this location and two people directing traffic all day long. He added that he has been there when a person waiting for a Full Service Wash changes their mind upon seeing the signs and wants to go into the Express Wash. The employees there redirect the traffic – there are no problems with it.

If, as Comm. McGorty suggested, there was an enormous desire to sit there for ½ hour, 45 minutes or an hour just for an oil change, there is cueing. He added that this was prepared by Jim Swift – not him. He showed that there was cueing there for five cars. In addition to that, they would restrict six spaces in the front for more oil change customers waiting.

Atty. Thomas continued to explain that if a car came out of the car wash, and there was no bay empty and six cars were already stacked – and this would be a situation that does not reflect itself in the reality of the other four car washes. As Jay Franken, who is here again to tell the Commission this, he spoke to the managers of the four car washes and they concurred that 15 minutes is the limit that anyone is going to wait. Any longer than that – they leave, they are gone – they'll come back another time.

However, he had Jim Swift look over the grass area on the other side, and as it is shown on the other side, they could put nine other spaces if they wanted. Since the last meeting, Jay Franken has looked at the employee only parking, and there are really only three or four spaces used because a lot of the employees come by bus.

Mr. Panico commented that the photograph showed to them at the last public hearing session had several cars parked out in the front.

Atty. Thomas responded that some of the employees were parking there – and they would no longer be able to park there.

Mr. Panico added that he has employee spaces because there was nobody parked in the back.

Atty. Thomas agreed and they would be restricted – they understand that.

Mr. Panico indicated that it was always intended to be restricted, but now it will have to be enforced.

Atty. Thomas indicated that it will be – and “you’re fired” is the best way to enforce something. He continued that what was requested this time was the Site Plan and the photograph from the other side.

Mr. Panico asked Atty. Thomas to address the traffic flow when the car is turned over for a full service wash and oil change.

Atty. Thomas demonstrated that when a car comes through the tunnel for a Full Service Wash it would be ...

Mr. Panico asked if that aisle to the right hand side of the building, where the lube places are – is that intended for two way traffic flow because it doesn't look like it is.

Atty. Thomas responded that there is plenty of room there, and Mr. Franken can testify that cars go back and forth there without a problem. They don't want it to be a constant. He asked Mr. Franken if a car goes in next for an oil change, would an employee bring it into the bay while a customer continues to sit in the waiting area.

Mr. Franken, District Manager, Splash Car Wash addressed the Commission. He responded yes, they would not want a customer pulling their car in, so they would control that.

Mr. Panico asked if, by the same token, if there were someone waiting in that half a dozen spaces for a lube – would they move their own car or would someone move it for them.

Mr. Franken responded that they would move the vehicles.

Mr. Panico asked if the only time the car owner would stay with their car would be in those six cue spaces.

Mr. Franken responded that in those 6 cue spaces, they would still pull the car in. They would get the car into the cue space and then they would be sent into the store.

Comm. Jones asked if they normally do the oil change first and then have the employee take it around to the car wash.

Mr. Panico commented that he thought it was the other way around.

Chairman Pogoda asked why, if there are cars waiting, why they would not go and get their car washed?

Multiple conversations (inaudible) about what comes first – the oil change or the car wash...

Comm. Jones commented that when he gets his oil changed, the guy takes his car, gets the oil changed and then takes it around for a wash.

Chairman Pogoda asked why a person wouldn't go and get their car washed rather than sit and wait for an oil change first.

Mr. Panico indicated that it's more difficult to have a lube and then they have to go out and all the way around and back in again to get the car washed.

Comm. Jones commented that then they'd have to go out and come back in around the light again.

Chairman Pogoda stated that he wouldn't sit and wait for a lube if he could go take the car into the car wash.

Comm. Jones corrected Chairman Pogoda and told him that is not how the process goes – you pull into the oil change, the guy takes the car into the oil change and gets the oil changed, then he brings the car around and puts it in line for a wash.

Chairman Pogoda commented that if you're going to get the car washed, then why not get the car washed instead of waiting in line for an oil change until the oil change line goes down?

There was further discussion about going out and around and back in again for the car wash if the car wash comes before the oil change (multiple discussions, inaudible...)

Comm. Parkins asked about what is to stop people from not making a left hand turn because, in this world of extremely impatient people, there is nothing to stop people who don't want to wait in that line – because people will do that, if they can.

Mr. Franken asked about the area on the site drawing where she thought people might make a left hand turn.

