



Atty. Lynch commented that the hand-out is helpful for any new commission members since the previous application was submitted back in June 2007. He explained the time line that he prepared for actions preceding tonight's hearing. It is fairly self-explanatory; they presented identical applications back in 2007. This Commission, based upon Mr. Panico's interpretation of the zoning regulations regarding the 150-foot square that is required to be placed on a conforming lot for an application for a CRD, denied the application at that time. They did file an appeal of the Commission's decision by the Milford Superior Court.

Atty. Lynch added that about the same time, they filed an application with the ZBA to vary the sections relative to the requirement that the 150-foot square that is required to be shown on a conforming lot in the first stages of applying for the CRD. They applied for a variance of that requirement with the ZBA and the ZBA granted those applications back in May 2008. Both of those court cases made their way through Superior Court and as he noted, in June 2009, Judge Tyma upheld the PZC denial of the resubdivision application and the modification of the special exception. The Court basically held that it was within the Commission's purview to interpret the regulations in the way that they did; even though they disagreed with that interpretation. The Court upheld the Commission's actions.

In January of 2010, once the ZBA had granted the variances, this Commission saw fit to file an appeal of that decision and that decision was upheld by Judge Radcliffe. So basically, they are back before this Commission with the original application and they ask that the Commission grant this application. Basically, they have shown a conforming 8-lot subdivision on the surveys that have been part of the file.

Atty. Lynch showed a map of the proposed area and added that the first step in getting the approval for the CRD is by showing a conforming layout. The Nowakowski map had been submitted back in 2001 when the Meadow Woods was first laid out. It showed an 8-lot conforming subdivision; the problem was that Lot #7 had the 150-foot square within the Connecticut Light & Power easement which Mr. Panico felt was deviant from the zoning regulations. The final subdivision that had been approved back in 2001 showed a 7-lot layout as a result. Mr. Russo's lot is #7 on the record subdivision map. It is an oversized lot in conformity, in comparison with the other lots in the sub-division and consists of 57,000 square feet, and with the CRD approval in an A1-zone, the minimum lot requirement is 25,000 square. So, the resubdivision map that they have submitted again as part of this application is shown on this map calling for a subdivision of Lot #7 into Lot 7A which is 30,000 square feet. And Lot 7B that has Mr. Russo's existing house shown on the eastern half of the lot.

Atty. Lynch indicated that this would create one additional lot on the street. It would have no traffic impact, minimal, if any, on Plumtree Lane. Both of these lots meet all of the setback and lot area requirements under the Zoning Regulations. So they submit that this is a reasonable proposal and in conformity with decisions that were issued through those two court cases, and after two years, he asks that the Commission to grant these applications.

Comm. Harger asked if the split in the same location as before.

Atty. Lynch responded yes, and these are all the same maps that they submitted before.

Comm. Harger asked if the square was still there.

Atty. Lynch responded that they got a variance from the ZBA to allow – he showed a map of the proposed area – he explained that the first step in getting the approval for the CRD was to show conforming layout. So based on the area of total 14 ½ acres that was in existence at that time, there had been a conforming layout showing 8 lots which had been proposed and it was not accepted by the Commission. It was brought to a public hearing based upon the interpretation that Lot #7 showed the 150 foot square within the parameters of the CL&P easement. So the resulting Lot #7 that is shown on the final subdivision map, there were questions that had arisen in the past. This lot does not infringe whatsoever on the power line.

After a cell phone rang, Chair Parkins reminded everyone present to turn off their cell phones or put them on vibrate.

Chair Parkins commented for the benefit of the Commissioners who were not here for the prior decisions - and she asked Mr. Panico to correct her if she was wrong – that the issue was that for their regulations the square on the lot could not be considered part of it because it was within an easement, which is the right-of-way of the CL&P line. So, based upon their regulations, it was brought before the ZBA who approved a variance.

Mr. Panico noted that the interpretation was upheld by the Courts; that the Commission has the right to interpret their regulations as they see fit. What the Applicant then did, was seek the variance from the ZBA granting relief from that criteria and that, because of a technicality, was upheld by the Court.

Chair Parkins added it was based upon a legal technicality.

Mr. Panico stated that the variance stands that – granting of the variance – allows the 8<sup>th</sup> lot to be created on a conventional layout which then allows this resubdivision to occur because now it would bring up the total subdivision count to 8 lots.

Chair Parkins commented that at this point, their hands are tied.

Mr. Panico added that they are basically functioning administratively in a sense, except that the CRD portion is a special exception procedure. So they have to go through that, demonstrate that it complies as represented. That establishes the 8<sup>th</sup> lot and now on the basis of that action, an action approving a re-subdivision – again, a resubdivision also requires a public hearing and that is why they are here tonight - utilizing that 8<sup>th</sup> lot that was created, comes out of Lot 7 being resubdivided.

Mr. Schultz indicated that he wanted to make a clarification because it is in the draft resolution. He stated that the Court did not determine that the definition was ambiguous; the appeal was rejected based upon a technicality regarding who filed the complaint. So, the regulation stays the same and they will continue to enforce it. It is important that they acknowledge that.

