

**SHELTON PLANNING & ZONING COMMISSION — APRIL 13, 2010**

**REVISION 1**

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The Shelton Planning & Zoning Commission held a regular meeting on April 13, 2010 at 7:00 p.m., in Auditorium, 54 Hill Street, Shelton, CT. The Chair reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins  
Commissioner Joan Flannery  
Commissioner Virginia Harger  
Commissioner Thomas McGorty  
Commissioner Anthony Pogoda  
Commissioner Joe Sedlock  
Commissioner Ludwig Spinelli

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.

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Chairperson Parkins began the meeting at 7:00 p.m. with the Pledge of Allegiance in the Auditorium.

**AGENDA ADD-ONS**

Chair Parkins indicated that she had two items to add on to the Agenda tonight which would require motions.  
Under Old Business, Application #5293: Kathleen Barone for a new business at Leavenworth Road in the White Hills Shopping Center; and Under New Business: Application #10-10, Site Plan for outdoor storage area for mulch and top soil, Bridgeport Avenue, accept for review.

**On a motion made by Virginia Harger seconded by ~~Thomas McGorty~~, it was unanimously voted to add Application #5293 to the agenda under Old Business and Application #10-10 under New Business.**

**OLD BUSINESS**

Chair Parkins asked if any of the Commissioners had questions regarding the Standards and Separates on the list for the Applications for Certificate of Zoning Compliance.

Commissioner Harger asked about #8 Standard #5245 Pam Landan, 350 Bpt. Ave. for a business. She asked the nature of the business.

Mr. Schultz responded that it is for a Nail Spa.

Commissioner Harger asked if that was taking over an existing nail salon or is it something entirely new.

Mr. Schultz responded that the previous tenant was another retail.

Comm. Harger asked if this was the one by the Draft House restaurant.

Chair Parkins responded yes, it will replace the Huntington Nail Spa – same use.

## **APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE**

### **SEPARATE #5225, KAELIN'S, 495 RIVER ROAD, SIGN**

Mr. Schultz asked if the applicant, Mary Grant, was present. She was not present. For the benefit of the Commission members, he informed them that he contacted the Applicant who indicated that to correct the sign it would be in excess of \$500.00, and she doesn't have that funding to modify the Kaelin's sign. He recalled that there are graphics on it that the Commission would like to see painted over. In light of that, Staff is recommending that the Applicant revisit this Commission within one year to see how well her business is doing and hopefully, paint over those graphics.

Mr. Schultz indicated that in addition to that, Staff will send a letter to the manufacturer to sign and acknowledge that what was done was in violation of the Shelton Zoning Regulations. So, because this application has been tabled for so many months, it is important that they put it to rest, but with those two conditions.

Comm. Flannery commented that she drove by to look at that Kaelin's sign. She also looked at everyone's signs around there and she noticed that the liquor store has pictures of liquor on their signs. Everybody has pictures on their signs in the whole area.

Mr. Schultz responded that is not what the Commission approved though.

Chair Parkins added that is the unfortunate thing. It is an enforcement issue, and they do have regulations that need to be followed. They can't just be followed by some and not others. They realize that she is a new business and she has a hardship right now in paying for this. If she had gone through someone that knows the procedures here, then she may have spent more up front but wouldn't be faced with this dilemma right now. So, in light of the financial situation, they'd be willing to wait the 12 months to give her some time to get the money before enforcing anything.

Comm. Harger responded that she'd like to make it 6 to 8 months; this is April, so by the end of the year.

Comm. Sedlock asked what kind of business it is.

Comm. Harger responded that it is a deli.

Chair Parkins showed Comm. Sedlock the signage being used by Kaelin's.

Comm. Harger commented that it is a matter of the other businesses getting the wrong impression and feeling that they can do whatever.

Mr. Schultz recalled for Comm. Sedlock that she had her sign manufacturer install the sign without the benefit of permit.

Comm. Sedlock responded that he agrees with Ginny. By the end of the year, if she can't come up with that kind of money in 6 months, she'll probably be out of business anyway.

The other commissioners agreed to 6 months instead of one year before enforcement.

**On a motion made by Virginia Harger seconded by Joe Sedlock, it was unanimously voted to approve Separate #5225 with the modification to 6 month grace period before Zoning Enforcement on signage.**

**SEPARATE #5279, SHELTON SQUARE LTD, 862 BPT. AVE., SIGN**

The Commission has an application to replace the entrance sign. He showed a rendering of the proposed signage with the existing entrance sign shown on the right side and the proposed sign on the left side. The major difference is the four anchor stores to be included. The Applicant is here to answer any questions the Commission may have. This is internally illuminated, like the current sign. The subject property is located in a PDD subject to the review and approval by the Commission.

**John King addressed the Commission.** Mr. King indicated that they have been working with Related Properties Corp. on designing the cosmetics to the front façade on the Shelton Square. As they know, the former Bradlees is now comprised of three new tenants, and because of that, the owner has elected to do more work on the front where the small stores are. If coming south from Bridgeport, the sign is hidden by the trees. He commented that across the street is Shop-Rite and TJ Maxx.

Mr. King showed a rendering of the proposed signage that will mimic what is being done in the other area. Since they have an easement with the State, they plan on putting the sign in a location where it is set back 15 – 20 feet so that cars approaching the traffic light have a good view from the street.

Comm. Pogoda asked if it was going in that middle island.

Mr. King responded yes, that is where they are contemplating on putting it.

Chair Parkins asked if that was going to affect the sight line at all.

Comm. McGorty asked how far back from the sight line to the end of the median.

Mr. King responded 20 feet off the street – that will be the start of the signage.

Comm. Pogoda asked if there was a possibility of them, prior to installing the sign, staking the location, putting a marker, as to where it is going to be so that they could visually look at it.

Mr. King responded absolutely.

Comm. Pogoda responded that it will give Commission members a chance to take a ride, take a look at it, and be more comfortable.

Mr. King responded that they will do that. They will have it back far enough so that at least the first two or three cars up there will be able to look left, because the right is basically unobstructed. There is just grass and the trees don't start until going further down. On the south side of the curb cut, there are trees everywhere and it is very difficult to see. So, they were not going to take the line of sight and cut it down.

Comm. McGorty commented that it sounds like it will be OK, but it will be good to see it marked.

Mr. King asked for a couple of days, or dates that they would like to come out so that they can make sure that they have something up there for them.

Chair Parkins responded that if he could get it done sometime before their next meeting which is the 28<sup>th</sup> than the Commissioners can take a ride there at their convenience to see where it is staked out.

Mr. King responded that they will do that and call Rick Schultz and he can coordinate with the Commissioners.

Chair Parkins asked about the height of 15 feet – off the ground, off of the island?

Mr. King responded that it would be 15 feet off of the grass part of the island.

Comm. McGorty asked about the width, it looks like a square – just under 15' or so.

Mr. King responded that the pylons are about 2' x 2'.

Comm. McGorty asked if it was roughly 12'x15' or 13'x15'.

Mr. King responded that the monument part of the top is 8' wide and about 2' square on the front of the face.

Chair Parkins asked if it was correct that these four stores are the only ones proposed for this signage.

Mr. King responded that these are the major tenants.

Chair Parkins asked for a motion to table this until the 28<sup>th</sup>.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to table Separate #5279.**

**SEPARATE #5261, ABC SIGN CORP, 706 BPT. AVE., SIGN**

Mr. Schultz indicated that "V" Ristorante at Split Rock wants to call it Vazzi's now – it's a marketing thing. He showed a rendering of the proposed signage.

Comm. Flannery asked if they were changing the menu too.

The Applicant (unidentified) responded that everything is the same except he thinks that they have a new chef now.

Chair Parkins asked if this was a new one since the last new one.

The Applicant responded that it was Michael Spallino that is now the Master Chef there.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #5261.**

**SEPARATE #5756 JOE ROCCO, 350 BPT. AVE. SIGN**

Mr. Schultz indicated that this is the Nail Spa that they discussed earlier as the occupant for Standard #5245 and showed a rendering of the signage.

Chair Parkins asked if there were any questions or comments; there were none.

**On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5756.**

**SEPARATE #5254 MARK FERERSTAIN, 303A BPT. AVE., BUSINESS**

Mr. Schultz explained that this was the two-story Chinese restaurant near Sunwood Condominiums off of Bridgeport Avenue. He provided some history by stating that this was originally a dance studio which is a retail use; then it evolved to a restaurant/catering on the first level. The Commission had an application two years ago to expand the restaurant activities and the Commission was going to deny it; however, they withdrew the application.