Atty. Thomas commented that there was no place to go there.

Mr. Panico asked if she meant taking a left because they are just interested in a lube.

Mr. Franken responded that they could cone that area off from one island to the other island.

Comm. Parkins indicated that if there is a line and if there is a way for people to get into that oil lube area – they are going to do it.

Atty. Thomas stated that they have to pay, they can't pay there and they have to pay to get an oil change. No ticket, no service.

Comm. Parkins asked where the office was located to go in and pay because right now they stand outside to collect money for the car wash – right now.

Atty. Thomas indicated that for the exterior ones they do but when he goes there for a full service, he gets a ticket with a number on it, and you go inside and pay.

Comm. Parkins asked again, if someone was in the exterior car wash line, where do they go in to pay.

Mr. Franken responded that all oil change customers would go into the store whether they had a full service or an exterior car wash. So if they had an exterior wash on the right, they come through at the exit, get out, and go into the store to pay. An employee would put it into the stacking, if there was a wait and, if there is no wait, the car would be pulled around right into the oil change.

Comm. Parkins asked if that meant that they stop people coming up the Express Wash lane going into that cue line – and then doing what?

Mr. Franken explained that the cueing line on the drawing was just for people who did not want the car wash. So, if a customer comes in and just wants the oil change, they would be put into this cue line, if there is a wait; otherwise, the car would just be pulled into to the oil change area. The employees would do that and the customer would enter and wait in the store.

Comm. Parkins asked for some clarification about the location where she would have to get out of the car.

Mr. Franken explained that she would get out at the exit where the cars are dried off outside.

Comm. Parkins indicated that if her car stayed there, then the next car coming through would smash into the rear end of her car. How can she stay right there?

Comm. Jones stated that she would have to pull forward far enough to not get hit.

Atty. Thomas stated that they have plenty of staff to handle that – but that is assuming that she was getting the Express car wash. If she decided that she was getting the oil change, the employee pulls it into the bay. The customer doesn't pull the car into that bay; they get out, get the ticket, go inside and pay. When the oil change is done, the employee pulls the car out. The person comes out and gets into their car the same way they do when it comes out of the full service area. The size of this place allows for the effective control by the employees in the respective areas. He added that the tickets are numbered, and they try to bring the cars in the numbered order.

Mr. Franken wanted to address Comm. Parkins's concerns about the cars hitting each other. He explained that on both tunnels – the ones where they drive the car in and the exterior side where the customer drives in – there is a safety mechanism built in that will stop the conveyor before cars hit each other in the tunnel. There is a small square plastic pad on the exit of all of them that is a magnetic sensor that senses when a car above it or if another car gets too close – the computer automatically shut everything down.

Comm. Parkins clarified that if a person drives through the car wash and goes out and there isn't an oil lube guy standing right there to take the car away, there is no way for the conveyor to know that when another car goes through and out that there isn't already a car sitting out in the lot.

Mr. Franken responded that they would notify them in back that there is an oil change coming out; they will be ready to take that car away.

Comm. Parkins commented that would be their liability, if that is how they have it planned.

Atty. Thomas indicated that they have never had any problems.

Multiple conservations (inaudible).

Mr. Panico asked to be shown the location of the waiting area.

Atty. Thomas showed where the door to the waiting area is located on the site plan.

Comm. Parkins asked if they reconfigured the area where the vacuums are and if they have removed some of those parking spaces. She added that right now those spaces are on a diagonal.

Mr. Franken responded yes, they are on a diagonal and they looked at that.

Comm. Parkins asked if they opened that space up a little.

Mr. Franken responded they could a move one parking space if they had to. They also discussed moving them down a little bit. There are 4 diagonal parking spaces and only 4 vacuum hoses, so there is room to get other cars by on the side.

Atty. Thomas indicated that the only other thing that he wanted to point out, because there was a comment at the last meeting, again, as he stressed and as he will stress again – it was never discussed. It was never brought up – but Mr. Panico mentioned about what the plans had been. Atty. Thomas stated that he actually went back and found the paper plans, and the self-car wash that Tony referred to was last seen on the Basic Development Plan which missed approval with the restaurant. In September '05, after the approval, the first set of plans with the car wash only – they might remember that they did not come in right away - they asked for an extension because the owner became ill and could not travel. That is why it goes all the way through to March '05. So, early in '05, there was a set of plans that had the five bays, which were labeled (detail, detail, equipment...) But it was never brought up.

