



Atty. Thomas indicated that he wanted to take this opportunity to say something that he has said before, and he will say it again. When having public hearings, and he has attended public hearings at numerous P&Z, Inland/Wetlands, etc., this is the only town in which he goes to a public hearing and the City Engineer sends a piece of paper and does not attend. Almost all others, when there is an engineering issue, the Engineer is in attendance. Atty. Thomas indicated that it is extremely difficult for an applicant, and he would assume for the public, to address issues raised by the Engineering Dept. when they are handed a letter approx. 45 seconds before the Public Hearing commences. It makes it very difficult. They would like to respond as fairly as possible. The problem that they have is those matters that are public hearings – special exceptions, zone changes, etc. – when they deal with that, it is impossible to sit here and address something during the public hearing. And once the public hearing closes, they cannot discuss the matters with the Commissioners. Atty. Thomas indicated that at most of the places he goes, and at the meetings he's attended – and he's sat on the other side of the table in Oxford - they don't attend every meeting, if there isn't an issue. When he was Town Council, he didn't attend if there weren't any legal issues, he wasn't called. Atty. Thomas continued that in most instances, the Engineer is sitting there so that the Commissioners can look right at him and ask if there are any problems and how to address them. He stated that this Commission has the advantage of having Mr. Panico to comment on it, but it is still a situation where, as applicants, it is difficult to address these issues.

Atty. Thomas commented that in regard to one of the issues about who signs the map, he doubled checked that. Mr. Gordon is absolutely correct; it does not have to be signed by a P.E. It's been resolved and he checked it out with Jim Swift and others - but they constantly get this and it makes it difficult for them to respond.

Atty. Thomas stated that in addition to the things that they've addressed, and that Mr. Gordon will address, they have met with the owners of 15 Ladyslipper Drive, Mr. Jan Rudzinski and his wife. They have discussed a couple of issues with the Rudzinski's including the boundary line and another issue that they haven't had a lot of time to go into the details about. Atty. Thomas commented that he doesn't want to commit or speak for them, but if, as proposed, a 2:1 is generated, there would be approx. 100 trucks removing property. At a 3:1 slope, about 40% of the property, with about 40% of the material being taken out and that would be about 175 trucks.

Atty. Thomas indicated that he spoke to a representative at Mark IV and he thinks that they said one to two excavators would be operating on the site. Mr. Rudzinski and his wife met with them because they have an interest in 100 or so yards of the material in which to extend their backyard. They have two small children. Obviously, they want nothing to slow this up and they want to be able to close the public hearing tonight and be able to have a resolution in accordance with the plan they have proposed. Atty. Thomas indicated that he mentioned this very briefly to Mr. Schultz, who advised him to bring it up even though there are no definitive plans. But, apparently, despite what he said the regulations say, the P&Z Office operates that a very small amount that constitutes basic landscaping or someone extending their backyard, can be handled by Staff.

Atty. Thomas indicated that this Town's regulations do not have a cut-off like other towns have – 400 yards, 600 yards or something like that. So, they don't want to be accused of not mentioning it; so, they are mentioning it, but they have no details. He commented that he would show them that they won't be killing any trees; it appears that the material can be brought directly over so it wouldn't go onto the road. He showed the Commission a map depicting the approximate area (shaded) of where the material has been requested, and two

photos of the area to be filled. He explained that it is an area of thick brush near the property line.

Mr. Panico asked if this was a natural low spot.

Atty. Thomas responded that Jeff would have to answer that especially since this is a sensitive issue with the City Engineer's Office. They have been in discussions with the neighbors about the area that is across. If they can't work it out, the material that is on their property, boundary line will be removed. If they work out it, that material can be graded out, top-soiled and seeded. This property line issue is something that is new to his client and to the Rudzinski's – no one was aware of this issue and there are other items they are discussing with them. Atty. Thomas indicated that he doesn't want any of it to hold up this public hearing. They want to end it and get a resolution so that work can be done to resolve the issue.

Comm. Harger asked for clarification of the area requesting fill. Atty. Thomas showed the approx. location on a site map showing the Rudzinski's property lines.

