

The Shelton Planning & Zoning Commission held a regular meeting on December 8, 2009 at 7:00 p.m., Room 303, 54 Hill Street, Shelton, CT. The Chairperson reserved the right to take items out of sequence.

Commissioners Present:

- Chairperson Ruth Parkins
- Commissioner Virginia Harger
- Commissioner Thomas McGorty
- Commissioner Joe Sedlock
- Commissioner Joan Flannery
- Commissioner Patrick Lapera
(alternate for Comm. Pogoda)

Staff Present:

- Richard Schultz, Administrator
- Anthony Panico, Consultant
- 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

Chairperson Parkins began the meeting at 7:00 p.m. with the Pledge of Allegiance, a roll call, and a reminder to everyone present to please turn their cell phones to vibrate.

Chairperson Parkins commented that, as many of the Commissioners may already know; alternate P&Z Commissioner Thomas Harbinson has submitted a letter of resignation that they accept, with regret. Tom became aware of a conflict in serving as both an appointed member of the Conservation Commission and an elected alternate member of the P&Z Commission. He felt that, given the choice, he could best serve the administration of the City's affairs and the community by serving on the Conservation Commission.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

Chairperson Parkins asked if there were any questions regarding the Standards 1 through 22.

Comm. Harger asked about #9 Standard #5095 Denise Scheer to rebuild the fire damaged house on 96 Kings Highway and the extent of the damage to it.

Mr. Schultz responded that it was excessive. They are required to rebuild it within "X" number of months so it just does not sit there.

Comm. Harger asked if that is monitored by the City because she has seen a fire damaged house near her own home which remains vacant with no action taken on it.

Mr. Schultz responded that if there are problems with the insurance company, it can drag out for a long time. They have zoning regulations that state a permit must be taken out within 6 months and it must be completed it within a year. It can go to the Zoning Board of Appeals to vary that.

Comm. Harger asked if #11 Standard #5026 is for Stanley's Market and, if it is, why it would be there.

Mr. Schultz responded that when the Commission approves a site plan or a special exception it is included in the motion. When they act on a Site Plan, Special Exception or Temporary Special Exception, they are also acting on the Certificates of Zoning Compliance. In the past, they were acting on it twice – separately; Corporation Counsel told them to refrain from doing that.

Comm. Harger asked if there was anything out of the ordinary with #13 Standard #5161 for Center Stage Theater.

Mr. Schultz responded no there was not.

Comm. Harger asked Rick to elaborate on #21 Standard #5192 and #22 Standard #5094 for a business change in ownership.

Mr. Schultz responded that #22 is a change from Scooter's Deli to Caroline's Sandwich Co. at the gas station. It is a separate business entity from the gas station and when it changes name, it has to be on the record in the event of any complaints.

Mr. Schultz responded that Standard #21 is Erkan, 94 River Road, Bella Vista Restaurant.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to approve Applications for Certificates of Zoning Compliance, Standards #1 - #22.

SEPARATE #5098 TOM HACRAS, 7 FAWN MEADOW LANE, IN-LAW

Mr. Schultz indicated that this is for an in-law apartment. He showed a location map and explained that it is a colonial home with a conversion in the basement. The floor area for the in-law apartment is 844 square feet. He showed the floor plan which complies with the ingress and egress. They have the approval from Valley Health for on-site septic and the application complies with zoning regulations. It doesn't involve an addition; it is a conversion within the basement area.

Chairperson Parkins asked if the square footage changed because it's not an addition, but a conversion.

Mr. Schultz responded no, that when it is an addition, the Commission is concerned about the aesthetics and the number of entrances.

Mr. Panico asked if this was a raised ranch. Mr. Schultz responded yes, it's a raised ranch off of Mohegan – a PRD, smaller lots but in compliance. There won't be any changes to the exterior of the house.

On a motion made by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to approve Separate #5098.

SEPARATE #5093 CONTACT CONSTRUCTION, 01 WATERVIEW DRIVE, INTERIOR ALTERATIONS

Mr. Schultz stated that this is for Carter's Babies & Kids, the occupants in this multi-tenant building, the first one on the right side. He stated that whenever, there is an interior alteration, he requests a Separate because he wants to advise the Commission that it is not anything significant, and there are no exterior alterations. There are so many corporate offices, and from time to time, they upgrade their areas. They are not increasing the employee base and there is nothing out of the ordinary. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #5093.

SEPARATE #5102 ALAINAN GROUP, 1 TRAP FALLS RD, 401, BUSINESS

Mr. Schultz indicated that this was the Francini building on the left hand side going up Trap Falls Road at the four-way intersection with Staples. A new company, an engineering firm, is going in here. It presently has one employee, the hours of operation are 9 a.m. to 5 p.m. and they are renting 1100 square feet. Staff recommends approval.

On a motion made by Virginia Harger seconded by Patrick Lopera, it was unanimously voted to approve Separate #5102.