Atty. Thomas indicated that the point that they were here before the Commission to ask again, and they are willing to – there is not going to be an impact because it is not there. They are not changing anything. They are not changing the building or anything. They would accept a requirement and they will put it in – the oil change use must be an accessory to the car wash and owned and operated by the entity whether it is Splash or a separate entity that runs the car wash.

Comm. Harger asked to see the location of the vacuums again.

Comm. Parkins asked what the blocks shown on the plan represented.

Mr. Franken responded that they were light poles.

Comm. Parkins asked about the vacuum location and proposed four spaces in relation to the photograph provided because it appears to be right at the edge of

the landscaping. She expressed concern that the photo didn't conform to that plan.

Atty. Thomas responded that Jim Swift (inaudible). They wanted to put the four spaces in there. Those spaces were eventually slanted to provide more room.

Mr. Panico asked where, physically, the vacuum unit was located.

Atty. Thomas pointed out the location of the vacuum units on the plan.

Mr. Franken made a comment but it was inaudible due to other discussions.

Mr. Panico noted that it looked like there were actually only two spaces that could be used for the vacuum cleaners.

Comm. Parkins agreed and added that was the reason for her question about it.

Comm. Jones suggested extending the island ten feet and move the vacuums down a little bit. It would close up the entrance by 10 more feet.

Comm. Parkins agreed that might help because it is not conforming to the plan unless something like that is done right there.

Atty. Thomas commented that he did not want to get Mr. Swift in any trouble – he was very busy. This was the plan that he had submitted – for the Detailed Development Plan. The only thing that he removed was an area right there (he showed the area on the site plan) because there was concern that the vacuum would be there. When they actually built it, they moved the main vacuum station down a bit.

Mr. Panico asked if there was only one vacuum station.

Mr. Franken responded that there was one vacuum station and its PDC pipe and there are three or four drops – hoses.

Comm. Parkins commented that the drawing does not conform to the aerial photograph – and she asked if it was indicated on the drawing.

There were multiple conversations about the vacuum location (inaudible).

Atty. Thomas responded that it was not a problem because they could extend it out because there is plenty of room at that entrance to extend it out.

Mr. Franken added that it would prevent people from pulling in and they could cone off the rest of it, if necessary.

Mr. Panico stated that he would take a look at it and then they will have a better feel for it.

Comm. Parkins reiterated that her area of concern was that area – right there.

Atty. Thomas repeated that as Jay Franken said, for the record, they have had no problem with that extra island to prevent vacuum people from in any way blocking it off.

Mr. Franken added that the stacking and parking gives them an hour of wait time so if someone wanted to wait an entire hour, they would be able to accommodate that.

Atty. Thomas stated that in counting the number of spaces, if people willing to wait an hour actually came in, they have enough spaces to accommodate them.

Comm. Harger asked if they have found that having that vacuum on that island is the most efficient place for it, instead of in the front where there are actually more spaces.

Atty. Thomas responded that they can look at all of that with (inaudible). In respect to that, people tend to take things out of their car there. There are garbage pails there and they maintain the litter situation very well. It is much better to have the litter and have people miss the garbage can in that location than make a mess up front along Platt Road. In this way, it allows them to police the litter more easily.

Comm. Harger commented that she just thought it was awkward to have it over there by the handicapped spaces.

Mr. Panico added that if there was a need to have spaces for the oil change waiting, he would prefer that they be here (he pointed to a different location than the oil change waiting spaces on the plan).

Atty. Thomas responded that they are willing to talk about it.

Mr. Panico explained why he thought the location he suggested made more sense for oil change customers.

Atty. Thomas responded that he has been trying to address Comm. McGorty's concerns. The fact of the matter is that experience shows that people probably are not going to wait much more than 15 minutes. There are more than enough spaces because people won't wait that long – but he had to address the concern in order to demonstrate that they have over an hour's worth of waiting.

Mr. Panico asked how long the average time for the oil and lube would be.

Mr. Franken responded that he would be 15 to 20 minutes.

Comm. Parkins asked if they had four oil change bays.

Atty. Thomas responded no, they have only asked for three – he was being facetious when he said that - because Comm. McGorty had a concern that this oil change feature would become so popular. He summarized that there are five bays there. One bay will remain for storage, the one in the center, for equipment storage.