**Jeffrey Gordon, Licensed Landscape Architect & Environmental Planner, Codespoti & Associates, 504 Boston Post Road, Orange, CT addressed the Commission.**

Mr. Gordon commented on the area at the adjoining property and explained that there is a small hollow in the backyard beyond their children's play structure. They would probably take 5 or 6 truckloads of material to fill that and grade it off. The benefit to Mark IV is that it would be 5 or 6 trucks that aren't driving down the street; they would just move it right up next door. It is part of the material that would come out of the site.

Mr. Gordon referenced the Town Engineer's letter, he indicated that he had some drafting oversights on Page SP2M where it says "grade off to a 2:1 slope," obviously, they changed the grades to a 3:1 slope. The profile shows it as 3:1 very clearly. He referenced another area on Page SP4 they had a triangle in the center depicting a 3:1 slope. They are talking about a proposal to move 2650 cubic yards of material. He showed a profile of the whole area that had been filled and the shaded area indicating what would be removed from that to leave a 3:1 slope as requested by the Commission and suggested in Mr. Schultz's diagram.

Mr. Gordon indicated that another area that it mentions 3:1 is on the detail sheet; it shows a 2:1 slope. It is a generic detail. It is a planting pocket on the hillside; it is not to scale. But every place where it matters – it is articulated as 3:1. He apologized that in correcting these types of plans, sometimes a few things get by.

Mr. Panico asked if he was representing that in no case will the slope be in excess of 3:1.

Mr. Gordon responded to the Town Engineer's letter regarding the slope by showing the Commission an area in the northwest portion that was steeper than 3:1. He explained that there is one tiny area where they are transitioning into the existing grade, and he would actually have to cut the hillside of the virgin territory back to get 3:1 or he would have to push the fill out more to get 3:1 – so, they have to transition in someplace to get to what was once there.

Mr. Gordon referenced Sheet SP2M and showed that in order to make a grass slope they've increased the plantings in certain areas, so they've massed them

together so they can have some lawn areas that are sweeping through it, and big masses of plantings with brush, evergreen, flowering trees and whatnot.

Mr. Gordon indicated that one of the requests from the Commission was that he go on the Internet and get pictures of plants. He added that anyone can go on the Internet and get all the pictures they want. He showed some printed photos of shaglow which is one of the first to flower in the spring and the birds like the berries. He showed a picture of the red twig dogwood which is a leaf plant that is good on embankments. He added that it looks quite nice on slopes with snow and it is used quite a bit as an erosion control plant because it grows very good on slopes.

Mr. Gordon responded to a question about using Mountain Laurel or rhododendron but those are plants that they wouldn't plant on a fill slope. Mountain Laurels would be planted on the fringe of a natural woodland so that it gets the proper amount of sunlight to flower. It wouldn't be appropriate here but they have a hundred red twig dogwoods, pin oaks, maples, shaglow and the Norway Spruce as a good substitute for hemlock which is disease prone tree.

Mr. Gordon commented that in regard to the issue about the encroachment, it hasn't been resolved yet, but obviously, they have to have some level area in the back of the yard to have a place to move the shed off the neighbor's property.

Mr. Gordon stated that he appreciates Atty. Thomas's comments about sealing these plans. They can certainly pull these rulings from the Department of Consumer Protection to Towns throughout the State where their Engineers want to get an Engineer's Seal on everything. He indicated that he appreciates them trying to keep their work in the field but others are capable of doing it. Mr. Gordon concluded that he thinks he addressed the comments and direction from the last meeting and he offered to answer any questions.

Mr. Panico asked, in lieu of the fact that they are in the process of negotiating with the neighbor next door for fill, if that would work into the fill encroachment and eliminate the need for its removal.

Mr. Gordon responded that he thinks that is part of it. They have no problem with that; it is ready and they just want it graded out and seeded.

Mr. Panico asked if it was conceivable that, despite the fact that his maps say he is going to remove that unpermitted fill, if the proper arrangements are worked out, then it might very well be retained.

Mr. Gordon responded that this is the application. If they give him direction or avenues another way, they will be amenable to doing what has been agreed to.

Atty. Thomas addressed the issue of removing the fill as a property owner's issue. If they say leave it - it's doing nothing, as long as it is properly stabilized.

Mr. Panico responded that he just wanted to get it into the record so that no one looks at this six months from now and asks why something wasn't removed. There is the possibility that if these negotiations are fruitful, it will end up staying there anyway.