SEPARATE #5103 JOANNALEE SCHWARZENBERG, 1 WATERVIEW DRIVE, BUSINESS

Mr. Schultz stated that this is the existing cafeteria which serves breakfast and lunch. This is a new owner; the previous owner was Loretta Savante. It is 1500 square feet; 2 employees; hours of operation are 7 a.m. to 3 p.m.

On a motion made by Thomas McGorty seconded by Patrick Lopera, it was unanimously voted to approve Separate #5103.

SEPARATE #5107 BJB RENTALS, 450 HOWE AVENUE, BUSINESS

Mr. Schultz indicated that this is Ralph Motto's building on Howe Avenue. It's for a thrift shop with two employees; 1275 square feet; hours of operation are 10 a.m. – 6 p.m. Monday through Saturday.

The business owner (name not provided) addressed the Commission and indicated that it was be a thrift shop selling clothing, household goods, furniture, giving donations to the State.

Chairperson Parkins asked if this was a non-profit.

The business owner (name not provided) responded that they were in the process of working with the Homeless Shelter and Spooner House, the Prospect House in Bridgeport and another shelter in Norwalk. A percentage of the proceeds will go to supporting charities.

Mr. Schultz added that the Applicant has not submitted a wall sign but, as the Commission is aware; all the signs are consistent down there. He asked the applicant to remain consistent with the existing signage there.

The business owner responded that he will just have a placard on the building.

Comm. Harger commented that in the past there have been some issues with a different consignment shops putting things out on the sidewalk. She wanted to make sure there should be a restriction on that.

Mr. Schultz responded that they will also be discussing that issue at the Downtown Subcommittee Meeting – sidewalk sales, temporary signage, etc. He added that the sidewalk restrictions are by ordinance too.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5107.

**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
AVENUE (MAP 77, LOT 19) (PUBLIC HEARING CLOSED ON 10/27/09)**

Comm. Lopera indicated that he would not participate in this discussion or vote because he has a conflict due to his previous role on the Zoning Board of Appeals when this application was heard by the ZBA.

Mr. Schultz indicated that Staff has prepared a draft resolution for a vote by the four P&Z members who were present at the public hearing that closed on 10/27/09.

Chairperson Parkins commented that would be herself, Comm. McGorty, Comm. Harger and Comm. Sedlock who would be participating. She began the discussion by stating that she has gone back and reviewed the previous minutes, that were kindly provided by Atty. Thomas, when Splash Car Wash first proposed at this area. She added that there was a lot of discussion by this Board that previously took place; it was unanimously voted and carefully thought out that this would be a car wash and a car wash only.

Chairperson Parkins continued to say that there was no mention at any point in time about there being any accessory uses. There had been some discussion about there being self-service wash bays on the side and some mention that a building inspector came out indicating that they needed to put fire-proof walls on; however, that did not indicate in any way that the P&Z Commission had approved a different use for the building.

Additionally, it was mentioned in the previous minutes about the employees, their use of public transportation and many other issues. Chairperson Parkins stated that she did not want to rehash all of the information in these minutes because she is certain that everyone involved is aware of what had gone on. However, there had been discussion about the Applicant being financially comfortable and that he would be able to survive with only a car wash being there – that is actually written in the previous minutes.

Chairperson Parkins continued to state that it was approved, after a lot of back and forth discussion, for a car wash only. Chairperson Parkins added that what Atty. Thomas did not submit with his packet of information was the subsequent applications before this Planning & Zoning Commission – where it was denied – twice. The same discussion took place as well as the same unanimous vote that the oil change should not be allowed. Chairperson Parkins added that she had actually been a part of that vote. Therefore, she explained that she is still a little perplexed as to what has changed since then. She wasn't certain if it was because there are new members on this board, that the Applicant thinks he might be able to do this. She stated that, in her opinion, she feels as though the discussion and vote had been well thought out in regard to the change of uses and what might transpire in years to come if the property were to be sold, etc.

Chairperson Parkins concluded that she wanted to begin this conversation with these comments and asked the other Commissioners for their thoughts about it.

Comm. Flannery asked if she would be able to make any comments about this.

Chairperson Parkins responded that unfortunately, she would not be able to because she was not on the Commission at the time of the public hearing.

Mr. Panico commented that he thinks that the Commission is being asked to by the Applicant to consider that this proposed use is an extension of the type of

service that is provided to automobiles at the car wash as an accessory service. In the subsequent two applications, basically the Commission found that, "no," it was not an accessory service, but another activity. So now the Applicant is asking the Commission to allow this "additional activity" in this location, in this PDD, as long as it is operated as an adjunct to the car wash. Therefore, it is an entirely different request. The applicant isn't regurgitating the same thing.

Chairperson Parkins responded that previously he took the appeals to this Commission as an accessory use.

Mr. Panico agreed that yes –as an accessory use. The Commission stated that if it is not spelled out in the PDD, then it is not accessory use. It is kind of a normal type of accessory use, so the Applicant is now saying that he'd like to propose to spell it out in the PDD – and that is what the current proposal before this Commission is for.