Mr. Panico asked if the two open bays were originally going to be for self-service, truck washing and that type of thing.

Atty. Thomas responded no, that was in a prior plan – with the restaurant. It went away when the restaurant plan was killed and then this plan for the car wash was developed.

Comm. Harger asked if the doors on the plan were overhead doors.

Mr. Franken pointed out on the drawing which doors were overhead doors and the ones that were not overhead doors on the bays for storage. The middle one has equipment in it for the car wash, so they don't consider it a bay. It is part of the mechanical room with the circuit breakers, etc. The end one, the farthest one to the back of the car wash is the storage bay. He showed the ones proposed for the oil change.

Comm. Parkins asked if those bays had doors on them.

Mr. Franken responded that they did not, but they would have to put doors on them because they don't want their equipment stolen.

Comm. Harger asked why one of the doors had windows.

Mr. Franken said that they all have windows but the inside of the windows have a white coating spray on them – but they all have windows. They just got new glass for them too.

Comm. Parkins asked where they store all the oil, etc.

Mr. Franken responded that they would be stored in purchased tanks – they would be double-walled tanks that meet all of the DEP standards. They would go into the back room.

Comm. Parkins asked where the back room would be.

Mr. Franken showed on the plan, that in looking for a space, it would either be in the room with the electrical panels or in the storage bay.

Comm. Parkins asked what comes to pick that up.

Mr. Franken responded that they could do one of two things. They could install waste oil furnaces that burn the waste oil and use it for heat so that they don't use natural gas. Or there are a few companies in the area that they use that pick it up. One of the companies is Enviro-Waste and another one is Safety Clean. They actually buy it from them, so they have a double-wall waste storage tank and, if they don't use the waste oil, they will come and purchase it from them.

Atty. Thomas added that it is all controlled by the DEP.

Comm. Parkins asked if they required a license from the DEP.

Atty. Thomas responded that no, they don't need a license.

Comm. Parkins asked if they didn't need a permit.

Mr. Franken responded that he was certain that they could get a permit.

Atty. Thomas indicated that the people who pick it up have to be licensed and certified by the DEP, if they are going to remove it from the site. On the waste oil furnaces, he thinks they may need a permit.

Comm. Parkins asked who would regulate that.

Mr. Franken responded that it was all the Department of Environmental Protection.

Comm. Parkins asked if they needed a permit to do this from them. Otherwise, how could they regulate it without a permit?

Mr. Franken responded that they regulate the people that pick up the waste oil.

Comm. Parkins commented that she understands that, but she is asking about their storage, collection, etc.

Atty. Thomas responded that he could not give them a specific answer; however, he does not think that they need a permit from the DEP to change oil – which is what they are doing.

Comm. Parkins responded no, but possibly, to store it.

Atty. Thomas responded that in order to store it they would have to have it picked up. They have two choices – they can take the waste oil and use it. It is a recycling process using the oil to reheat. The furnace used has to meet all the DEP standards.

Someone asked if it required Fire Marshal approval. Multiple conversations (inaudible).

Mr. Franken added that the DEP gives them regulations in regard to the storage tanks having to be a double-walled tank – a tank within a tank – so if the inner tank failed, the other tank would still hold it. It is all a closed system. They don't carry around buckets of oil. When they drain the oil into the pan, there would be a hose directly connected to the double-walled tank. So it isn't drained into a bucket and then poured into the tank.

Comm. Harger commented that there is obviously a lot of oversight on this.

Mr. Franken agreed, yes, there is a lot of oversight on this.

Mr. Panico asked about the supplies for the oil/lube and how they are delivered.

Mr. Franken responded that they are delivered via UPS. They order it from one of their suppliers – Run Right where it is shipped in boxes through UPS.

Mr. Panico asked why they didn't buy the bulk oil.

Mr. Franken responded that he thought he was asking about the supplies – the filters and things like that. The oil comes in on a truck that is the size of a home heating oil truck.

Comm. Parkins asked if they come and fill a big tank – they don't use smaller quarts of oil.

Mr. Franken responded that they do keep bottles/quarts of oil but they also have bulk oil tanks that would hold 500 gallons.

Mr. Panico indicated that if this were approved, there would be signage restrictions.

Mr. Franken responded absolutely, OK.

Atty. Thomas stated that he was going to borrow the electric lights from Stop & Shop.

Chairman Pogoda asked for a motion to close the public hearing if there were no further questions.