Atty. Thomas stated that it was their goal to reach a conclusion with respect to this and have the issue of the Rudzinski's property handled by Staff because it is a smaller quantity of material.

In regard to the landscaping issue, Atty. Thomas commented that Mark IV is making an effort, very much, to resolve this case. He has just been handed a

note that the City of Shelton apparently has a request for where it wants this material to go. But if they review their regulations in Article 32, there is no requirement for landscaping. For the record, they are not acceding to the fact that it is a requirement, but they are saying that they will do it as part of the resolution.

Comm. Sedlock asked if the Rudzinski's were going to need a permit for the fill they are going to use.

Mr. Schultz identified the regulations and read the activities that do not apply under Section 32 for Earth Removal – necessary excavation, grading, or removal in connection with improvements on the lot solely for farming or landscaping purposes.

Comm. Sedlock commented that part of the problem was what was contained in that fill. If they are going to move that fill to the Rudzinski's, is it going to be clean fill or include the concrete blocks, asphalt, etc.?

Mr. Gordon responded that there is not that much that they could afford to bring big chunks in there.

Comm. Flannery indicated that she had several questions. First, she wanted to ask Mr. Gordon about the moving of the fill. She wanted clarification if it was going to be 2:1 with 100 trucks of fill being moved or 3:1 slope with 40% of the fill removed. Also, she asked if all the trucks, the 100 trucks or 40% or most of it, is going to the neighbors at 15 Ladyslipper Drive.

Comm. Flannery also asked if all the neighbors were happy with this or just the Rudzinski's. She is more concerned about the neighbors that live at the bottom of the hill and if they are happy with this proposal. Additionally, she doesn't understand why they haven't gotten any input from the Inland Wetland Commission at these hearings because of the wetlands at the bottom.

Comm. Flannery commented that she has concerns, which she expressed at the last meeting, about the oil that could be in this fill and how it would drain. She asked how, with all the rain that they've been having, how would it drain into the wetlands and how it would effect the environment and everyone's properties.

Comm. Flannery reiterated her concerns about erosion, especially because they now have a flood watch for this Thursday and Friday. She indicated that she would be interested to see "before" and "after" pictures of what is happening there.

Comm. Flannery indicated that she had another question about the cost of the fill to Mr. & Mrs. Gaetano because she wanted to know if this was a hardship for them, because her position is that 100% of this fill gets removed. She asked if they got this fill for free.

Chair Parkins asked Mr. Gordon to clarify how many truckloads of fill would be removed – what it equated to.

Mr. Gordon responded that he would answer what he could that is relevant. He reiterated that their proposal is to follow the sketch that Mr. Schultz prepared with the direction of the Commission which is a 3:1 slope. That's approx. 2200-2250 cubic yards which is actually 37.6% of the material that would constitute approx. 175 truckloads of material to be removed from the site. The possibility of material going next door to the Rudzinski's would be about 5 or 6 of those truckloads.

Mr. Gordon explained that a 3:1 slope is a very, very stable slope – they can usually put fill in a 2:1 slope as a stable slope. They could even go to a 1:1 slope with certain riff-raff or other kinds of modifications. Therefore, a 3:1 slope is a maintainable lawn slope so there really is no issue there.

Mr. Gordon stated that the large pieces of construction debris are going to be removed. There is no evidence of any oils in this property whatsoever. He added that the Wetlands Commission has no concern here because there are no wetlands on site. There are wetlands immediately off-site and they are way beyond the review area; therefore, that is not the Wetlands jurisdiction at this point in time.

Mr. Gordon addressed the question of the neighbors being happy, he indicated that every neighbor wants somebody else to provide them with a park – he really can't address that.

Atty. Thomas added that the Article 32 conditions do not reflect the aesthetic view of somebody looking out and in. Anyone, as a matter of right, can come in, and if they comply with the terms listed in 32.5 to come in, subject to the wetlands, they can clear cut their property and level their property as long as they comply with all the standards for drainage and soil erosion sediment control.