Mr. Schultz continued that tonight the Commission has a request for a retail use, an aquarium/fish store. The zone has changed. This used to be a Commercial CD zone and it is now a Restricted Business District, just like the car dealership so it has pre-existing, non-conforming. This Commission now has to determine if the use is compatible with that pre-existing, non-conforming status.

Comm. Flannery asked the location of the Chinese restaurant.

Mr. Schultz responded that the Chinese restaurant is on the upper floor area. This would be a retail operation on the lower level, an aquarium/fish store. It will be 2200 square feet, two employees, hours of operation 9 a.m. – 8 p.m. There is a parking lot on the lower level that should satisfy the needs of that.

Mr. Schultz indicated that this is a judgment call by the Commission because the new zone, the Restricted Business is a restricted operation where you have to have 10,000 square feet or larger for each occupant, but this is pre-existing, non-conforming.

Chair Parkins commented that it has been pre-existing, non-conforming for service-related businesses and this is retail.

Mr. Schultz responded that the dance studio was replaced by a food establishment.

Chair Parkins commented that dance is a service industry, not a retail.

Comm. Harger commented that catering is a service too.

Comm. Pogoda recalled that there was a problem with the parking with the restaurant using the lower level.

Mr. Schultz responded that they had that issue with the expansion. The Commission was going to deny that but then they withdrew the application.

Chair Parkins asked if this was still part of the Sunwood complex or is it separate.

Mr. Schultz responded no, it is independent. They were actually there before the access road went in to Sunwood. He asked if everyone understood the issues of the pre-existing, non-conforming situation and they want to occupy the lower level with a retail store.

Chair Parkins asked if it was just fish – or is it a pet store in general.

Mr. Schultz responded it's an aquarium store – 2200 square feet. This is just for the occupancy. They don't have an application for the signage which is going to have to be scrutinized because of the residential use in the back.

Comm. Harger commented that they were hesitant about introducing a retail function like that into the residential character of that whole area.

Chair Parkins commented that she'd have to agree with Comm. Harger.

Comm. Sedlock asked if the applicant was the same people that owned the restaurant upstairs.

Mr. Schultz responded no, it is separate individuals.

Chair Parkins indicated that once they allow retail, it can become another non-conforming use. They've had a service industry non-conforming use and now they are adding retail as a non-conforming use. If it is no longer an aquarium store... (inaudible)

Comm. Sedlock commented that if it's not used is a non-conforming use, than it is vacant.

Comm. Harger commented that they don't want to perpetuate it.

Mr. Panico commented that the question is what happens when this retail use becomes a more active retail use. If this doesn't make it and a new tenant wants to come in.

Comm. Sedlock asked if they just had the one piece under the existing restaurant – where else would they use retail, it has been used as non-conforming before. This is probably just an empty spot where someone is trying to make a buck. Where else would the retail go in that area?

Chair Parkins responded no, if the aquarium were to move out, they are concerned about what would move in.

Comm. Pogoda added that they'd be setting a precedent if they do that.

Comm. Sedlock asked why no one was considering that it was used for non-conforming before.

Chair Parkins responded yes, but not for retail.

Comm. Pogoda reiterated that they would be setting a precedent.

Comm. Sedlock responded for that one particular spot?

Chair Parkins responded yes. It's been used for non-conforming before – but as a service such as the dance, and the restaurant. They would definitely be adding retail to that use of non-conforming. If the aquarium doesn't...

Mr. Panico commented that the Commission had a lot of concern when the owner of the property had petitioned for the establishment of another restaurant operation down there. They were going to do a different type of restaurant. They asked them at length if it was going to be part of the same activity or a separate business entity and the Commission was not convinced that it was going to be the same. And then it ended up going away.

Mr. Schultz added that the consensus was to deny it – by a majority.

Mr. Panico added that it was because of introducing another business but also because of the severe parking restrictions that exist on and around that site.

Comm. McGorty commented that there was concern of them parking up the road into Sunwood.

Mr. Panico commented that they were going to provide some parking up in the woods that were going to intrude on some of the neighbors in the condominium complex.

**On a motion made by Joan Flannery seconded by Anthony Pogoda, it was voted (6-1) to deny Separate #5254. Comm. Sedlock voted in opposition to the denial.**

**SEPARATE #5283 TUYET NGUYEN, 414 HOWE AVE., BUSINESS**

Mr. Schultz indicated that this is referred to as the Botti Building, a 3-story commercial building directly across from the Ripton elderly housing. This is replacing the Children's Boutique. This is 560 square feet, 2 employees; this will be a Vietnamese Sandwich Shop and Café. Hours of operation daily 11 a.m. to 7 p.m. This is probably closed on Sunday. Parking is curbside and in the municipal parking lot across from Kleto's Package Store. There is no request for a sign at this time.

**On a motion made by Anthony Pogoda seconded by Joan Flannery, it was unanimously voted to approve Separate #5283.**

**SEPARATE #5266 STEVEN KATZ, 675 BPT. AVE., BUSINESS**

**SEPARATE #5273 DOMINICK BOANNO, 675 BPT. AVE., BUSINESS**

Mr. Schultz indicated that Separates #5266 and #5273 are in the same location. This is the current Blockbuster that is being proposed to be subdivided into three individual stores. In the package provided to the Commissioners, they have a previous Staff Report for when the Roly-Poly was approved but a coffee shop was denied.

Mr. Schultz provided some background history. Many years ago, the ZBA granted a use variance to allow retail use in this industrial zone. The zone did get changed when they did rezoning on Bpt. Ave. They actually upgraded it to a Light Industrial Park which is one of the most restrictive industrial zones that they have, but there is an existing use variance for a retail use. Tonight they have two of the proposed new tenants and they are food establishments. So they have to determine if it is a permitted use and if so, do they want to process it as submitted tonight or to hold a public hearing. Roly Poly was a process by special exception with a public hearing. In the worst case scenario, they determine it is not a permitted use and offer the applicant to withdraw or they have to take that action. So, this property, once again has an existing use variance. The property owner, Mr. Scinto, went to the ZBA last year requesting food establishments and this Commission recommended that was inappropriate in their judgment, sent a letter to ZBA and Mr. Scinto withdrew his application. So these two applications are under the benefit of the existing use variance which is for retail.

They have the whole package before them with the Staff Report and all the finding from when Roly-Poly was approved and the coffee shop denied and also the use variance by the ZBA.

Now having said that, Mr. Schultz indicated he would do the first Separate #5266 for food service business. This is for a 1500 square foot storefront, 5 employees, hours of operation 9 – 9, Monday – Saturday. This is for Nardelli's Grinder Shop.

Comm. Flannery indicated that this is blowing her mind because she doesn't know how they think it could handle the traffic at that corner with something like that.

Mr. Schultz continued that they have Nardelli's for Separate #5266 and Separate #5273 Rita's Water Ice which is a frozen dessert. So they have two food establishments and that one is for 1,255 square feet. So they have these issues before them with all the information, so now it is up to the Commission to have a discussion.

Comm. Harger asked what the hours of operation were for Rita's.

Mr. Schultz responded that Rita's is 12 p.m. – 10 p.m.

Comm. Harger asked if it would be 7 days.

Mr. Schultz responded yes, 7 days a week. Number of employees is 3 – 4.

Comm. Flannery commented that her stance is, and always will be that the corner can't handle any more traffic. She can't get down Old Stratford Road and make a right turn and get towards Wal-Mart without it taking a ½ hour at 5:00 p.m. It takes that long to go less than one mile. The traffic is horrendous at that corner. And she'll just say over and over again that she is against any kind of food establishment at that corner where Blockbuster is. That is where she stands.

**Robert Scinto, 1 Corporate Drive, Ste. 100, addressed the Commission.**

Mr. Scinto indicated that he would like to make a comment on the hours of the deli and the Italian ice cream shop. On the Italian ice cream shop, 60%-70% of their business is done after 6 p.m. when the traffic is not so terrible. And the bank closes at 5 or 5:30 p.m. So the bank traffic is not there any longer so half the building is not being occupied. Also the space in the back, that business is also closed, so it is a different traffic period.

Mr. Scinto indicated that it is the same thing with the deli. The deli business is more in the afternoon. About 50% of their business is done after 6 p.m. They have plenty of parking because of the bank being closed, so there is a different traffic period. There is a little less traffic at 6 p.m. He added that he thinks it is an appropriate use. There are other food establishments up and down that street. They have Roly-Poly in the back that was granted before. Across a diagonal corner on the other side of the street they have the same type of facilities that would be going in here.