On a motion made by Ruth Parkins seconded by Chris Jones, it was unanimously voted to close the public hearing for Application #09-27.

At 8:25 p.m. Chairman Pogoda indicated that there would be a five minute break until moving to the next application.

APPLICATION #09-30, PREMIER AMERICA REALTY CORP. FOR MODIFICATION OF SITE PLAN APPROVAL (SIDEWALK/LANDSCAPE AREAS), 42-46 BPT. AVE., CB-2 DISTRICT (MAP 117D, LOT 3)

Mr. Schultz indicated that at the last meeting, the Applicant asked the Commission to waive or eliminate the sidewalk and add more landscaping that would go into the State right of way. He showed the location on the site drawing.

Mr. Schultz continued that, unfortunately, the Applicant met with District 3 DOT and the sidewalks are going in, if they plan to do any work within the right of way. He showed the raised curb going in there and explained that because of that, the State said that they want sidewalks on that side of Bridgeport Avenue. Barry Mucci is here to confirm that; he spoke to the Project Engineer that attended the meeting. Staff felt that the sidewalk here wasn't necessary if a raised curb would be installed – then they could pick up some more landscaping because the State does allow them to do landscaping in a State right of way.

Mr. Schultz concluded that this is what they are faced with now. He indicated that Barry Mucci wanted to proceed because of the lateness of the season. He showed a location where they would be putting more landscaping in where the sidewalk to nowhere was located. He added that there is a raised curb there.

Comm. Parkins commented that the curb was not raised very much though.

Mr. Schultz responded no, they would be installing a new one.

Barry Mucci, Mucci Construction, Shelton, CT addressed the Commission. Mr. Mucci responded that he would be putting a 6-inch curb on top of it. He added that the DOT said that they would entertain it; (inaudible...) he isn't sure exactly when they will go through it again but they have 3 or 4 weeks before the plants shut down.

Mr. Schultz reiterated that the Applicant would like the Commission to act on this tonight and they can revisit it with District 3. They picked up more landscaping and they are recommending berming it in there. Staff will be working with them in the Spring of 2010 because right now they are concentrating on the building and the asphaltting.

Comm. Parkins asked where the asphaltting and curbing would be on the site plan.

Mr. Schultz showed the location and responded that they would be putting the curb in and then repaving it to the cement sidewalk. The only sidewalk in there is for the apartment that is upstairs. Right now, the occupant can walk out to the sidewalk or across the street to walk.

Mr. Panico asked Barry Mucci if the sidewalk was going to be at the same elevation as the top of the curb.

Mr. Mucci responded no and showed where it would be taken down and how far it would go.

Mr. Panico asked a few more questions in regard to the site drawing – the location of the curbing, the asphalt and the sidewalk. He asked if the sidewalk would be at or above the elevation.

Mr. Mucci's responded by showing the elevation on the drawing – comments made were inaudible.

End of Tape 1B 8:37 p.m.

Mr. Panico commented that if that is what the State was going to make him do then he didn't have a problem with it.

Comm. Parkins asked if they were putting in the curb but not the rest of the paved area.

Mr. Panico showed Comm. Parkins the location of the curb and added that for the time being, they are going to leave the asphalt out, grade it off flush with the top of the curb and figure out what they are going to do with it. He added that he would love see it bricked over or something because trying to grow grass in there is going to be a nightmare because the snow plows keep dumping snow in there. In thinking about putting a concrete thing across the full width, they are going to have an 11 foot ribbon of concrete – and that doesn't make sense.

Mr. Mucci commented but it was inaudible.

Mr. Panico stated that it is going to need a decorative hard treatment – but not black top and not concrete.

Mr. Mucci suggested crushed stone...

Mr. Panico responded that even crushed stone would be better or brick on the side. They aren't walking on it so they don't have to worry about tripping on it. It needs something, and he doesn't like the bituminous. As long as it is going to be at the same elevation; so, whatever they fill in will make for a uniform plane.

Chairman Pogoda commented that they can discuss that later. As of right now, as long as the curbing is in, there aren't going to be any cars parking on top of that. He wants to get this done before the plants get closed. The landscaping isn't going to get done until the springtime anyway.

Comm. Parkins asked if they would allow hedges and wood chips – something like that.

Mr. Panico responded that they can think about it and discuss something like that.

Mr. Schultz read a draft motion to approve the sidewalk and landscape modifications of the site plan for 42 – 44 Bridgeport Avenue.