Chairperson Parkins responded that the bottom line is that it would become something that was not wanted or intended, from the get-go, for that site.

Mr. Panico stated that he could not answer to that because it was never put on the table before.

Comm. McGorty commented that there did not seem to have been as much dialogue and full force pressure to get it done then as there is now. It failed twice before; call it whatever, they are still going after it.

Mr. Panico agreed that it is the same activity that they are interested in installing – there is no question about that, but it is the mechanism that was being used before – that is why the Commission said "no" - that was not an appropriate mechanism.

Chairperson Parkins responded that before they were asking for it to be part of the accessory use, which would mean that the same outfit – would have to own both. Now they are asking for it to be a permitted use.

Mr. Panico stated that before – they were saying that any logical, common interpretation of a car wash would say that this is an accessory use to the car wash – and the Commission responded that "no," that is not true and they don't believe that is so. He added that the Commission disagreed on that. The applicant litigated and lost; so, now they are saying "OK," in that case, they would like to specifically identify it in the PDD as a permissible accessory use.

Mr. Panico summarized that is what this proposal proposes to do – to establish in the language of the regulations for that PDD, that an acceptable accessory use to this car wash is the oil and lube service - provided that it is conducted as an integral part of the car wash operation and can not be run as an independent business. It would have to be staffed by the same car wash people, etc.

Chairperson Parkins asked if, theoretically, if the building were to go away, could whoever owns that property put a Jiffy Lube on it.

Mr. Panico responded no.

Chairperson Parkins asked if they could put a Jiffy Lube on it with a car wash.

Mr. Panico responded yes, if Jiffy Lube is running the car wash. As long as it is a bonafide car wash, and they don't have the tail wagging the dog. Right now, the "dog" is the car wash and the "tail" would be the lube. It can't turn around with the lube being the "dog" and the "tail" being the car wash.

Comm. McGorty asked what would prevent that from happening.

Mr. Panico responded it would be the interpretation when an application is put before them – the principal use on the property has to be a car wash. The secondary, subordinate use, if the Commission were to approve this, could be the oil change and lubrication.

Chairperson Parkins commented that she still thinks that it is still very clear as to the direction this Commission took on this application.

Comm. Harger commented that she totally agreed. She didn't see how there had really been any change in status or intent from what they asked for previously.

Comm. Sedlock indicated that he wasn't present when it had been presented the first time, "way back then." He has only been on the Commission for this one and it seems to him, from what he has read, that this has something to do with them having a little bit of financial trouble. The Applicant is looking for a way to help himself financially and enhance his business a little bit. If the oil is self-contained, as he recalls it was stated to be, and there is enough area there for the cars, and in the present state of the economy, they should be thinking a little bit more about helping the business people stay in business – rather than potentially losing a business.

Comm. Sedlock indicated that someone would have to explain to him the dangers of voting "yes" on this application.

Chairperson Parkins responded that it isn't so much about dangers. She added that she appreciated Comm. Sedlock's comments; but they can't make decisions at this table based upon people's economic situation.

Comm. Sedlock responded that they do make decisions about safety and use of property though.

Comm. McGorty added that this is really about the use, it's not based on economics or how they do things or what would help them survive.

Chairperson Parkins added that they could also not deny someone else if they come in with a competitive business.

Comm. McGorty stated that he feels it is about proper use – and he doesn't think it is laid out properly. He isn't satisfied with the site plan that was turned in with traffic flow and everything else. He added that it starts out as two bays or whatever and it turns into four bays, and then general repairs – there is really no way to police that or control it. He commented that he didn't think that logistically, Atty. Thomas laid out in a good, thorough site plan as to how they would control the flow of traffic and everything else in there. It is not complete. He believes that is one of the reasons that use was shot down, as well as the fact that the original intent was a car wash.

Chairperson Parkins noted that she became aware of some inconsistencies where they at first said that they wouldn't be hiring any additional people and the amount of space for parking. She indicated that they took a ride through there last Friday and all of the employee spots were taken up – and that was fairly early on a Friday morning. So they are not just coming in on buses, they are driving in and parking.

Mr. Panico responded that he thinks that they addressed that in one of the stipulations – that, if needed, an additional 6 – 10 parking spaces could be created. Physically, there is enough room there to deal with a perceived problem.

Mr. Panico stated that the thing that they really have to wrestle with is the use aspect. The physical issues can be dealt with.

Comm. McGorty responded that obviously that needs to be addressed, but he thinks that the traffic situation, of going in there - it is too busy with people coming in and going out. He thinks it is going to cause a potential problem.

Mr. Panico commented to Tom that the traffic flow is all the same, and he doesn't understand the problem.

Comm. McGorty responded that it's assuming that everyone is coming in and going through the car wash tube and coming into an oil change.

Mr. Panico responded that they could also peel off and go to the oil change. They still come in at the same location and exit at the same location.