Mr. Scinto commented that the traffic – the traffic is the traffic – it flows through because of the number of people that live in the area. Any traffic that it is coming through this area is either on the way home or the way to work. He doesn't think that this would draw anymore traffic. He doesn't think that people are going to get off at Exit 12 just to go to this deli. He thinks that most of the traffic is there already and this is just a very good convenience to the Park. He thinks it is a nice operation. They would clean up the front of the building. He has already cut down a large, overgrown tree at that site.

Mr. Scinto indicated that he knows that they have had problems with food before here. They had one pass and they had one turned down, but he thinks this is an appropriate use for the corridor.

Comm. Harger asked Mr. Scinto if he said that something in the back closed.

Mr. Scinto responded that in the back they have Roly Poly and then he used to have a print shop back there but it's empty. They moved out and he has not been able to re-rent that spot. He has a nice girl by the name of Nancy who runs the All State Office. So they don't get a lot of traffic there except, of course, for the bank.

Comm. Sedlock asked if this was going to go in the place of Blockbuster.

Mr. Schultz added that it would be three tenants; these are two out of the three.

Mr. Scinto commented that the third tenant would be closed at 5 p.m. It is going to be one of the telephone companies.

Comm. Sedlock commented that the amount of traffic that goes to Blockbuster now is large – is it going to be larger with three? Does he think that with Cingular as opposed to Blockbuster and the other two – does he think it is going to be the same, or more or what?

Mr. Schultz responded that they have a fundamental issue here of whether the use is permitted because the Commission struggled with the Roly Poly and the coffee shop. It denied the coffee shop and with Roly Poly they decided that they aren't preparing food there like a bakery. Staff is saying that they have to feel comfortable with the fundamental issue with the use and then after that it is the intensity because food establishments trigger a public hearing. So they have to get through that first hurdle as to whether or not they think it is a permitted use.

Comm. Flannery commented that she doesn't think it should be a permitted use. The phone company is fine but no restaurants.

Mr. Scinto commented that was his presentation and the tenants are present if they need to talk to them but they will just tell you what their business is.

Chair Parkins asked if the Nardelli's was the same as the one up in Waterbury.

Mr. Scinto responded yes, same exact operation. It is a very clean, very high quality.

Chair Parkins commented that yes, they are both very good places which she thinks would draw a lot of people. It would be good for them but not necessarily for that corner.

Mr. Scinto thanked the Commission.

Comm. Harger commented that she has a hard time grasping onto the fact that the traffic is going to be later in the day. She doesn't know how that is possible with the number of businesses and companies in the area. She doesn't see coming down from the offices via foot traffic, that's for sure.

Comm. Flannery added that she stopped going to Blockbuster years ago only because she couldn't get in and out of that shopping center. It is that bad.

Chair Parkins commented that on the weekends it is not a problem but during the week it is hard. It is hard to get out of that driveway because they all want to go out and take a left turn. And then the cars are coming down the hill so they can't do that. And then there are the cars coming up and hanging halfway out of the driveway. That is an issue presently without a popular sandwich shop.

Mr. Scinto commented that going out and taking a right is done pretty easily. It is a difficult location.

Comm. McGorty indicated that the proximity of the exits is so close to that intersection that right there the traffic starts to back up.

Mr. Scinto commented that this is probably the busiest corner in the town, isn't it?

Comm. Harger and Comm. McGorty agreed it was.

Mr. Scinto added that the traffic is there. He didn't think that they would be bringing more traffic. He thinks that the traffic is there.

Chair Parkins indicated that she thinks that the traffic that is there right now is really off hour's traffic because Blockbuster is really the type of place where you stop by first thing before work to drop off a movie and then go later on in the evening or weekends. She thinks that the traffic that is in and out of there is, with the exception of Roly-Poly, which she forgets is there because there isn't much advertising.

Mr. Scinto added that most of their business is take out – catering to offices.

Chair Parkins commented that she would enjoy seeing both of those establishments somewhere along Bridgeport Avenue but she just doesn't think that is the spot.

Comm. Flannery agreed. Comm. Harger agreed.

Comm. McGorty indicated that he wasn't sure because he spent some time on two different occasions where he sat in the parking lot around rush hour for about 40 minutes just to kind of see and watch the traffic. It was more of an issue on Commerce than it was on Bridgeport Avenue. Primarily when making a left, it's always an issue but it wasn't as bad as he thought it would be. If it was restricted on one exit onto Commerce where it could only go right – but that is a problem.

Comm. Harger asked what day of the week he went.

Comm. McGorty responded that he thinks it was a Tuesday and a Thursday. He thought it was going to be much worse. It wasn't as bad as he thought it would be.

Chair Parkins asked Comm. Sedlock and Comm. Pogoda for their comments.

Comm. Sedlock indicated that he was more concerned about the permitted use right now than the traffic. He was looking for some direction from the Chair on that permitted use, or from Staff.

Chair Parkins indicated that if she had to choose, she thinks retail is better rather than food establishments. She thinks the phone company would be a good option.

Comm. Sedlock asked if she was saying is that this is not zoned for food.

Chair Parkins responded that no, it is not.

Comm. Sedlock asked if that means it would need a zone change.

Mr. Scinto responded that the way the waiver works is that it was a waiver for a retail use, except food isn't considered a retail use. He asked Rick for clarification. So, they did get the Roly Poly permitted for whatever reason. Then they wanted to put a coffee shop in the back but that was turned down. He understood that because in the back they didn't have the parking in the back that they do in the front. So, they came in with this application because the deli

and the other place could be considered a retail use. That is how they gave him Roly Poly, based on that.

Mr. Panico responded that Roly Poly was represented to be a catering type operation where they do a lot of deliveries so there is a lesser amount of customer activity coming and going. As you just indicated, that could deliver 20 or 30 subs up to one of his office buildings.

Mr. Scinto commented that across the street on the other corner they have plenty of restaurants over there.

Mr. Panico responded that they come and go to the site in a controlled locations with signalization, etc.

Mr. Scinto asked if it was out of character with the location.

Mr. Panico responded that he didn't think that what he was hearing from the Commission is that the use is out of character. But they are very fearful about the change in the nature of the traffic activity on that site coming and going and the ability to do it in a safe fashion.

Chair Parkins commented that it is more so for the deli because the ice cream is more seasonal and not such a high generator as the deli would be.

Mr. Scinto asked if they could pass just the ice cream.

Chair Parkins responded then they would be opening it up to change the zoning.

**On a motion made by Comm. Flannery seconded by Virginia Harger, it was unanimously voted to deny Application #5266 and Application #5273.**

**SEPARATE #5290 LINDA ANTIGNANI, WHITE HILLS PLAZA, BUSINESS**

Mr. Schultz indicated that they were going to have two new occupants occupying the second floor area of the new building up there. This one is for a yoga studio.

**End of Tape 1A 7:43 p.m.**

It contains 1000 square feet. No previous tenant because the space on the upper floor hasn't been occupied. There is one employee, hours of operation Mon. – Fri. 5:30 – 8:30; Sat & Sun 10 a.m. – 12 noon. Everyone knows the parking arrangement there – there is plenty of parking and it has never been an issue.

Mr. Schultz added that there are three spaces and this will be the second one and then they have another as part of the Add-Ons. Staff recommends approval.

**On a motion made by Virginia Harger seconded by Joan Flannery, it was unanimously voted to approve Separate #5290.**

Comm. Pogoda asked if there was a sign.

Mr. Schultz responded that there is no sign – that is an issue. He asked the Commissioners to please take a look where the second level occupants always put the signs because when the developer came in he thought it would be more professional offices than it has turned out to be.

Mr. Panico commented that if there are three potential tenants up there relying on signage then they ought to look at that elevation and get it all coordinated.

Mr. Schultz responded that he would coordinate that.

**SEPARATE #5282 DAMMY BAMISILE, 100 CENTER ST., PLACE OF WORSHIP**

Mr. Schultz indicated that this was the former Center Stage occupancy. This is for a place of worship, Redeemed Christian Church of God, occupying 1500 square feet, 2 employees, hours of operation Mon. – Sun., Sunday services. There are 24 parking spaces on site which is controlled as the Commission is aware. For the newer members, places of worship are permitted as of right throughout the whole community. That is something that they have to re-examine because now they have the big mega-churches. He referenced the one in New Milford on Route 7. That is something that won't fit well in a residential area so they do have to re-examine that but this is a permitted use. There are no sign applications. Staff recommends approval.

Comm. Sedlock asked if they didn't just approve a liquor store in there.

Mr. Schultz responded yes, that fell through.

Chair Parkins commented that it is a permitted use, but she'll ask the question anyway – do they have services during the week?