Atty. Thomas mentioned that some of the comments were made, thinking that what is going to be left there is going to look like what's there now – but at a 3:1 slope. Your standards and conditions require 6 inches of topsoil, seeding – stabilization, so basically, once they are able to do it – eventually, there will be the six inches of topsoil when it is all done. It will be seeded, there will be graphs and there will be landscaping as agreed to by the applicant.

And by the way, with respect to the soil erosion sediment control measures - before he became involved in this case, obviously, the applicant, Mark IV, must have consulted with Mr. Schultz and Mr. Cook and there is soil erosion sediment controls out there. There are hay bales and silt fences appropriately surrounding the entire property in many areas. He took some photos of the site but he doesn't have them right now – but even after the last couple of storms that they've had, they appeared to be in excellent shape. Nothing appeared to be down and nothing appeared to be damaged by those storms. Obviously, under your regulations, if anything does happen in a severe storm, the applicant is immediately required to go out there and replace them. That is the purpose of the soil erosion sediment control.

Atty. Thomas responded to questions about the issue of the relationship between Mark IV and the owners; it is irrelevant to anything that happens there.

Comm. Flannery commented that he didn't tell her how much the fill cost.

Atty. Thomas responded that he just answered that – the answer is that the relationship between Mark IV and the Gaetano's has nothing to do with what is transpiring here.

Comm. Flannery asked how she figures out if this is a hardship or not.

Atty. Thomas responded that hardship has nothing to do with this. This is a Temporary Special Exception. This is not the Zoning Board of Appeals. Unfortunately, the ZBA sometimes thinks they are P&Z – and you shouldn't be thinking you're them – so there is no hardship issue that's here.

Chair Parkins clarified that in regard to Comm. Flannery's question about the wetlands, Mr. Cook, the Wetland's Coordinator, did determine that there are no wetland regulated activities on this project. There will be bonds set for erosion sediment controls.

Comm. Flannery indicated that she had another question – her property was developed in the 1960's -1970's and they buried all the stumps in her yard; so, now she has all these holes in her yard. She has to go out and buy fill to fill up all these holes that seem to appear every year. She asked what they will do when all the trees and stumps decay on this property and they have all these holes – 10, 20 or 40 years from now.

Mr. Gordon responded that he had commented about this issue before. Twenty or 30 years ago, before regulations were in place, it was customary in subdivisions to take all the tree stumps from any road work and bury them on the side slopes of properties and whatnot – and it would be a mass burial pit. And what would happen, as she is experiencing, 20 or 30 years later, as these stumps decompose, they get sinkholes. In this particular case, they have trees that have been knocked over but they aren't talking about stump burial – with mass graves of them. They have certain areas, and over time there will be some decomposition, but it is not going to be anything like the sinkholes that she is experiencing because it's a major stump burial area. There will be some depressions that they will either live with or cover up with some mulch and top soil. There will not be what she is experiencing. Regulations have taken place since then to prevent that from happening because it is illegal to do that now.

Comm. Flannery indicated that she will have a sink hole in the middle of her driveway in one spot and another one 20 feet away in her driveway. She has all these holes that are 5 feet wide and 20 feet apart all over the place – she has polka-dotted property.

Mr. Gordon responded that in some respects, they didn't take out the stumps. They just left them there and they rotted out in place. Usually, what happened is they would bury bunches of stumps in different areas on the site.

Comm. Flannery noted that on this site here, there are a bunch of trees that are going to (inaudible)...

Mr. Gordon responded that it is not quite the same situation but they mentioned that before – without taking all the material out and putting it back in again – which would be far more disruptive to the environment – they are going to have to deal with certain areas where there will be some decomposition of organic material.

With no further questions or comments from the Commission, Chair Parkins asked if there was anyone from the public who wanted to speak for or against this project.

**Thomas Hanko, 6 Greenfield Drive, addressed the Commission.** Mr. Hanko commented that he takes exception to the Gaetano's representative stating that the neighbor's are wishing to get a "park-like view." That is not his concern. He doesn't appreciate the view that he has now - of the concrete, the asphalt, and fallen trees. That is going to be taken care of and he appreciates the efforts that the Gaetano's are taking to remedy that situation.