Comm. McGorty added that they come in at the same location – but there is cross-over, and that's the problem. There's a conflict with people coming in and exiting and other people getting their cars vacuumed. They discussed relocating the vacuums but didn't really address that situation with the cars entering the car wash. The car wash is fine, but it's the cross-over that occurs when cars come out of the car wash tube with other cars backing around and trying to get into those bays. They talked about extending that small island where the vacuum cleaners are currently located, but he doesn't think that they really addressed it.

Mr. Panico stated that they made it perfectly clear that a car going through the car wash tunnel, then to be serviced for the oil & change – would be handled by an employee by the time it exits the car wash tunnel.

Comm. McGorty commented that there would still be people driving in from off the street that don't want a car wash, but want their oil changed – so...

Mr. Panico responded that they can't go in that way, Tom – they have to go in the line, come out and exit with the flow of traffic.

Comm. McGorty stated that he doesn't think that he saw that explained -with everyone going through the car wash.

Mr. Panico corrected him that no, everyone didn't have to go through the car wash. He found the site drawing depicting the traffic flow to explain that the standard formation would be to have everyone enter the same location – those wanting just a car wash, just an oil change, or a car wash & oil change. They all come in the same way. He showed the direction cars would take just for an oil change and flow of cars going for just the car wash (full service or self-service) or for the car wash & the oil change. He showed the exit locations and the point at which an employee would take the vehicle into a oil change stall or to the temporary location before going into an oil change stall.

Comm. McGorty responded that there still didn't seem to be a lot of room over there with cars going against each other. It seems as though they are trying to force a lot into a small area.

Mr. Panico commented that they are only talking about two bays. Even without the oil change bays that type of potential conflict will always be there.

Comm. McGorty asked for clarification as to which two bays were for the oil change bays. Mr. Panico showed the location of the bays and amount of space that would be available if they were allowed to grow and have another bay.

Comm. Sedlock commented that he recalled that they proposed that this be revisited in a year to see if it was functioning properly and readdressing these issues again if they had too.

Mr. Panico responded yes, that's correct – that was part of the intent – and to modify the arrangement of things if the Commission felt that there were conflicts.

Chairperson Parkins commented that the use remains – correct? If they approve the use, then it changes the use...

Mr. Panico responded that their approval of the plan is conditional upon it working properly.

Chairperson Parkins asked if it still changed the permitted use.

Mr. Panico responded yes, it still incorporates that use – yes, that is half the battle.

Chairperson Parkins commented that they could not withdraw a use after it has been given – correct?

Mr. Panico responded no, as with any other zoning regulations, they would have to have a public hearing, amend the Statement of Uses and eliminate it if it was not functioning. He added that he was not trying to be an advocate of this by any means. However, he just looks at this and sees that in the current situation with just a car wash, it is a very under-utilized site.

Chairperson Parkins stated that her other question would be “who would police it?”

Mr. Panico asked in what respect.

Chairperson Parkins responded that she wanted to know who would see if this works, and who would determine whether there is traffic backed up.

Mr. Panico responded that he thinks that they would probably hear the complaints and they would probably be made aware because some of the Commissioners mentioned that they used this car wash. He reiterated that he didn't want to appear to be an advocate of the proposal; however, he's just trying to keep it on an even playing field.

Chairperson Parkins commented that she keeps recalling the meeting that she was present at in August 2007. At that time, the Commission came to an agreement. She read from the minutes of that meeting which stated that “the Commission came to an agreement in which the language was very specific about what would be allowed – no more.” “Exactly one year later, the applicant has returned for something else, stating that they want something different – this will grow over time at this site.”

Chairperson Parkins summarized that was the concern of the Commission at that time. When this application came in previously, the Commission turned it down.

It went before the ZBA and they turned it down. Now, they are back here again. It is their right, but at that time, the Chairman didn't believe anything had changed – and that was back in 2007. Chairperson Parkins added that she didn't personally think that anything has changed with this since then.

Comm. Harger suggested that they should take a vote.

Chairperson Parkins asked for a motion.

Mr. Panico commented that based upon the discussion that the Commission had prior to developing a motion, Staff was instructed to go ahead and prepare a favorable motion for consideration by the Commission. Therefore, the report and the motion that have been drafted are in the light of a favorable action. He suggested that they could put that on the table, and not pass it.

Comm. Sedlock asked if they could have that draft resolution read and do the motions from there.

Chairperson Parkins responded yes, absolutely.

Mr. Panico read the draft resolution for Application #09-27.

***See attached P&Z Report – Draft Resolution and Draft Motion dated November 24, 2009– for Application #09-27 Dominick Thomas on behalf of Crossroads at Exit 13, Modification of Statement of Uses and Standards and Approval of Modified Development Plans (PDD #53).**

Mr. Panico commented that in regard to the Site Plan and in addressing Tom's concerns, his only reservation would be whether or not the vacuums should be relocated. If they were not on the plan to begin with and if they didn't already exist, he would not put them there. His druthers would be to move the vacuum to another location and save that area for cars that come out of the wash area waiting to be oil changed.