Mr. Panico clarified that they aren't going to approve this thing being paved.

Mr. Schultz responded that is stated in the record.

Chairman Pogoda asked for a motion.

On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to approve Application #09-30 modifications.

NEW BUSINESS

APPLICATION #09-32, DOMINICK THOMAS ON BEHALF OF CENTER STAGE THEATER, INC. FOR SITE PLAN APPROVAL (THEATRE AND ASSEMBLY HALL), 405 BPT. AVE. (MAP 77, LOT 26) – ACCEPT, DISCUSSION AND ACTION

Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission representing the applicants. Atty. Thomas distributed maps and aerial photos of the site being considered for Center Stage. He stated that he was going to be brief because all of them were at the ZBA hearing when they got their variance for the use variance. Center Stage is losing its lease at the end of this month. They have a desire -- and he wants to stress on behalf of Fran and Gary Scarpa, that they aren't being presumptuous about the Commission approval, but they had to really run with this because they have their first performance on 11/6/09 which is only a week from Friday.

Atty. Thomas indicated that this past weekend over 100 volunteers showed up to help clean the place and begin construction of the stage, which they had to do in order to put on their performance.

Atty. Thomas distributed a paper showing why he went to law school and not architectural school. He presented a very simplistic floor plan/layout of the car dealership and photos of the interior of the building. He noted that he wanted to make sure that the Commission knew that bathrooms would be available for the public.

Mr. Panico asked what the seating capacity would be.

Atty. Thomas responded that the seating capacity shown on the floor plan is for up to 180 people.

Mr. Panico asked for some clarification about the location of the stage and the views provided on the photographs.

Atty. Thomas responded that the photos showed a view standing on the stage looking out toward the front of the building.

Mr. Panico asked what the room in the corner was supposed to be.

Atty. Thomas responded that it was the entrance foyer.

Mr. Panico commented that he was trying to compare the photos to the floor plan drawn by Atty. Thomas. He asked why there was a wall in front of the stage.

Atty. Thomas tried to explain the location of the stage with the photos from the interior of the building. He showed the double doors to the entry foyer (it used to be the entry to the car dealership service area). He clarified that the other doors shown were the emergency exits.

Atty. Thomas showed the location of the stage, the dressing rooms, the green room and a staging area where they pull their stage sets off and on. He asked the Commissioners to look at the site plan submitted, not the one handed out, and explained that they promised ZBA that they would not go any farther over than where there is a line coming down on the site drawing. He showed the

locations where there would be parking available and he stressed that he did not include the spaces available in the front of the building.

There were some questions about lighting and sound. Atty. Thomas asked the applicants to respond to those questions.

Fran Scarpa and Gary Scarpa, 306 Coram Avenue, Shelton addressed the Commission. Mrs. Scarpa showed where sound and lights would be housed on the floor plan. Mr. Scarpa explained that there is a raised platform there so that the sound and light people can look over the audience and stage. It would be about four feet off the ground.

Comm. Parkins asked what would be happening in the green room.

Mrs. Scarpa responded that during performances, so that the performers don't have to be confined to the tiny dressing rooms, there is a larger room behind that for them to wait before going on the stage.

Atty. Thomas indicated that he also submitted a picture of the front of the building. There is an existing sign and there is existing parking lot lighting; unfortunately, the power has not been turned on to the place yet. They are using temporary generators. They would like to put a sign up there – they would put up temporary signs at both the splits at the island and at the intersection of Access Road with Bridgeport Avenue by Wal-Mart indicating that there is a Center Stage Performance. He stated that it would only be when there is a performance in order to direct people where to turn.

Atty. Thomas stated that the entrance that the people would be using into the area is exactly opposite Nells Rock Road. Cars would not be able to come up – they would have to come in that one entrance and park to the right. He spoke to the Scarpas, and as usual, they will have volunteers outside directing people where to park and there will be lighting.

Chairman Pogoda asked Atty. Thomas to repeat his comments about Nells Rock into the Access Road.

Atty. Thomas responded that it can't be accessed.

Chairman Pogoda commented that he wasn't sure if it was the Police Department who does it, but there should probably be some sort of horses or blockade there on the night of performances. Because cars will pull inside there off of Nells Rock. The blockades or horses could be removed as people are leaving the production.