Mr. Hanko indicated that he still has an issue of the uncertainty of the runoff and the contaminants that may be left on the property. He finds it relatively hard to believe that 175 truckloads of material will be removed to gain the 3:1 slope. He doesn't think that 175 truckloads were dumped there. The math doesn't add up;

he's happy to see the 3:1 slope and the aesthetic change. He is still concerned with the asphalt that is mainly made of petroleum products that could influence people's wells, because there are still properties with well water. It could influence people's septic systems. The rebar that has been visible in the fill, the runoff, the wetlands, whether it is wetland zoned or not, his property is a skating rink every spring and fall. The City of Shelton just mandated a local development to put in storm drains because the front of the property, his especially, was total ice because of the runoff from the hill behind him. There is no guarantee how that is going to be changed because of this fill. There is no guarantee of what influence there will be with the erosion, with the well water, with the septic system, with the flooding that could occur on his property. He has tried to circumvent flooding on his property with curtain drains and upgrades to his property that he took permits out for.

Mr. Hanko commented that he hadn't heard any discussion tonight concerning the bonding. As far as the insurance bonding, he thinks that is an important aspect of this whole scenario.

Mr. Hanko indicated that he was in no way against anyone upgrading their property. It is not an aesthetic issue anymore. It is an issue of the value of his health and his personal property. He thanked the Commission again.

Mary Peck, 10 Greenfield Drive, addressed the Commission. Mrs. Peck stated that she lives directly below, directly south of this property. She indicated that she has come to the last two meetings to discuss how ugly this looks but, the scary thing is that she is the one on well.

Mrs. Peck indicated that she is quite health conscious as an older mom and she didn't buy this property ten years ago with asphalt and all sorts of unknowns that could get into her septic and well system. She did not buy that, but that is what she has now. This is 2010 and people are more aware of environmental dangers and the impacts on health. More than the ugliness, she is on a well and she doesn't like that there is asphalt buried in there. She doesn't care if they have to take truckloads and truckloads out of there. It took a lot of time to put that stuff there. They were working on it for six weeks or so. She knows that they call it clean fill but she isn't comfortable with the asphalt in it. It shouldn't be in residential neighborhoods where people are on wells. The land slopes and all the runoff goes into her backyard. She has concerns that removing the fill could disturb the environment even more.

Mrs. Peck asked if 6 inches of topsoil would be sufficient for the plantings to grow on top of all that fill.

Chair Parkins responded that if they don't grow, they will have to be replanted because there is going to be a bond posted for that.

Mrs. Peck reiterated her concerns about the environmental dangers and health concerns. She doesn't want them in her backyard. She thanked the Commission.

Richard Sporko, 7 Ladyslipper Drive addressed the Commission. Mr. Sporko asked what type of oversight would be used on this. He wanted to know if someone from the Staff was going to be out there verifying that this is being done in accordance with what has been agreed to.

Mr. Schultz responded that if the Commission comes to a consensus tonight, the resolution will include a variety of issues including the applicant providing a site monitoring plan. They will need to provide phone numbers to contact people, especially on the weekends, when City Hall is closed. All these issues need to be

addressed, in addition to the bonding. He is compiling a partial list right now when they start discussing the merits of the application.

Chair Parkins asked if there was anyone else from the public who wanted to speak for or against this project. There was no one. She asked the Commissioners for their final comments.

Comm. Flannery commented about the math not being correct because she did the math. With the 3:1 ratio – and Atty. Thomas said 40% of the fill would be removed – and last time he told them there were 700 hundred trucks, so 40% of that is 280 trucks. So, she asked if that meant 280 truckloads of fill would be coming out and only 12 -15 are going to the neighbor.

Chair Parkins commented that she believes it was 175 truckloads that were being removed and that 5 truckloads would go to the neighbors. A total of 170 would be removed.

Comm. Flannery said that isn't 40% - that is her question. So the 40% figure is off.

Atty. Thomas responded that he never said 700 trucks. He said that he had been told it was approx. 7000 yards that were brought in – that is what he said. As far as the trucks, he heard 300 or something.

Chair Parkins added that she heard 300 – it has been all over the place – maybe Mr. Gordon could confirm that for us.

Comm. Flannery added that her other question is whether the neighbor's well water would be tested now and maybe a year from now and two years from now to see if there is any effect from this fill.