Mr. Panico stated that in his report, he suggested that they could try it this way for a year and if it's working, then leave it. If not, they reserve the right to move them.

Chairperson Parkins noted that they are also setting the limit on the two bays or the number of bays. They have never asked for more than two.

Mr. Panico responded that he thinks that, originally, the request was for three, but they indicated that they'd be happy with the two bays.

Chairperson Parkins responded that in everything she has read, it's indicated that two bays would be used for oil change.

Mr. Panico asked Rick if he had a copy of the original application document.

Chairperson Parkins commented that they may have indicated that they have four bays but, in all the minutes that she read, it didn't say that.

Mr. Panico read from their cover letter from Atty. Thomas dated September 1, 2009 to Rick Schultz and the P&Z Commission. He quoted from the letter that they wanted to add to the permitted uses "vehicle bays not to exceed three." He added that the application request was for three. It was indicated in the public hearing process, that two would be acceptable and they would worry about the rest later on. He added that he got the sense from prior discussions, that the Commission would try it at two and see how it goes. It is up to the Commission.

Chairperson Parkins asked for a motion.

Comm. Sedlock made a motion that they accept this resolution for Application #09-27.

Chairperson Parkins asked for a second. She indicated that there being no second, the motion fails.

Mr. Schultz indicated that it would behoove the Commission to do a second, because then they can do a roll call vote. They are not locked in by seconding the motion. Mr. Panico added that they would just be putting it on the table to take a vote.

Chairperson Parkins asked for a second for discussion purposes.

Comm. Harger seconded the motion for discussion.

Chairperson Parkins asked if there would be any further discussion.

Comm. Harger responded that her feelings have not changed. They asked for a car wash a number of years ago.

Chairperson Parkins took a roll call vote.

For Application #09-27, on a motion made by Joe Sedlock seconded by Virginia Harger, there was a roll call vote on the motion. The motion failed with three against and one in favor. On a roll call vote, Commissioners Harger, McGorty and Parkins voted no and Commissioner Sedlock voted yes. Comm. Lopera recused himself from discussion and voting due to a conflict of interests.

End of Tape 1A, 7:45 p.m.

APPLICATION #09-33 BROADBRIDGE HILL DEVELOPMENT, LLC FOR MODIFICATION OF SITE PLAN APPROVAL (ENTRANCE/PARKING REDESIGN), 140 BPT AVENUE (MAP 105, LOT 51), CB-2 DISTRICT.

Mr. Schultz stated that at the last meeting, the Engineering Department had some deficiencies. The Applicant has met those and he read all the reports and presented the site plan for the Commission.

***See attached report from the Fire Marshal, James Tortora, dated 11/23/09.**

***See attached report from the City Engineer, Robert Kulacz, dated 12/4/09.**

Mr. Panico commented that the Commission may recall the original location of the driveway. Using the site plan, he explained that they didn't know the complete, physical analysis of the culvert that they were coming across at that time. When they finally got that determined in the field, the result was that the pavement elevation there was too high with the grade coming down to the gutter line being too severe; the State Department of Transportation would not issue the permit. The State DOT requested that they slide the driveway in the direction where the culvert goes down, and they can get it within acceptable limits. He stated that is what precipitated the entire revision to this site plan.

Mr. Panico read the Staff Report regarding Application 09-33.

He explained that they need to maintain a driveway for emergency access purposes to the rear of the building. So, in order to take advantage of that, Staff suggests putting 4 or 5 spaces back there just for the owners, not customers.

This will ensure that in order to maintain those parking spaces, the snow will be plowed and emergency access will then be assured. Also, those additional 4 or 5 spaces, besides satisfying code, also give them another 4 or 5 spaces during peak demand times.

Mr. Panico showed some of the other modifications made to the layout for reorganizing the parking along the edge of the building sidewalk to take advantage of car overhang, the positioning of handicapped spaces with required safety walks within the parking area, and the replacement of back up wheel stops with a continuous raised berm. He added that Staff has a distinct aversion to the wheel stops in the middle of parking lots because they are a constant nuisance, moving around, collecting debris and making it difficult to maintain the parking area.

Comm. Harger asked Tony to explain his comment about taking advantage of car overhang.

Mr. Panico responded that in a parking lot with multiple stalls going across, the parking layout is predicated on bumper to bumper. But in the last stall, the wheel stop is the curb, and the car can overhang – so, the distance from the curb to the bumper is the overhang of the car. In effect, it gives them additional width to work with for parking.

Mr. Schultz commented that all the reports are favorable and the Commission was ready to act on the Modified Site Plan.

Chairperson Parkins asked for a motion to accept the modified site plan.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept the Site Plan for Application #09-33.

APPLICATION #09-35 SHOP RITE FOR MINOR MODIFICATION TO DETAILED DEVELOPMENT PLANS FOR PDD #18 (MINOR ADDITIONS), 875 BPT AVENUE (MAP 9, LOT 16).