Mr. Schultz responded no services, but he's sure that they have Bible studies and things like that throughout the week. They indicated Monday through Sunday on an as needed basis for bible studies and other periodic events.

Comm. McGorty asked about the parking spaces.

Mr. Schultz responded that it is 24 spaces.

Comm. McGorty asked what the occupancy maximum is.

Mr. Schultz responded that they're leasing 1500 square feet.

Comm. McGorty asked how many people could occupy the space.

Mr. Schultz responded that he didn't have that info from the Fire Marshal.

Chair Parkins commented that 1500 square feet can't fit that many people.

Comm. Sedlock added that it's about 100 people.

Mr. Schultz added that the application also states 20 people – right now they have 4 families equating to 20 people and they are hoping to grow.

Mr. Panico commented that it's 1500 square feet but it's probably broken down into a couple of offices and spaces like that.

Mr. Schultz asked Comm. Sedlock what Center Stage had been.

Comm. Sedlock responded 110 – so if it's the same exact space...

Comm. McGorty indicated that if they grow, it could become a parking issue.

Chair Parkins responded that they can't get more than 110 people in there.

Comm. McGorty commented that they only have 20 something spaces though.

Comm. Flannery commented that Center Stage didn't have a problem, did they?

Chair Parkins responded no, they didn't.

Comm. Pogoda indicated that Center Stage was in the evening, after 8 p.m.

Comm. Sedlock added that they were allowed to use the pharmacy and the bank after hours.

Comm. Flannery commented that it is mostly going to be on Sunday anyway.

Comm. Harger asked if they were in existence anywhere now.

Mr. Schultz responded yes, but he doesn't know what town they are in.

Comm. Sedlock asked what denomination was going in there.

Mr. Schultz responded that it was non-denominational.

**On a motion made by Virginia Harger seconded by Joan Flannery, it was unanimously voted to approve Separate #5282.**

**SEPARATE #5268 TERNIAN, LLC, 30 CALI DRIVE, HOME OCCUPATION**

Mr. Schultz indicated that he was going to give an overview and the Applicant is here and can answer any questions. This is a home occupation as opposed to a home office because the public is welcome to come to the operation. Now that kicks in the Standards. They have to determine that the proposed use will not impair the reasonable use of the neighborhood. They don't see a lot of these because Staff has always recommended that they look for a commercial space because this Commission has denied them in the past.

Mr. Panico asked if this was intended to have customers at the premises.

Mr. Schultz responded yes, by appointment only.

Chair Parkins inquired that the Commission has denied such applications, but not this one, correct?

Mr. Schultz responded correct.

Comm. Sedlock asked what the nature of the business would be.

Mr. Schultz responded gunsmith and fire arm sales and transfers. The Applicant is looking for a Federal Firearms License. Obviously, the ATF contacted our office to determine if the local permits have been secured; it triggered this application. So, the Commission has to listen to the Applicant and make a determination whether this will or will not impair the reasonable use of the neighborhood.

**Victor Calicci, 30 Cali Drive, addressed the Commission.** Mr. Calicci indicated that he was a certified teacher with the NRA for Firearms Safety, it's a course required by the State to get a license to carry a firearm. He teaches one-on-one private lessons and what he wants to be able to do is make available to his students the option of ordering and purchasing a firearm through him. He wasn't looking to open a retail establishment. There are no business hours, no

storefront, no inventory, no employees. It would be a matter of someone taking a class with him, completing the class, getting their certification and then getting approval from the State of Connecticut and having the option of ordering something through him. It would be a matter of placing an order with him, him placing the order with the manufacturer, and on an appointment basis, them coming to pick it up and fill out the appropriate paperwork. He would love to be able to get a retail space but it is financially out of the question. He was proposing a small space. There are no counters, no hours, no parking requirements. Most of the people he teaches are family and friends.

Comm. Flannery asked if he would have a stock in his house or ordering one per person.

Mr. Calicci responded that he would be ordering one per person. He stated that he had a full-time job working six days a week. He added that it was a way to subsidize his income. It is a full circle business. He realizes the negative connotations associated with firearms; he looks at it as a music teacher, teaching and special ordering a guitar.

Comm. Sedlock commented that if someone comes to your house to play a guitar, they are making music; if they come to your house to learn how to shoot a gun, are they going to be shooting that gun in your house?

Mr. Calicci responded no, that they would be learning firearm safety. He is licensed with the NRA.

Comm. Sedlock asked if that was comparable to a power squadron course to get your license on the water - where you don't actually drive a boat, you just fill out paperwork.

Mr. Calicci responded that his lessons are between six and eight hours in the classroom. He has to take each student to the firing range in Bridgeport where they have to qualify before they can shoot.

Comm. Sedlock asked if all of that is done in Bridgeport.

Mr. Calicci responded yes.

Comm. Harger asked if he was more the classroom then.

Mr. Calicci responded that he's the classroom but he takes them down to the range and he's their instructor in the range as well.

Comm. Harger commented that it's like Driver's Ed then with classroom and then going out on the road.

Mr. Panico asked what the class size would be.

Mr. Calicci responded that it is individual classes. His mother was for the Bureau of Prisons so she refers a lot of the correctional officers in Danbury to him for certification.

Comm. Pogoda asked how long he had been living at his residence.

Mr. Calicci responded four years.

Comm. Pogoda asked if he knew his neighbors.

Mr. Calicci responded no, he's quiet.

Comm. Pogoda asked if he had spoken to any of his neighbors concerning this request.

Mr. Calicci knows that firearms are a negative thing. He has recreational guns and goes to the Monroe Indoor Range. It is a hobby for a lot of people; it is a shame that there is so much negativity surrounding it. He can't express his opinion (inaudible).

Chair Parkins asked if the lessons couldn't be provided at the range that he's taking the students to and then if he needs to purchase a gun for them, they don't need to come to his house. She asked him why he needed this?

Mr. Calicci responded that it is the way the application is with the Bureau of Alcohol, Tobacco and Firearms. He's applying for a Federal Firearm's License and the license has to be granted out of a location. There is paperwork he has to file and keep filing for so many years and there has to be a location that he is out of. He can rent space at the range and teach classes at the range but he wouldn't have the ability to sell his student a firearm.

Chair Parkins asked if he can't just list his personal address on an application for such without having a business out of his home.

Mr. Calicci responded no, it's a residential neighborhood.

Comm. Sedlock asked what type of guns he would be selling out of his residence.

Mr. Calicci responded pistols, nothing high caliber. The ATF closely regulates everything; they do audits every year; he'd be under a lot of scrutiny. Everything is documented. He has to keep the paperwork for 20 years in regard to any firearm he sells. He has to furnish this paperwork to them. If they call and want to come down, then he has to be ready. There is no room for error with the Federal Government.

Comm. Sedlock commented that personally, he'd like a little more information about how he's setting up to sell guns out of his house. He's a little concerned about that. If he was living on Cali Drive, it is a little precarious to his way of thinking that someone would be selling guns out of his house in a residential neighborhood. He'd like to see more information as to what the process is all about, the types of guns he'd be able to sell, up to what caliber, what kind of gun, just pistols, guns to kill deer or moose or whatever, he'd like to see more information.

Chair Parkins commented that he can say he is just going to sell pistols but technically he can order any gun.

Mr. Calicci responded that there are legal parameters. There are no fully automatic weapons.

Comm. McGorty commented that whatever is legal he'd be able to sell.

Mr. Calicci responded that it has to be legal for him to buy it in order to legally sell it – he has no special access. If any of them wanted to buy a firearm and went to Valley Firearms, whatever they could purchase from them, but he could just purchase from a manufacturer and not pay as much.

Mr. Panico asked if he would also be selling ammunition.

Mr. Calicci responded no, you could get ammunition at Wal-Mart with just validation of your age.

Comm. Sedlock asked what kind of alarm system is set up when the guns are on the property and how are they being delivered. Are they coming through the mail, UPS?

Mr. Calicci responded that there aren't going to be showcases and he can't explain how small scale it is going to be. Everyone he knows is in to target shooting so (inaudible) if they take his class they know what they want (inaudible)

He can't afford to stock firearms – that is how pricey they are.

Comm. Sedlock commented that he wouldn't want to stop him from running this small operation from his house, other than he has serious concerns about the safety of the whole thing until he gets more information.

Comm. Harger asked if he had a room set aside in his house.

Mr. Calicci responded that he did; it's a raised ranch (inaudible).

Comm. McGorty asked if there were children there.

Mr. Calicci responded that he has a 10 year old son, he is the primary caregiver – again, this is why he is doing this because times are tough.

Chair Parkins asked if there is a limit to the number of guns he can possess under his ATF permit.