Mr. Gordon responded to the truckload question. He had computed out approx. 450 trucks because it was 7100 cubic yards of fill. The tri-axel trucks usually have a capacity of 18 cubic yards but by weight limitations, they usually limit it to 15 cubic yards per load. Mr. Gordon reiterated that he had said it was more like 37.6% rounded out. He thinks they calculated 2200 cubic yards would be coming out of the 7100 cubic yards that was brought in and there in lies roughly 37.6%.

Mr. Gordon stated that the only other relevant question that he can be specific about is that he detailed the planting on the slope shows them creating pockets wherever the plantings are. They generally have 6" of topsoil below the bottom wall of the root mass of the plants and then at least 6" material around it. There are planting details and planting on slope details. The 6 inches is basically for the lawn area. They place 6" of topsoil down and it compacts to about 4 inches and that is a standard planting lawn detail that coincides with what the regulations ask for.

Mr. Gordon clarified that as far as monitoring is concerned, his firm, and other engineering firms are routinely hired or requested by Commissions, at the owners expense, to monitor weekly, bi-weekly, and to file reports with the owner, with the applicant and with the commission, about the results and monitor before and after rain events. He's sure that this Commission has a lot familiarity with those types of reports.

Chair Parkins asked how many wells are in the immediate area or how many wells within 500 feet are in the area.

Atty. Thomas indicated that he would address that issue. He responded that they have done testing. He doesn't know how many wells there are. There is no evidence of any contamination and well testing would not be an appropriate thing to place on the applicant or the owner in this situation. It is not really even in the parameters of your regulations. The applicant, Mark IV, went out and did soil testing. There is no evidence of anything; he also provided a definition of what clean fill is and this qualifies, believe it or not, with the exception of those issues of rebar, this qualifies as clean fill. They don't think that would be an appropriate condition.

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

Chair Parkins asked the Commissioners, if based on the discussion tonight, they had a consensus for a favorable resolution.

Comm. Harger commented that she had brought up the issue before about bonding. She thinks it is something that definitely has to be included. She thinks the comment about monitoring weekly or twice weekly seems too little; she thinks the removal project should be monitored more than that.

Comm. Harger indicated that she wouldn't be comfortable making a favorable resolution without some type of language.

Chair Parkins responded that basically from the notes taken in regard to the comments tonight, it should be a 3:1 slope as presented by the applicant and the asphalt will be removed.

Comm. Flannery asked if all it would be removed – 100%.

Mr. Panico responded that they aren't going to be able to recip 7000 yards of material.

Comm. Flannery asked (inaudible).

Chair Parkins responded that as they start taking this fill out, if any rebar is exposed, it will have to be pulled out regardless if it's in the area where they were planning on pulling from or not.

Comm. Flannery asked if there is rebar that is still in there that they can't see – will it stay?

Chair Parkins commented that they would want the testing done, asphalt, concrete and rebar removed, trees and branches to be removed, posting of a sediment and erosion control bond that would address the issue Comm. Flannery had. As well as a site completion bond, landscaping material to be guaranteed for a one year period – that is standard. She noted that monitoring plans should be provided by the Applicant. Chair Parkins indicated that she feels well water testing should be provided to the residents that have well water within 500 feet of the fill area during the fill removal and at least one year after that date with the results being providing to the Planning & Zoning department.

Comm. Harger asked would be the terms, if any stated for the bond or amount.

Chair Parkins responded that there would be a posting of a sediment and erosion control bond and a site completion bond.

Mr. Schultz added that there would be two separate bonds.

Comm. Harger asked what would be the timeframes.

Mr. Schultz responded that it would be immediate and would stay in effect until it's released.

Chair Parkins added that it has to come back before this Commission to get a release of those bonds.

Atty. Thomas commented, that if this public hearing is still open, there is no such thing as a site completion bond. There is no authority for a site completion bond – they can ask their own Counsel. A sediment erosion soil control bond, which is posted is supposed to be efficient enough that if the person goes away, that this site should be stabilized. That is what it is for. There is no authority – the only bond that P&Z Commissions and land use authorities have to do are public improvement and soil erosion control bonds. The site completion is actually the sediment erosion bond.

Mr. Panico responded that he thinks the concern is to insure that the landscaping is done properly.