Mr. Panico added that their rules have not changed; the success of the variance prevailed whether they like it or not. So, on the strength of that, the Applicant has the right to come in and go through the procedure which he's doing this evening.

Comm. Harger noted that their original denial was valid. The applicant is only back here tonight because of a technicality with the appeal.

Mr. Panico commented that in order to get the 8<sup>th</sup> lot in this cluster of development, he had to show a CRD development of 8 lots. In order to show a

CRD development of 8 lots, he needed a variance for the square encroaching within the easement of the CL&P right-of-way. That was granted. That was contested by this Commission, but because of a technicality as to who is doing the contesting, the case, in effect, was thrown out of court. The variance stands.

Comm. Harger indicated that she just wants the record to show that the original action by the Board was appropriate and this is not something that they would normally approve.

Mr. Panico responded that it will in no way, shape, or form be precedent-setting in the future that they now have to take squares that go into the easement. They do not and they will not. The only reason it is before this Commission is because ZBA sought to grant a variance and no one with an automatic hardship took issue with it. The appropriate party to take issue would have been one of the abutters.

Comm. Harger reiterated that is why she wants to make sure it is on the record so that they do not start setting precedents.

Mr. Panico commented that his recollection of reading the court case, it was that the courts concluded that the Commission was not in a position to have taken the appeal.

Atty. Lynch responded that the Commission didn't have the standing to make an appeal.

Mr. Panico indicated that at sometime he has a legal question for their Counsel. The fact that the City owns open space adjacent to this – doesn't that make the City an automatically aggrieved party? But that is not for tonight.

Chair Parkins responded that it was the fact that the Administrator didn't file it.

Mr. Panico commented that the City itself should have taken the case...  
(inaudible)

Atty. Lynch responded that he's spent enough time researching matters, writing briefs; he is happy to put the file away.

Chair Parkins stated that with no further questions from the Commissioners for this applicant, she asked if there was anyone in the audience who would like to speak in favor or against this project.

**Wendy Siraco, 274 Meadow Street, Shelton, addressed the Commission.**

Ms. Siraco stated that she has been here every time and she is trying to comprehend it. She knows that they are talking about putting a house near the power lines and they're saying that something different has transpired. She asked what, basically, is the difference since last time.

Mr. Panico responded that the only thing different is the criteria that was applied to allow an extra lot to be created. After the Commission denied the request, the Applicant was successful in getting a variance. The fact that the Commission contested that variance, the Court upheld the variance. Now, with the variance in hand, everything now proceeds according to that variance.

Comm. Harger added that the point was, that they denied it from the beginning; the Court threw it out on a technicality and it was resubmitted – and as far as

she's concerned, she'd deny it again. But it is something that has their hands tied now...

Ms. Siraco indicated why they are saying that no one contested it.

Mr. Panico responded that in order to contest a variance, you need to be an aggrieved party – and the Planning & Zoning Commission was not considered to be an aggrieved party. To be an aggrieved party, you'd have to be within 100 feet of the proposed site of the action; then, go to court and demonstrate why you were aggrieved.

Ms. Siraco indicated that she really doesn't understand all the technicalities and everything but as she explained the last three times she was here – where they are building, you can see right into her bedroom. She showed the location of her home on the resubdivision plan.

Ms. Siraco explained the location of her house in the back, the location of the power lines, and the location of her father-in-law's house in the front – a small white house that no one can ever find...

Comm. Harger asked Ms. Siraco to point it out on the Commission's site map.

Ms. Siraco showed the location of her house and her father-in-law's house.

Mr. Panico asked if maybe she wasn't really behind the existing house.

Ms. Siraco showed her location and the power lines. Mr. Panico showed the location of the existing house and her house's estimated location. He explained that the new house, from her backyard looking at the back of the existing house, and the new house that would be to the right of it. It is between the existing house and the power line. That is where the applicant wants it to be.

Ms. Siraco responded that she is right in between there.

Mr. Panico showed Ms. Siraco that she is really behind the backyard and this is off to the side of the other house.

Ms. Siraco showed the location of her backyard in relation to the power lines.

Mr. Panico asked her if she didn't go quite to the power lines.

Ms. Siraco responded no, there is an open space – her yard, her fence and then the power lines – her kids used to ride their bikes back there.

Mr. Panico tried to estimate a measurement of the distance (inaudible)

Comm. McGorty asked if the space shown was open space between the two.

Mr. Panico responded that there is a strip of open space between the rear property of Ms. Siraco and the power lines; and that open space terminates at the back of the lot where the house is to be created.

Comm. McGorty asked if the new house would have the appropriate setbacks.

Mr. Panico responded that as far as he knows they aren't requesting any variances – they aren't at that stage yet. They are just going to approve the lot. There is no reason why they can't observe all the setbacks because the lot meets all the criteria.

Chair Parkins commented that they will still have to come back for building permits.

Mr. Panico responded yes, and at that time, before it got on their agenda, Staff will have reviewed all the setbacks, etc.