Mr. Calicci responded no.

So, technically, he could store or stock guns.

Mr. Calicci responded as long as he has them in a safe inaccessible to anyone else.

Comm. Harger commented that she'd like to get a little feedback from his abutting neighbors.

**On a motion made by Joe Sedlock seconded by Virginia Harger, it was unanimously voted to table Separate #5268 until more information is obtained.**

Chair Parkins informed that Applicant that this Commission needs some more time to mull this over.

Mr. Schultz asked the Applicant to provide Commission with a narrative answering questions that the Commission asked such as how many firearms, delivery methods, etc.

Mr. Calicci responded delivery would be UPS.

Chair Parkins added it's to address some of the concerns such as how often people come to your house for lessons, how much you would be able to reasonably do, with the work schedule you presently have.

Mr. Calicci responded that the most he would be able to do would be once a week on a Sunday.

Chair Parkins responded that if he could put those things in writing it would be great.

Comm. Flannery asked about an alarm system – if someone wanted to break in to his house.

Mr. Calicci responded that he does have an alarm system.

Comm. Sedlock indicated that he thinks the Commission's main concern here is safety. No one wants to deny him improving his condition. He asked if he had any paperwork such as guidelines from the Federal Government and State requirements and safety procedures.

Mr. Calicci responded yes, that it is about 195 pages.

Comm. Sedlock asked if there was some way he could condense some of that so that they could be assured that this is safe. He isn't worried about him so much as the worst cast scenario, if something goes wrong and somebody gets a hold of the gun – a babysitter or someone. He'd like to know those things before he says yes to this.

Chair Parkins commented that they would also like to get some input from the neighbors as well.

Mr. Calicci explained that he anticipated that, not because of any hostility toward him, but just because of the negative connotation of guns - he can't see knocking on their doors and telling them that he wants to teach people how to operate guns.

Chair Parkins responded that he doesn't necessarily have to knock on their doors, but perhaps a short note indicating what he's planning and mail something if he is uncomfortable, because they have the right to know.

Comm. Sedlock agreed that if the neighbor is not comfortable with it than he's certainly not going to be comfortable with it. This is a little bit of a tough situation and obviously he knows that. He thinks starting with the neighbors is a good idea.

Mr. Calicci asked if he should ask for feedback from them or how should he go about it.

Mr. Sedlock commented that if he doesn't get the information from you than they'll get it through the newspaper.

Chair Parkins responded that he could just introduce himself in a letter, explain that you're certified with the ATF and say that the Shelton Planning & Zoning Commission prior to approval wants to know their thoughts about it.

Comm. Sedlock added that if he has to introduce himself as a relatively quiet neighbor and say what needs to be said to make them feel comfortable with it.

Comm. Flannery suggested that he give them an overview of what he plans to do, when and how he plans to do it, etc.

After providing further suggestions to Mr. Calicci, the Chair informed him that P&Z meets again in two weeks. She informed Mr. Calicci that they meet again on the 28<sup>th</sup> if he doesn't get any feedback before that.

**SEPARATE #5293 KATHLEEN BARONE, LEAVENWORTH ROAD, BUSINESS**

Mr. Schultz indicated that this would be the third new occupant for massage therapy, 850 square feet, 1 employee, 10 a.m. – 7 p.m. by appointment only. This is state licensed. They have several in the community. Staff recommends approval. Once again, there is no signage associated with this application.

Chair Parkins asked if they would be in their own space or leasing.

Mr. Schultz responded subleasing – no.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5293.**

**APPLICATION #10-03, SCHIABLE REALTY, LLC FOR MODIFICATION OF SITE PLAN APPROVAL (RESTAURANT/PUB), 475 HOWE AVENUE (MAP 129D, LOT 33), CA-3 DISTRICT.**

Mr. Schultz explained that Staff prepared a Report that everyone has a copy of and he will read the two pieces of correspondence associated with this application before Mr. Panico reads the report.

**\*See attached letter from the Office of the City Engineer, Robert Kulacz dated 4/9/10**

**\*See attached letter from the Fire Marshal, James Tortora dated 4/13/10**

Mr. Schultz showed the site plan and rendering of the patio area.

Mr. Panico indicated that he would refresh the Commission's memory (inaudible – paper) last July the Commission approved a special exception relative to a food establishment with regard to traffic and parking intensity and also approve the application for a proposed modification that would convert the old Mayflower building into a restaurant pub/brewery area. At that time there was to be dining activity on the first floor, on the Howe Avenue level as well as down in the basement level with the brewery/pub was primarily focused.

He indicated that for a variety of reasons, this has undergone some change and the Applicant is proposing to modify his proposal, scaling down slightly the activity and putting it all on one level, on the lower level, which is oriented toward White Street in the rear, taking the dining off of the upper level and instead growing into a portion of the basement area below the bank to provide some of the additional dining back in. The net result was a reduction. Rick & I have reviewed the materials that were submitted and they had a detailed presentation at a Downtown Subcommittee Meeting last Friday at which all the components were explained in greater detail. Then they prepared a Staff Report to bring the Commission up to speed on it.

Mr. Panico read the Draft Report for Application 10-03 Schiable Realty LLC for Modification of Site Plan Approval. \*See attached report dated 4/13/10.

Mr. Panico noted that basically the applicant submitted a modified site plan and architectural drawings reflecting the proposed changes that he is contemplating. The overall exterior character of the original proposal will be preserved as approved. The proposed modifications and alterations relate primarily to interior remodeling and use areas. The modifications have been reviewed in detail by the DSC who expressed general satisfaction with the changes subject to review and approval of additional details.

Mr. Panico showed a rendering of what the White Street elevation is intended to look like. As they can see, compared to what it is today, it is a rather attractive refurbishing of the building.

After reading the report, Mr. Panico informed the Commission that if they are OK with this and render a decision, they will need a roll call vote.

Chair Parkins asked for clarification about a portion of the report (#2, Page 1) referring to the liquor store mandating to use the rear onsite loading area. She asked if it should say "side," when it says "rear" and are they referring to the White Street area.

Mr. Panico responded that he meant loading to the rear of the facility – yes, the side - and beer trucks are notorious for stopping in the road which they don't want on Howe Avenue. It can be tolerated a little more on the back street, if need be. The preferable way would be to deliver through the side door on the site.

Chair Parkins asked if they have access to the rear for the liquor store.

**John Ruffalo, John Ruffalo Iii Architects, PC, President addressed the Commission.** \_Mr. Ruffalo responded that they do have access to liquor store on Howe Avenue.\_He stated that there will be door access to the rear behind the bank and on the side of the old Mayflower Building back in that parking lot.

Chair Parkins responded OK, it's on the side then, on the side of White Street.

Mr. Panico asked if he was referring to the Howe Avenue level or the White Street level.

Mr. Ruffalo responded that he was referring to the Howe Avenue level. He thinks the question was the liquor store, which would be the Howe Avenue level.

Mr. Panico commented that there is definitely access from here into the back of the liquor store.

Chair Parkins commented –yes, from the parking lot that is on the side of the bank but not from the rear of the building.

Mr. Ruffalo agreed not from the rear of the building.

Mr. Panico added that they would not find it convenient then to unload on White Street.

Mr. Ruffalo commented that is correct.

Chair Parkins suggested changing that to the "side" rather than utilize the "rear."

Mr. Panico responded that he would just strike it out and then put "mandated to utilize the onsite loading and dumpster area." He was under the impression that they also had access there using the elevator to get up.

Mr. Ruffalo responded no, not really.

Mr. Panico commented it really wouldn't be that convenient anyway to carry it up the stairs. The concern is really the Howe Avenue side. They are trying to get away from businesses bringing trash out to the front and getting deliveries through the front. It does not work well, especially when they get into a food and/or liquor type of arrangement. They worked at great length with the

restaurant down the street so that he could get his service from the back. Ken is aware that they've been working on negotiations with them as well.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty to discuss the approval of Application #10-03.**

Comm. Pogoda indicated that he had a question under #2 - Submission of final design detail construction materials and improvements on the patio enclosure including surface treatments. He asked if there is there a possibility that the Commission can get a look at what the materials are going to be. He knows it says Downtown Subcommittee but he himself would like to see what they are using.

Mr. Ruffalo responded that basically the wall areas around the patio are a combination of brick, sort of related to the building brick, plus some stone columns that would relate to the interior side (inaudible). The floor area is probably going to be some sort of brick layer or pressed concrete. So it is going to be one of those two items, but they'll be glad to clarify that for him when they know and send a letter to that effect.

Mr. Pogoda commented about a gate that he sees on the proposed plan.