Atty. Thomas responded that it is part of their soil erosion sediment control bond. They don't have to take his word for it; they can ask their own Counsel. It is part of – because they are not going to finish a site – they don't necessarily have to finish it in accordance with their plans. There is no obligation. By posting a sediment erosion control bond, the Town is required to do is let the applicant walk away - they have to have a bond in place sufficiently enough to stabilize the site. The purpose of the soil erosion sediment control bond is to stabilize the site.

Mr. Panico responded that he thinks Rick is referring to the provision of the work that they are alluding to – into an erosion control bond to handle the immediate issue of protecting the slopes, the drainage, etc. as contrasted with what is required to re-stabilize the site. The re-stabilization of the site is what Rick is referring to as the Site Completion Bond.

Atty. Thomas commented that it is really all one bond and the Applicant has the opportunity to ask at certain points, if he wishes to come in, and ask for a reduction.

Mr. Panico responded that they could roll it up into one bond but customarily what this Commission does is the sediment erosion control bond has been a cash bond so that they would have quick and easy access to the money to go out and remedy an issue that must be remedied immediately. By separating the two, the portion that has to be a cash bond is a much smaller number.

Atty. Thomas stated that they could certainly put two soil erosion sediment control bonds on it.

Chair Parkins commented that they could put a site restoration bond and a sediment erosion control bond.

Mr. Panico added that it is really just semantics.

Chair Parkins commented that in the spirit of cooperation, Atty. Thomas, should be agreeable to do that.

Atty. Thomas responded that they should put the conditions on it and they'll (inaudible) at the next meeting.

With no further comments, Chair Parkins asked for a motion to close this public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #09-38.**

**APPLICATION #10-01, DOMINICK THOMAS ON BEHALF OF 714, LLC FOR INITIAL DEVELOPMENT CONCEPT PLAN APPROVAL AND PLANNED DEVELOPMENT DISTRICT ZONE CHANGE (RETAIL SHOPPING CENTER), 405-407 BPT AVE. AND 12 NELS ROCK ROAD, 20, 28, AND 36 BUDDINGTON ROAD, AND A PORTION OF 409 BPT AVE AND ACCESS ROAD (MAP 77, LOTS 26, 27, 28, 29, AND 30 AND MAP 63, LOTS 10 AND 20)**

Comm. Harger read the call of the hearing.

Chair Parkins indicated that Comm. Sedlock departed the meeting at 8 p.m. because he was not feeling well.

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission representing the applicant.** Atty. Thomas wanted to question an error in the call of the hearing indicating that it states there was 193,000 square feet – because there is not that amount of square footage in the project, so he wants to clarify that.

Chair Parkins noted it was in the 2<sup>nd</sup> paragraph -193,180 square foot building. Mr. Panico asked what the correct number was.

Atty. Thomas stated that he did not have that with him and Mr. Swift is not here because they aren't making a presentation; however in looking at the notice that he sent out to everybody...

Mr. Schultz clarified for the record that the plans show four separate components of the main building, and that was inadvertently added to the main building which is 126,924 square feet. So, the other buildings were added to the main building. He indicated that Retail Building A is 126,942 square feet; Retail Building B is 400; Retail Building C is 1800 square feet so that is a 132,000 total.

Mr. Schultz stated that he would add a clarification in the legal acknowledging that the hearing is being continued to March 24<sup>th</sup>.

Atty. Thomas stated that he was introducing his notices as he is required to do, the photographs of the posting, which they posted in the front and the back. He indicated that it was posted on the Bridgeport Avenue side and on the Buddington Road side. He indicated that they got most of the notices back. They will notice that in addition to getting a copy of SP1, each notice contained in large font, capital letters telling everyone that they would not be making a presentation tonight and that it would be done on March 24<sup>th</sup>. They did not have all their reports in and one significant report is being updated and there were some recent changes, and that was a traffic issue. Therefore, that is why they have requested this and they thank the Commission for its consideration. So all people were notified that they wouldn't be making a presentation. He thanked the Commission.

Mr. Schultz clarified for the audience and the Commission that this is 132,742 total combined square footage of all the three buildings. The main building is 126,942 square feet.