Mr. Schultz indicated that he would read the Fire Marshal's report, and he reminded the Commission that they directed Staff to put this on tonight's agenda for possible action. He added that the City Engineer's Office has no comments because this is just a reuse of the building, and Staff has prepared a report that Mr. Panico will read.

***See attached report from Fire Marshal, James Tortora, dated 12/8/09.
*See attached P&Z Report dated 12/8/09 regarding Minor Modifications of Detailed Development Plans, PDD #18 on 875 Bridgeport Avenue for Application #09-35, Shop-Rite of Shelton, LLC.**

Using the site plan and the store plan, Mr. Panico explained the location requested for additional storage in the rear loading dock area and the modifications to be made to accommodate another loading space in a different location. He added that, in this case, due to the topography and the density of the evergreen plantings in that area, the entire loading dock area will be concealed from view.

He showed the location of another minor change at the right front of the building to add a narrow corridor/room for recyclables. Mr. Panico stressed that the overall character and design of the building will remain unchanged.

He explained that there was also landscaped island in one area that needs to be removed and replanted in another area for additional screening.

Mr. Panico stated that the Applicant has been reminded that any new masonry walls shall be brick masonry consistent in color and detail with the rest of the building.

There was some discussion about the need for more screening of the open loading dock area requested in the back of the building. Chairperson Parkins commented that it is visible coming up Bridgeport Avenue from the traffic light, so if they could do something to screen that a little more, it would be good.

Mr. Panico commented that they can put additional landscaping in that area – 3 or 4 sizeable evergreens. Fortunately, it is only one loading dock up against the building and the area can be enclosed.

Chairperson Parkins asked about trucks parking there, or if they just unload and load.

Mr. Schultz responded that they use all their own trucks for all of their stores so they aren't there that long.

Mr. Panico concluded the report stating that it was very relatively straightforward but Staff needs authorization and Staff will continue to work with the Applicant to address any loose ends.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously roll call (6-0) voted to approve Application #09-35.

APPLICATION #09-36, WILLIAM DLUGAS FOR SUBDIVISION APPROVAL (DLUGAS SUBDIVISION: 2 LOTS), 88 VALLEY ROAD (MAP 72, LOT 116), R-1 DISTRICT.

Mr. Schultz showed the Commission a map of the area for this subdivision request and stated that this location is off of Waverly Road; one of the last large pockets of agricultural land in that vicinity. He indicated that he would read all the correspondence for this.

***See attached report from City Engineer, Robert Kulacz, dated 12/4/09.**

***See attached correspondence from Naugatuck Valley Health, dated 11/23/09.**

***See attached P&Z Staff Report with recommendations dated 12/8/09.**

Mr. Schultz explained that a private well is proposed for Lot #2; therefore, a public water connection is not located within 200 feet. He indicated that the laws are, that if public water is water within 200 feet, then it has to be extended unless it is waived by the Department of Public Utilities.

He added that the proposed Lot #2 also has a large area of wetlands; therefore, the Inlands Wetlands Commission is to be informed.

Mr. Panico asked if this was a re-subdivision.

Mr. Schultz responded that this parcel split off the parcel subsequent to 1963. Their subdivision regulations are dated May 1, 1963. They split off a parcel of

land to an adjacent property – that was the free split, so the creation of Lot #2 precipitates a subdivision. He added that they are entitled to one free split after the effective date of the local subdivision regulations.

Mr. Panico asked if the original spin-off of the mini piece was prior to the subdivision regulations.

Mr. Schultz responded, yes prior, not subsequent, it was done in the 1950's.

Comm. Harger asked if they would be creating a new driveway.

Mr. Schultz responded that there is an existing driving – a gravel driveway from Valley Road that loops all the way around. This had been a farm, and they still have livestock, but for purposes of accessing their house, they come in from Valley Road. Right now, there is not a turn-around, so they take this opportunity for snow plows and fire apparatus to build a turn around to accommodate those vehicles. But there are two ways to get into the property.

Mr. Panico asked if Lot #2 would have an easement across the driveway.

Mr. Schultz responded yes, and this is a family situation. Mr. Schultz read the P&Z Staff Report dated 12/8/09.

He showed the location of the lots and explained that Lot #1 looks like an interior lot. However, an interior requires 60,000 square feet or 2 acres depending upon the frontage. They went to the ZBA and indicated this was a family situation and they only wanted a conventional lot and not an interior lot.

Chairperson Parkins asked what happens if this becomes a non-family situation.

Mr. Schultz responded that the Commission has the ability to impose that it remain this way for one year. State statutes don't say into perpetuity.

Comm. Flannery asked what the residents around this area have to say.

Mr. Schultz responded that they all received notification and they have no issues. This is a family situation and they've been well received.