Mr. Ruffalo responded that was going to be an steel or aluminum gate for emergency purposes only because all the entries will be into the restaurant, through the restaurant, into the patio area.

Chair Parkins commented that it will be similar to what they have at Danny O's on the street side. She told Comm. Pogoda that they can have him bring the materials to the DSC and then they can bring them here for the final.

Mr. Panico explained that it was only written that way to try to lighten some of the administrative load from the Commission. He just thought that because they have a subcommittee dealing with that stuff – but by all means, bring it here. He asked, just to clarify, the full rear façade and the full front façade are still going to be renovated and restored as originally proposed – correct?

Mr. Ruffalo responded yes, that it is correct.

Mr. Panico asked if he was aware of their comments about the signs. They go through a lot of hassle with the signage and the owner is in the best position of all to really mandate consistency in signs. They really look to the owner to take the lead in that respect and not just say whatever the Commission will approve is OK with us.

Mr. Ruffalo responded that the signs on the drawing are just basically representative of the area where a sign could be. So, when they get the final sign, they understand that they need to come back to the Board for approval of the sign.

Chair Parkins commented that her only other concern is the front treatment of the window for the liquor store.

Mr. Ruffalo responded that the windows areas on the front of the building, the Howe Avenue side, are going to be totally replaced with new aluminum frame, insulated glass windows (inaudible...) The coloration will try to match the décor of building that was going to be repainted the renovated steel pilasters that are on there. There is some renovation and restoration work of the existing treatments on the buildings on the Howe Avenue side.

Mr. Panico asked the period-type lighting along the front façade and if they are sufficient enough in intensity to illuminate the site so that there won't be need for an internally illuminated sign. He knows that was his original intent but he wanted to make sure that intent still carried over.

Mr. Ruffalo responded yes, certainly is.

Chair Parkins asked for clarification that the two store fronts remain as two separate entities - they'll be the liquor store where the Mayflower Florist was and the Liberty Tax Service in the remaining area.

Mr. Ruffalo responded that the door to the entrance of the Liberty Tax is on the side in the alcove that you walk in through the double doors, and the left door is the tax service office.

Mr. Panico indicated that he wanted to make a suggestion because the Commission and Staff experienced a lot of negative aesthetics of liquor stores, and other stores, they tend to rely heavily plastering their windows with paper signs. They really are not in a great position to regulate it yet; they might be six months from now when the new regulations go into effect. They are looking to the landlord to make the tenant aware that he should not do that. If looking for guidance, they have a draft set of sign regulations which will be circulated to the Commissioners tonight as, hopefully, a final draft. They can look to that as guidance of what the Commission wants to accomplish.

Mr. Ruffalo responded that he would advise the owner of that. He added that there is not much glass area there (inaudible). So whatever paper stuff that they are going to be putting up, if they do, it would probably block the view into the store.

Comm. Flannery indicated that her concerns were about the emergency exits; in the looking at the pub – that's in the basement - so the only in and out is through the front?

Mr. Ruffalo responded no and showed her a floor plan of the old Mayflower building to show the basement area, the proposed stairs, and the two proposed exits. So there are actually two, if not three emergency exits.

Mr. Panico indicated that they touched on this a little bit already and he inquired about the venting of the kitchen; because of it's location and they didn't want it venting out on to Howe Avenue.

Mr. Ruffalo responded yes, that's correct.

Mr. Panico stated it is going to pose some problems with the limited space on the back wall and the potential for conflict with the functioning of the patio. He asked if they had taken all of that into account, or will take it into account?

Mr. Ruffalo responded that they've taken it into account and need to further study that. They understand that there are some challenges there. There are going to have to be some larger fan motors installed for that to try to get some of the exhaust air out of there.

Chair Parkins asked if it could go straight up to the roof.

Mr. Ruffalo responded that it could but they'd have to take some space out of the liquor store but that is always a possibility. They are looking at those avenues.

Comm. Sedlock commented that he can see that they are challenged because he can see how they would be venting out the front of the pub. That road is eventually going to become like Howe Avenue, sooner or later, with all the building that is going on there. He wanted to reinforce that the beer trucks should come off the street like they have done here.

With no further discussion, Chair Parkins asked for a roll call vote.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve Application #10-03.**

#### **NEW BUSINESS**

**APPLICATION #10-05 JEFFREY NISBERG FOR TEMPORARY SPECIAL EXCEPTION/SITE PLAN APPROVAL (FILLING AND GRADING), 39 WABUDA PLACE (MAP 152, LOT 68), R-1 DISTRICT – ACCEPT AND SCHEDULE A PUBLIC HEARING.**

Mr. Schultz indicated that Staff was recommending the 4<sup>th</sup> Wednesday in May, 5/26/10.

**On a motion made by Anthony Pogoda seconded by Joe Sedlock, it was unanimously voted to accept Application #10-05 and schedule a public hearing for Wednesday, May 26<sup>th</sup>, 2010.**

**APPLICATION #10-06 KID'S CLUB, LLC FOR SPECIAL EXCEPTION/SITE PLAN (CHILD DAY CARE CENTER WITHIN WHITE HILLS SHOPPING CENTER), 194-D LEAVENWORTH ROAD, MAP 144, LOT 15), CA-2 DISTRICT – ACCEPT AND SCHEDULE A PUBLIC HEARING.**

Mr. Schultz indicated that Staff recommends April 28<sup>th</sup>; they already have one public hearing scheduled for a re-subdivision for an 8<sup>th</sup> lot on Plumtree Road off Meadow Street.

**On a motion made by Joe Sedlock seconded by Virginia Harger, it was unanimously voted to accept Application #10-06 and schedule a public hearing for Wednesday, April 28<sup>th</sup>, 2010.**

**APPLICATION #10-07 RELATED PROPERTIES CORP. FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #2 (FAÇADE IMPROVEMENTS TO RETAIL STORES WITHIN SHELTON SQUARE SHOPPING CENTER) 862-898 BPT. AVE. (MAP 9, LOT 14) – ACCEPT FOR REVIEW.**

Mr. Schultz explained that before they accept this application, the applicant is here to make a presentation so that the Commission can determine if this is a minor modification or a major modification (a public hearing). This is for façade improvements.

**John King addressed the Commission.** Mr. King indicated that as they know, they are planning on a cosmetic type of spruce up of the existing façade of the small stores right now. He showed a rendering of the shopping center showing the area of the larger and small stores.

Mr. King showed a “before” pictures and the dark colors on all the canopies. He showed the proposed “after” pictures of the façade from the edge of the former Bradlees to the beginning of the Stop & Shop. As he explained earlier, this work is all cosmetic, there is nothing structural involved. There is no mechanical, no plumbing and there is minor electrical. There is no fire protection involved

because it is outside. They are not taking any walls down; they are covering them over. Basically, it is a little bit better than a nice paint job – as far as the products being used. It is going to look much better though.

Mr. King indicated that they will be going onto the existing wall with some metal studs, covering it with dense wood and then applying dry bit. The columns will be back at the back wall. There will be a new roof on the canopy, new lining, painting the underside of the canopy deck. They will graft the existing columns in a pre-manufactured fiberglass-type coverings. There will be a small portion of masonry down at the bottom that will be in tune with what is over on the Edge Fitness Center and Bed, Bath & Beyond areas. They will carry that through. There will be some minor work on the ramps to get them into place on the sidewalks to make sure things work right. The front band on the canopy will be new (inaudible)... On each column there will be some accent lighting and new lights on the canopy.

Comm. Harger asked about landscaping.

Mr. King responded that they've been doing landscaping out there.

Paul Dumont, Related Properties, addressed the Commission. Mr. Dumont indicated that they own the property and they will be re-landscaping the areas in front of the small stores. Also they will be bringing some of the sidewalks and ramps into compliance with ADA. They are going to try to open it up a little bit by ripping up some of the shrubbery.

Comm. Harger asked for a timeframe for completion of this.

Mr. Dumont responded that it is a pretty minor project that can probably be done in a three month time span. Obviously, there are existing stores there, so it will be a scheduling task to safely keep the stores open while working in a segmented fashion.

Comm. Flannery asked if the end with Hawley Lane Shoes had been done already.

Mr. Dumont responded yes, he has a picture of it.

Comm. Flannery asked if she could see it.

Chair Parkins asked to see the Board with the photos on it a little closer.

Comm. Pogoda commented that it looks like they are pretty much going to be following the line from BB&B, Edge and continue the color scheme all the way over and up to Stop & Shop – which has already been done. So, you're going to continue that same theme up to that point, correct?

Mr. Dumont responded yes.