Atty. Thomas responded that they certainly could not do anything without speaking to the Chief of Police. They could have a horse with a "do not enter" sign or something similar to the Derby Home Depot where they had a problem with people coming in making a left hand turn. He commented that he understands that is a serious concern that they will have to discuss with Chief Hurliman because they don't want people doing that.

Chairman Pogoda noted that at that time of night – around 10:30 p.m. - when cars would be exiting off of Access Road into Nells Rock Road, there isn't that much traffic going up and down Nells Rock.

There were multiple conversations (inaudible) in regard to the traffic issues that would need to be addressed on Access Road and Nells Rock Road.

Comm. Harger asked if the sign that is on Center Street now is being brought up.

Mrs. Scarpa responded that right now, that is a light box that the sign is in and it belongs to that building. They do have the sign. It would make sense to just put that same light box in the other location because there are holes and electricity there. The issue they had the first time when they got that sign was how much light fills up. It really doesn't project, it just illuminates. They would like to possibly do that again, if the Commission O.K.'s it.

Chairman Pogoda responded that sounded fine – he didn't think was a problem.

There were multiple discussions (inaudible) about the lighting.

Comm. Parkins asked how many seats they would be increasing by going to this location.

Mrs. Scarpa responded that they would be increasing by 70 – 80 seats – almost doubling what is comfortable.

Comm. Harger asked if they have arranged to allow for handicapped.

Mrs. Scarpa responded yes. She explained that the seats can pull out so that they can accommodate extra space.

Mr. Schultz read correspondence from the Fire Marshal dated 10/27/09 approving this use.

***See attached letter to Richard Schultz from James Tortora, Fire Marshall, dated 10/27/09.**

Mr. Schultz read the Staff Report indicating that the Applicant was seeking Site Plan approval for the occupancy of an indoor theater/assembly hall at the former Subaru dealership facility for Center Stage currently located at 170 Center Street. There would be a total of 120 +/- parking spaces are provided for a maximum audience of 180 theater goers. A use variance was granted by ZBA at the 10/20/09 meeting for an indoor theater operated as a non-profit entity. The variance was issued subject to this Commission's approval of the Site Plan. Property is located in a RBD – restricted business district. Application has been approved by the Fire Marshal and Inland Wetlands. Staff has inspected the property to confirm that the property does not contain any junk material or junk vehicles or condition of a safety concern. Sufficient onsite parking will be provided and handicapped parking spaces will be established by the Building Department.

He indicated that he had a draft motion which he read for Application #09-32.

***See attached Staff Report and Draft Motion/Conditions of Approval dated 10/27/09.**

On a motion made by Joe Sedlock seconded by Virginia Harger, it was unanimously voted to accept Application #09-32.

On a motion made by Joe Sedlock seconded before Virginia Harger, it was unanimously roll call voted (5-0) to accept Application #09-32.

OTHER BUSINESS

TWISTED VINE ESTATES SUBDIVISION: REQUEST FOR ONE (1) YEAR EXTENSION TO COMPLETE PUBLIC IMPROVEMENTS WITHIN DEVELOPMENT

Mr. Schultz indicated that this is the upper White Hills subdivision. As a condition of approval, the developer is obligated to finish all public improvements such as drainage, roadways, etc. within two years. The two year period is coming up in January and they are requesting a one year extension. The City Engineer is recommending to approve the extension insofar as they have done all the improvements scheduled. They need the additional timeframe to finish because there is a lot of roadway. Fortunately, they haven't built the homes in the portion where they haven't built up the roadway. They have been staging it accordingly. Most importantly, there have been no complaints because, if the Commission can recall, the initial meetings were very emotional. They have been doing everything requested by Staff including sediment and erosion. A motion is in order to authorize the one year extension with the condition that the paperwork be submitted identifying the new expiration date.

Comm. Parkins asked if any of the improvements in which they need the extension for affect any of the people that are currently living there.

Mr. Schultz responded that's correct. This was phased correctly; it's when it is not phased correctly that they have a new home way out there on a gravel, sub-base road. They just don't do that anymore.

On a motion made by Virginia Harger seconded by Joe Sedlock, it was unanimously voted to approve the request for a one year extension to complete public improvements within the Twisted Vine Estates Subdivision.

ADJOURNMENT

On a motion made by Ruth Parkins seconded by Chris Jones, it was unanimously voted to adjourn at 9:00 p.m.

Respectfully submitted,

Karin Tuke

Recording Secretary, Planning & Zoning Commission