Chair Parkins asked for a motion to continue this public hearing until March 24<sup>th</sup> since the applicant has stated that he will not be making a presentation tonight.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to continue the public hearing for Application #10-01 until the March 24<sup>th</sup> P&Z meeting.**

Chair Parkins indicated that the meeting would reconvene after a 5 minute recess.

Meeting Re-convened 8:05 p.m

## **OLD BUSINESS**

### **APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE SEPARATE #5225 KAELIN'S, 495 RIVER ROAD, SIGN**

Mr. Schultz indicated that he provided a digital photo of this sign to the Commission. He showed the Commissioners a rendering of the Kaelin's signage.

Chair Parkins asked the Applicant if she knew that signage is approved by this Commission prior to putting it up.

**The applicant, Mary Grant, owner of Kaelin's, 495 River Road, Shelton, CT addressed the Commission.** Ms. Grant responded that no one ever told her that – the sign people when she picked it up; they told her that they didn't know the procedure in Shelton. She added that she was surprised that a sign company would not know that and didn't tell her that the blueprint of the sign needs to be approved by City Hall first.

Chair Parkins commented that it is a very nice sign but with all the stuff on it – it is something that they don't allow – the graphics of the food. She asked if the sign company could, without remaking the entire sign, just paint over the all of the pictures on the sign. She asked if it could be sanded off or removed.

Ms. Grant responded that they gave her some information about the sign indicating it is made of Alumi-Lite she doesn't know if they could. She added that she could always do it herself.

Chair Parkins responded that she should have it done professionally so that it looks nice.

Ms. Grant responded that they would probably charge her about \$400.00 though.

Comm. McGorty asked the applicant if she was occupying both of the stores.

Ms. Grant responded yes, she has 2100 square feet.

Comm. Harger asked if this sign was already up.

Ms. Grant commented that about two weeks ago Mr. Dingle told her that he thought she knew the procedures for the sign. Mr. Dingle said that he would sign her off, she could open up and they can discuss it later.

Comm. Pogoda commented that the sign is a good-looking sign but in the past, they've attempted to tell people, prior to and even after the fact, and they have tried to get most people -actually all of the people - to take off all this stuff. There is nothing wrong with the sign – it is a nice looking sign - and the color is

muted from what it was before because it was very bright. But the other stuff – he frowns upon it and that's just his opinion on it. As the Chair mentioned, they hope the possibility exists for her to have the other stuff painted over. He thinks that would be the lesser of two evils.

Ms. Grant responded that she could never have that sign re-made, it is over a \$1000.

Comm. Pogoda asked if it was painted.

Ms. Grant responded that she doesn't think it was painted; she thinks it is dyed plastic. If need be, she could go to Home Depot, match the color, get on a ladder, paint and then spray it with a clear coat.

Comm. Flannery asked if she could cut it.

Ms. Grant responded that she couldn't cut it.

Chair Parkins told the applicant that she should check with the sign company first prior to doing anything like that because it will not do any justice to the business – to botch up her sign like that. She strongly suggested that she contact them first to see what they could do.

Comm. Flannery asked if this was a sign company that has done work for Shelton companies that they have approved in the past.

Ms. Grant responded that it was called New Age Design in Seymour by Alan's Plumbing.

None of the Commissioners or Mr. Schultz could recall processing an application from that sign company. Mr. Panico responded that maybe they really don't know about the sign regs in Shelton.

Ms. Grant responded that she doesn't think they have done much work here. She said that they mentioned doing work in Derby and Oxford. She told them that the rules that apply to one town doesn't necessarily pertain to Shelton.

Chair Parkins responded that they should know that.

Mr. Panico added that he thinks, from his point of view, that the symbols detract from the sign anyway. It is really a very nice sign without all that stuff on it.

Comm. Pogoda agreed that is what happens – a good looking sign - and putting all that stuff on it makes it too busy.

Chair Parkins urged the applicant not to try doing it herself.

Mr. Panico commented that certainly, it shouldn't cost them \$400 to paint those out. Chair Parkins agreed that they should probably be able to etch it out and retouch it.

Chair Parkins asked the applicant to check with her sign company and get back to them for the next meeting. Ms. Grant agreed to do that.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table Separate #5225.**

**ADJOURNMENT**

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn at 8:15 p.m.**

Respectfully submitted,

Karin Tuke  
Recording Secretary, Planning & Zoning Commission