Chair Parkins commented that they are coming out with the theme though – it is flush at the Edge and BB&B – and now it will be coming outward on these canopies which didn't exist on the other stores.

Mr. Dumont responded yes.

Chair Parkins asked if they would be doing light under the canopy treatment.

Mr. Dumont responded yes, there are lights underneath there, but they are going to enhance the lighting and put in more environmentally friendly lighting.

They also have sub-compact fluorescent lighting and they will be wrapping the columns that are existing now which are exposed. They are just steel and they will be wrapping them, so at night it will give a nicer soft light.

Chair Parkins asked how they plan to handle the signage above all of these storefronts.

Mr. Dumont responded that each of the signs they have contemplated re-using. The existing tenants have gone before the Commission to get approval for them. They will take them down, renovate them and put them back up. There are two existing box signs – one at Happy Family Restaurant. They will encourage that tenant to have new signage that is more in keeping with the rest.

Comm. Harger commented that it would be nice to get a coordinated look across the whole area.

Mr. Dumont responded that the signs that are there have been before the Commission – they are mostly red and white.

Chair Parkins commented that they strive for uniformity with the size and the channel lettering. If they are going to go through the expense of making a nice looking remake of the plaza then she would think that they would want the signage to do it justice rather than detract from it.

Comm. McGorty expressed concern that about getting tenants to buy into the expenditure of a new sign in this economy. A lot of these tenants probably already spent a lot of money on those signs.

Chair Parkins commented that maybe they can work on them one by one such as the Metro Bar & Grille.

Mr. Panico asked what is the nature of the illumination of the free standing sign – is it ground illuminated, internally illuminated...

Mr. Dumont responded that it is internally illuminated – they are open to whatever the Commission prefers – but they contemplated it being internally lit.

Chair Parkins asked for a consensus as to whether the other Commissioners felt this was a minor modification.

Mr. Panico responded that it is not expanding anything, just changing the exterior façade, like a facelift.

Chair Parkins asked for a motion to accept this for a review.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #10-07 for a Minor Modification of Detailed Development Plans.**

**APPLICATION #10-08 OPTIWIND CORP. ON BEHALF OF MBI, INC. TO AMEND THE ZONING REGULATIONS BY ADDING SECTION 49 (DISTRIBUTED WIND ENERGY FACILITIES) – ACCEPT AND SCHEDULE PUBLIC HEARING.**

Mr. Schultz indicated that last year the Zoning Subcommittee met with the Applicant. The applicant has a tenant in mind in Shelton off of Long Hill Cross Road. The applicant believes that they need to proceed; the Zoning Subcommittee did not embrace this, but the Applicant has a timeframe and wants to submit their petition tonight. These are new regulations for a new use

that Shelton Zoning Regulations don't have right now. He has no idea what this is going to generate in terms of interest but they will get the Auditorium.

Comm. Sedlock asked if any referrals have been made to the Region yet.

Mr. Schultz responded no.

Mr. Panico said that they have a 35-day window to refer it to the Regional Planning Agencies. He shouldn't jump the gun because he hasn't read it yet, but the zoning could occur anywhere town-wide.

Mr. Schultz responded that Staff is recommending a public hearing date in May – 5/26/10; they have assigned that as Item A along with the Filling & Grading.

**Matt Speck, Project Development Manager for Opti-Wind** addressed the Commission. He indicated that the Commissioners received some packages with a copy of some regulations that he submitted. He printed out a second set that he'd like to give to them. The content is the same; however the numbering was corrected to fit into their regulations under Section 49. The numbering sequence is the only change; however, he wanted to submit a clean copies to the Commissioners.

Mr. Speck indicated that he realizes that he needs to come back with a lot more information. He wanted to leave with them a copy of the Wind Map of Shelton also. He thinks it underscores the architecture of the regulations. Wind is not a universal resource in Shelton by any stretch of the imagination. They are proposing a regulation in the LIP zone only. They will only have good quality wind by their product specifications, but throughout Shelton, at best, they have only a Class 2 wind quality that is not suitable for commercial generation in any way, shape or form; so, they felt it was appropriate to limit their proposal to that area, and specifically Class 2 wind.

Mr. Panico asked why he was doing this if it was such a poor wind place.

Mr. Speck responded that it is poor wind if they are looking at much larger turbines but the design of their turbine is much different than that of their competitors. They have an accelerator platform that is able to accelerate the wind speed. The design of their turbine is much more acclimated for Class 2 wind and generates a significant return on investment.

Mr. Schultz indicated that he had a client that was driving this, correct?

Mr. Speck responded MBI, Inc., 415 Forest Parkway.

Chair Parkins commented that they're on Long Hill Cross Road.

**Jim Troy, Facilities Manager, MBI, Inc. addressed the Commission** and indicated that the site they are looking at is at 415 Forest Parkway – they no longer occupy the Long Hill Crossroad site.

Mr. Schultz suggested the 26<sup>th</sup> of May for a public hearing date.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to accept Application #10-08 and schedule a public hearing for Wednesday, May 26<sup>th</sup>, 2010.**

**APPLICATION #10-10, SITE PLAN FOR OUTDOOR STORAGE AREA FOR MULCH AND TOPSOIL, BPT. AVE. – ACCEPT FOR REVIEW.**

**On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to accept Application #10-10.**

#### **PUBLIC PORTION**

**On a motion made by Anthony Pogoda seconded by Virginia Harger it was unanimously voted to close the Public Portion.**

#### **OTHER BUSINESS**

#### **APPROVAL OF THE MINUTES: 3/9/10**

**On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to table the approval of the 3/9/10 meeting minutes.**

#### **INTERIOR LOT SPLIT: 260 SOUNDVIEW AVENUE: DISCUSSION AND POSSIBLE ACTION BY COMMISSION**

Mr. Schultz indicated that this is a proposed free split not a subdivision. However, all interior lots are subject to review and approval by the P&Z Commission. They have to determine that the proposed interior lot does not in any way, shape or form impact the planning of that immediate neighborhood – future roads, etc. He had several pieces of correspondence to read and the project engineer, Alan Shepard will review the details.

**\*See attached correspondence from Robert Kulacz dated 2/24/10.**

Mr. Schultz explained that when they have a piece of property abutting the under sized right-of-way they have try to have a 50 foot road, usually 30 feet paved, 10 foot shoulders, and they have to take into consideration sidewalks and underground utilities. The applicant has agreed to adjust the right-of-way, so that is a good thing.

**\*See attached correspondence from Gary Malone, Chief Sanitarian, Naugatuck Valley Health dated 3/23/10.**

Mr. Schultz indicated that he also submitted a referral to the Fire Chief, Mr. Jones; he has not submitted any recommendations. But as part of the interior lot proposal they have to make sure about the fire apparatus, however, this is pretty straightforward.

**Alan Shepard PE, Nowakowski, O'Bymachow & Kane, 415 Howe Avenue, addressed the Commission.** Mr. Shepard explained that this is in the rear parcel of 260 Soundview Avenue. Coming from Huntington Center, it would be past the gas line. There are rear lots on either side of them and across the street there is a rear lot, so it isn't unique. Old Dairy is in back of them, so there isn't any extension going on. This is the last lot there that is capable of doing a rear lot and it was in the family since the 40's. If they are familiar with the parcel, there is a cape style house (inaudible), the lot tips off a little in the rear and flattens out at the mid section in the back (inaudible). The overall parcel is 2.4 acres that allows them a 60,000 rear lot and 40,000 rear lot, an access way to the rear lot and the City Engineer's recommendation for road widening. He wanted to point out that because it is a first cut, they wouldn't necessarily have to do the road widening, but he talked to the Applicant and they're willing to do that.

Chair Parkins commented that this is a 6 foot easement not a 50 foot wide driveway.

Mr. Sheppard responded that the access to the road is 30 but what they want to try to do is give the right-of-way to the town.

Mr. Schultz wanted to point out some issues – This lot is two removed from where Constitution Boulevard is planned to be extended up past the condo. It is either going to go under Soundview Avenue, which hasn't been designed or be a four way intersection so this has no planning ramifications with the expansion of Constitution Boulevard. There are no sidewalks in the area, so that is a non-issue. And most importantly this is a very level lot which they aren't used to seeing these days, so topography is not an issue and sight line is not an issue. And he's sure that the Fire Chief won't have any issue with this because he has been to this site with other Staff members. It is a real nice piece of property and he knows that the Commission is glad to see that no variances were granted to achieve this. This complies with the Standards which they like to see.

Comm. Flannery asked how the neighbors feel about it.