Mr. Schultz added that he is awaiting the Fire Chief's letter, but he doesn't anticipate any issues because he relies on the cul-de-sac to comply with the subdivision regulations, which it does.

Mr. Schultz noted that because of the soil characteristics here, it is not anticipated for any blasting.

Chairperson Parkins asked if they have indicated what the size of the house would be or are they just looking to subdivide it right now.

Mr. Panico indicated that they've illustrated a house – about 3000.

Mr. Schultz responded that according to the Valley Health application, he thinks it's three bedroom.

Mr. Schultz explained for new members that notifications went out by certified mail to the abutting property owners.

Comm. Flannery asked if there was anyone here from the neighborhood.

Mr. Schultz responded no, this is one of the original owners, and they are keeping it in the family. It is a low lying area, so they are the ones getting the water; it's not like they are up high creating water issues. He indicated that he would read the draft motion to approve the subdivision for Application #09-36. He concluded that they are exempt from the open space set aside or any money.

Chairman Parkins asked if they sell it, and don't provide any money or open space, to a non-family member, does that get rescinded.

Mr. Schultz responded yes, if it happens after one year. They put it on the record map that the family shall own title to the property for a minimum period of one year. They all do it because it is in their best interests. The neighboring statute to not take it to the perpetuity is for at least 5 years or 10 years.

Mr. Panico commented that the statute doesn't put in the time frame, so it's up to the municipality to decide what it deems an appropriate time limit.

Mr. Schultz responded that they've always used a minimum period of one year. But they will be readdressing zoning and subdivision regulations, and they are upping the 10% set aside to 15% - so it will be revisited.

Chairman Parkins and Mr. Panico commented that one year is too small – five years sounds good.

Mr. Schultz also informed the new members that they have a subdivision agreement that they can do the work right now before recording the record map or submit an agreement stating that they'll finish the cul-de-sac within two years; most people do the later so they can endorse the record map. But they do have that provision to sit back and get two 90-day extensions and complete the physical improvements.

On a motion made by seconded by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to approve Application #09-36.

NEW BUSINESS

APPLICATION #09-37, AOEL PROPERTIES, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVERSION OF SINGLE FAMILY TO TWO FAMILY DWELLING), 3 ORCHARD STREET, (MAP 117D, LOT 64), R-5 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz explained that this is an existing single family dwelling that is over 10,000 square feet. They have an investor that wants to convert it from a single family to a two-family and turn it from a family member to a non-family member. So, it is an investment property, but they are going to be rehabbing this building that is in dire straits. This is a good situation. There will probably be some interest insofar as this is the Stanley's Market neighborhood, and people there will want to know what is going on.

Mr. Schultz explained that this one is pretty straightforward because it is a large, multi-story building and there is significant parking. It was a large one-family with plenty of area for 4 -5 on site parking which isn't often seen.

Chairperson Parkins asked if it was presently occupied – or is it in disrepair.

Mr. Schultz responded that he doesn't believe it is – it's in disrepair. Some of the issues will be the outside stairwell on the side, on-site parking, architectural and overall appearance. There are many side issues so that is why about 13 years ago, they upgraded the level of review to make this a special exception.

On a motion made by Patrick Lapera seconded by Thomas McGorty, it was unanimously voted to accept and schedule a public hearing for Wednesday, January 27, 2010.

PUBLIC PORTION

Chairperson Parkins asked if there was anyone wishing to address the Commission on an item not on the agenda. There was no one so they moved on to Other Business.

OTHER BUSINESS

APPROVAL OF MINUTES: 11/10/09

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to table the minutes of 11/10/09.

8-24 REFERRAL: ACQUISITION OF 74 PERRY AVENUE BY THE CITY (PARKING LOT)

Mr. Schultz explained that this is the Sadick property across from Plumb Memorial Library. He read the 8-24 Referral request from the Mayor's Office.

Comm. Flannery asked who the City was buying property from for this parking.

Mr. Schultz responded that it was from a private family, the Sadicks.

Comm. Flannery asked what was there now.

Mr. Schultz responded that it was a single-family dwelling with a large lot.

Comm. Flannery asked if they would be buying the house.

Mr. Schultz responded yes, to be knocked down.

Comm. Harger explained that they aren't doing it, they are reporting favorably on it.

Comm. Flannery asked if the City of Shelton was buying a house to knock down – and if anyone was in the house now.

Mr. Panico responded that the Commission would be reporting favorably or unfavorably on a proposal by the City of Shelton to acquire the property for purposes of expanding the parking for the library.

Mr. Schultz explained that this was the estate of Mr. and Mrs. Sadick who have passed away. It is similar to a situation where a house was knocked down by Lafayette School for more parking. The Plumb Memorial Library is in dire straits for additional parking. The Library Staff has increased substantially over the last 20 years, and they would like to have the employee's park there.

Comm. Harger added that the request originally came from the Library Board to acquire the property.

Mr. Schultz indicated that the City Engineer's recommendation is to endorse the proposal to purchase the property.