Mr. Sheppard responded that he doesn't think that they asked the neighbors but they have interior lots also – the neighbor on both sides of them.

Comm. Flannery asked if all these neighbors have houses in the back also like that.

Mr. Sheppard responded yes.

Chair Parkins commented that you only have to notify the residents if it is within a right of way or if they are seeking a variance.

Mr. Panico commented that in the absence of approving an interior lot, than the Applicant can go out and simply build a road and still create a lot back there. They have more than enough land to do that. Since this is a road that would essentially be going to nowhere. it doesn't make sense for the City to own and maintain a road that goes nowhere only to serve one house.

Comm. Flannery asked what the fire truck pull-off was for.

Mr. Sheppard responded that it is so the fire trucks can pass each other and pull over – that's just the widest section of the driveway.

Mr. Panico commented that he's never seen it called a "fire truck pull off" before – but that it is a normal pull-off that they would require for a car entering and a car leaving to be able to pass each other instead of widening the entire driveway. For a really long driveway there's at least one location where one car can pull over to let the other one pass.

Comm. Flannery asked if this had anything to do with the extension of Constitution Boulevard.

Mr. Schultz responded no, it is two lots removed. It is an isolated piece of property that has no planning issues.

Comm. Flannery commented that she was against the way they were going to do Constitution Blvd., remember that?

Comm. Harger responded that this isn't that area.

Mr. Panico responded that it was his recollection that there were a couple of options and they were going to do the property to the left of this, the Moody four acre site, and the intention was to go through that parcel and that was the

only taking that was going to be involved to get through that area. It should not affect this.

Comm. Flannery indicated that her last question was – there are two existing houses here and they want to put one in the middle.

Chair Parkins responded no.

Mr. Sheppard responded that there are back lots.

Mr. Schultz responded that adjacent properties have homes.

Mr. Panico recalled that beyond these properties it is open space.

Chair Parkins indicated other people have already done this on their property - that was why he said it wasn't unique to this area.

Mr. Panico recalled that beyond these properties, if memory serves, it was open space that the City acquired in conjunction with Old Dairy Estate.

Comm. Flannery commented that she wishes she had a bigger map than just the lot. She asked if they could table this.

Comm. McGorty responded that it complies with everything. It is in total conformance so whatever map you come up with – it isn't going to change the outcome.

Mr. Panico commented that it doesn't impact anything and it saves building a road. If there were more developable land back there he could see questioning it and saying OK there should be a road through there to access other developable land - but there is no developable land. So if they build a short road a couple of hundred feet just to make an eligible lot back there, then the City would inherit 250 feet of road to maintain for one property owner. That doesn't make much sense.

Mr. Sheppard commented that he would like to point out to the Commission that this is all estate issues and the owner has passed away.

Mr. Panico asked if he got Wetlands approval.

Mr. Sheppard responded that it is over 50 feet away and John Cook did look at it.

Mr. Panico asked what was going to happen to that drainage coming off that long driveway.

Mr. Sheppard responded that when they go for a Building Permit, they have to take out an application.

Mr. Panico added that they will be getting quite a bit of runoff down that road.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve the Interior Lot Split at 260 Soundview Avenue.**

**ZONING ENFORCEMENT: 171-173 DIVISION AVENUE: ISSUANCE OF CEASE AND DESIST ORDER**

Mr. Schultz indicated that this matter requires direction from the P&Z Commission. The ZEO lost the court case; this was John Todice's two-family second floor unit occupying the 2<sup>nd</sup> floor and the upper walk area. They said it was two separate units; hence, a three-family dwelling because they have a lead into an open stairwell going up to the upper area. Zoning Enforcement still believes that it is in violation and would still like to initiate a Cease & Desist. However, this Commission is aware that a judge says if it isn't spelled out clearly - than he can't help them.

He is suggesting to this Committee that they take this to the Zoning Subcommittee and hold off on the Cease & Desist. Zoning Enforcement feels very strongly about this matter so he said he would put it on the agenda because they are ready to issue another Cease & Desist Order. They all know that a judge is bound by the zoning regulations. If it is not spelled out clearly and it is ambiguous, the judge will strike it down again. So, as the Administrator, he would like to take this to the Zoning Subcommittee. They have a host of issues that they need to resolve such as parking, earth removal, etc.

Mr. Schultz added that, if the Commission feels strongly about it and wants the ZEO to issue a Cease & Desist - he asked if everyone was familiar with this.

Chair Parkins responded that she would like more clarification.

Mr. Schultz explained that this was a two-family on Division Street. It is near recently converted Stanley's Market. It is a three level dwelling, two families. The first floor is an apartment. The second apartment occupies the second floor and then you go up a stairwell to a third level.

Mr. Panico asked if it was an outside, exterior stairwell.

Mr. Schultz responded no, it is an inside stairwell but they have to open doors to get to it.

Mr. Panico commented that it is like a townhouse.

Chair Parkins asked how much room was upstairs.

Mr. Schultz responded that it is significant and they believe that the third floor is being occupied as a separate dwelling unit and that is what precipitated the Order.

Chair Parkins asked if the Cease & Desist is for them to stop living up there. Mr. Schultz responded yes, but the judge indicated that he can't hang his hat on this because of the way the regulations are written.

Mr. Panico asked what was bothering the judge.

Mr. Schultz responded the definition of the stairwell and how it plays into occupying it as a dwelling unit.

Mr. Schultz indicated that he is concerned that they won't persevere a second time.

Comm. Flannery asked how to change the definition.

Mr. Schultz responded that it goes back to the Zoning Subcommittee to re-examine it that way. But he wants them to know that Staff is pretty displeased.

Chair Parkins asked how they know someone is living up there.

Mr. Schultz responded because they do know, it was inspected.

Mr. Panico asked if Zoning allows the third unit.

Mr. Schultz responded no, the lot is undersized. The two-family is pre-existing, non-conforming.

Chair Parkins asked if it was taxed as a two-family house. Mr. Schultz responded yes, taxed as two-family.

Comm. Sedlock asked if there were three different families living in there now.

Mr. Schultz responded that is the position that Staff is taking.

Mr. Panico asked if this was an independent living unit.

Mr. Schultz responded that is the position Staff is taking.

Chair Parkins asked if there was a full kitchen up there.

Mr. Schultz responded that he did not know about that.

Chair Parkins asked if there was separate heat.

Mr. Schultz commented that if they were to go today unannounced, he wouldn't be surprised to see a separate stove in there. That is the position Staff is taking.

Chair Parkins asked if they had separate utilities through UI.

Mr. Schultz responded no.

Mr. Panico commented that this is somewhere between a separate dwelling unit and a rented room.

Mr. Schultz responded that they have these three level dwelling units in town and they have to deal with it. He thinks that the best way to do it is at the Zoning Subcommittee level.

Chair Parkins asked if he could come back before the Commission and request a three-family.

Mr. Schultz responded that it would go to ZBA because the lot size does not comply. This is pre-existing, non-conforming.

Chair Parkins asked if the consensus was to take this to the Zoning Subcommittee.

Mr. Schultz responded that they cannot deny the ZEO the Cease & Desist so let him invite the ZEO to the Zoning Subcommittee. He just doesn't want to issue one and have it go nowhere.

Mr. Panico indicated that the person being issued the Cease & Desist can appeal to the ZBA, correct?

Mr. Schultz responded yes. He wants to do this right the second time.

There was further discussion about this issue however; the Commissioners agreed that it should go to the Zoning Subcommittee for review. There was no motion required.

#### **PAYMENT OF BILLS**

**On a motion made by Thomas McGorty seconded by Anthony Pogoda, it was unanimously voted to pay bills, if funds are available.**

#### **STAFF REPORT**

**\*See attached P&Z Staff Report dated 4/13/2010**

**Zoning Subcommittee:** Mr. Schultz indicated that they have distributed the Initial Draft of the Sign Regulations for the Commissioners to review.

Chair Parkins commented that she would like to commend the Zoning Subcommittee and the Staff for the time they have put into this document which was created from scratch so a lot of work went into it.

Mr. Schultz indicated that they met with a sign company so that was beneficial. They've done their due diligence on this because it is so comprehensive and important.

#### **REPORT FROM CHAIRMAN/SUBCOMMITTEE CHAIRS**

**Downtown Subcommittee:** Comm. Harger relayed that Atty. Dominick Thomas attended the last DSC meeting with the owner of Johnny's Pizza to provide an update of his situation which has been impeded by insurance issues and difficulty securing a bank loan.

#### **ADJOURNMENT**

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to adjourn at 9:20 p.m.

Respectfully submitted,

Karin Tuke  
Recording Secretary, Planning & Zoning Commission