***See attached correspondence from the City Engineer, Robert Kulacz, dated 12/3/09.**

Comm. Lapera commented that he was encouraged that this would provide more parking for the Library. He indicated that he thought that was wonderful.

Chairperson Parkins agreed that downtown parking in general is needed for Shelton Day and other things.

Comm. Harger indicated that the house has pretty much been in disrepair for years. The owners were quite elderly when they passed away.

Comm. Sedlock asked how much it would cost to purchase that property and put in a parking lot.

Comm. Harger responded that the BOA would have that information.

Chairperson Parkins commented that it wouldn't be under their purview, they just decide whether they agree it is a good idea or not – report favorably or unfavorably.

Comm. Sedlock asked if the rest of the family wanted to get rid of this property.

Comm. Harger responded that she knows it has been on the market.

On a motion made by seconded by, it was unanimously voted to report favorably on the 8-24 Referral for the Acquisition of 74 Perry Avenue by the City.

PAYMENT OF BILLS

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

STAFF REPORT

Mr. Schultz reviewed the P&Z Staff Report highlighting an issue from the ZBA regarding a use variance to allow food establishments with take out service at the Blockbuster location, an LIP District, which presently prohibits all types of food. The Commission discussed many issues regarding food establishments and the take out use and the traffic difficulties at that location.

After much discussion, there was a consensus that the Commission did not support a food establishment with take out service; however, a food establishment with on site dining may be acceptable at that location.

***See attached Shelton P&Z Report dated December 8, 2009.**

Comm. Flannery indicated that she wanted to make a suggestion to modify the Agenda and have the Public Portion moved to the beginning of the meeting so that the public wouldn't have to wait until later in the meeting, 8:30 p.m. or 9:00 p.m. to speak.

Comm. Harger responded that the Commission also has to look at the number of items that they need to go through on a month to month basis; she commented that it is appropriate to leave it where it is.

Comm. Flannery responded that's telling the public that they don't want to listen to them.

Comm. Harger disagreed and stated that they aren't telling them that at all – the Commission has an agenda and business to conduct. She doesn't believe that anyone would walk out thinking that the Commission doesn't want to listen to

them. There is a lot of City business to get through, a lot of residents and applicants that need to have things move along. Her concern would be that unless the Commission specifies a 5-minute limit, and have the clock start - and then that's it.

Comm. Flannery agreed that there could be a limit.

Chairperson Parkins agreed that she thinks that there needs to be a limit.

Comm. Sedlock commented that they did that once before, and people ignore it.

Comm. McGorty added that it would need to be enforced where they are asked to leave the stand.

Comm. Sedlock stated that if they have that Public Portion first, this meeting could be ending at 2 a.m.

Chairperson Parkins indicated that the Public Portion is only at the Regular P&Z, 2nd Tuesday of the month meeting, not the Public Hearings that may go on and on. She asked if there was a consensus to keep things as they are.

Comm. Lopera responded that he wants to keep it as it is and do the business first. They can put the Public Portion before the approvals, the 8-24's and all that though. He suggested putting it between the Old Business and New Business.

Comm. Harger and Comm. McGorty agreed.

Comm. Flannery commented that she thinks it is very unfair to make everyone sit through all of this when they just want to come here and voice their opinion.

Chairperson Parkins responded that sometimes people may also have an agenda to keep and if it can't be kept to a specific amount of time, then...

Comm. Sedlock commented that he liked what Pat proposed about taking care of the immediate business and then moving on to the New Business.

Comm. Lopera agreed yes, just put it in the middle and take care of City business before taking any public comments for things not on the agenda. There was no further discussion about changing the agenda.

Before adjourning, Chairperson Parkins indicated that they had a guest, former Commissioner Leon Sylvester. She stated that she would like to present a plaque, on behalf of the Shelton Planning & Zoning Commission, to Leon Sylvester in recognition for his 24 years of service to the City of Shelton, as both a member and a Chairman of the Shelton Planning & Zoning Commission. She added that Tony Pogoda would have liked to have been here if he were not ill tonight.

Leon accepted his plaque and commented that he isn't quite sure how he worked on the Commission for 24 years, but he enjoyed most of it. He stated that it was privilege to work with some great people. He mentioned that he'd like to say that Tony Panico has been on the Board as long as he has been, and he wanted to say for the record that even though they didn't always agree on everything, he has great respect for Tony and the work he's done for the City of Shelton. He commented that he also has the utmost respect for Rick Schultz and the work that he does on behalf of this City.

He's appreciated working with everyone and he finds that Shelton is very lucky to have such a tremendous burden placed upon such a few people. Leon reiterated that he knows how hard it is to make these decisions. He knows that in the 24 years that he's been on the Board, he realizes that he didn't always make the best decision, but he was always trying to do the right thing for Shelton. He thanked everyone on the Commission for the plaque.

ADJOURNMENT

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

Respectfully submitted,

Karin Tuke
Recording Secretary, Shelton Planning & Zoning Commission