Ms. Siraco thanked the Commission. Chair Parkins asked if there was anyone else who wanted to speak for or against this proposal. There being no one else, she asked for a motion to close the public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #10-04.**

**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**

Chair Parkins asked the Secretary to read the call of the hearing and any additional correspondence.

**\*See Attachment B - correspondence dated 4/28/10 to Richard Schultz from Fire Marshal, James Tortora.**

**Lisa Roberts and Laura Testani addressed the Commission.** Ms. Roberts indicated that they previously owned Kid's First Learning Center in Shelton. They own two daycares in Shelton and they are looking to open a Before & After School program in the White Hills Shopping Plaza as an extension of their White Hills Daycare. She indicated that they had their green sheets to submit.

Ms. Roberts indicated that they are looking to lease a part of the building and it would be licensed for 25 children in the Elizabeth Shelton district.

Chair Parkins asked what their hours would be for this center – for the Before & After program.

Ms. Roberts responded that the hours would be 7:00 a.m. – 8:30 a.m. and then they would be open again at 12:00 p.m. for morning kindergartners and remain open until 6:00 p.m.

Chair Parkins asked if 7 a.m. – 6 p.m. are the hours, five days a week, during summer vacations, school breaks, etc...

Ms. Roberts responded yes.

Comm. Harger asked if they planned to expand in the summer when school is out to cover that gap between 8:30 a.m. and noon.

Ms. Testani responded that they can only have 25 kids so that would be the maximum number.

Mr. Panico asked if it was 25 clients or 25 children on the premises.

Ms. Testani responded that it is 25 children on the premises.

Mr. Panico asked if, theoretically, they could have some morning and some afternoon children overlapping.

Chair Parkins clarified that at one time – they can't have any more than 25.

Mr. Panico asked them to explain a little bit about how it is an extension of the White Hills Daycare operation – in what way?

Ms. Testani responded that when she says an extension of White Hills – it is really servicing the parents that have their kids in the daycare, who have older children, because they have infants through preschool at the daycare now. And they also have kindergarteners.

Ms. Roberts added that there is more of a need for that up in White Hills.

Comm. Harger asked if this was the facility near Jeremiah's, the Chinese Restaurant...

Ms. Testani responded yes, that's their facility.

Mr. Panico asked if that meant there is no interaction between the kids in one place and the kids in the other place.

Ms. Testani responded no, there is not.

Comm. McGorty asked what the age range of the kids.

Ms. Testani responded that it would be age 5 through 12.

Chair Parkins commented that she understands they are going to be doing something in an outside play area. It is going to be very small – she went up there over the weekend.

Ms. Testani responded that Mr. Well's is actually letting them – because it is his son's building next to it and offices next to that – so, he is letting them go down so it will be behind there horizontally.

Chair Parkins responded that they have a sidewalk, then a grass area, and then a wall that goes around the (inaudible)...

Ms. Testani responded that they are just going to put a basketball hoop back there, a sand box and a picnic table.

Chair Parkins asked if they were going to fence it in.

Ms. Testani responded yes, they have quotes for the fencing.

Mr. Panico asked if they mean that they are going to extend behind the store that is next to them.

Ms. Testani responded yes.

Comm. Harger asked, from the site plan, if it crossed an emergency exit.

Ms. Testani responded that they won't be going near the sidewalk. They aren't going to cover the sidewalks – just the grass area behind it.

Chair Parkins asked if it was going to be about 6 feet.

Mr. Panico asked for some clarification as to the direction of the back area.

Comm. McGorty commented that it is about 17 feet going to the right.

Mr. Panico asked if the play area was to the right when they go out the back door. But the tenant's space to the right of them is still vacant, right?

Ms. Testani responded that it is office buildings above them and then it is Mr. Well's son's home improvement store. Mr. Wells gave them permission to extend to the back of it.

Mr. Panico asked if they would be able to do that without obstructing access to the back door.

Ms. Testani responded no, they won't cover his sidewalk or back door.

Mr. Panico commented that according to this site plan, they'll end up with 14 feet.

Chair Parkins asked where they would put a basketball hoop.

Ms. Testani responded that it would be right when you walk out on the sidewalk.

Comm. Harger asked if it was a wall mounted one, like over the garage.

Ms. Testani responded that it would be free-standing with a base – but not really small like a Little Tikes – a little bigger.

Chair Parkins asked if their fence will come out from their doorway- Will the fence abut the building, go out to the grass strip and then expand out. Or is the basketball thing going to be right in the middle of the sidewalk where people are walking up and down the back, if they choose to do so?

Ms. Testani responded that they are going to extend the sidewalk and make a concrete area.

Comm. McGorty asked if there would be any buses or are the parents just going to be dropping off and picking up the kids.

Chair Parkins asked if their fence was going to prevent anybody from walking the full length of that sidewalk.

Ms. Testani responded yes, but they will have gates on both sides if someone has to walk through.

Mr. Panico added someone, if they had to, can walk through the play area. He stated that the sidewalk is for rear-yard service to those units. Where do they get that service from?

Chair Parkins showed on the plan that they access it from the side of the building and there's a stairway going up on the other side of the building.

Mr. Schultz commented that it is easier on the left side; the other has a stairwell.

Mr. Panico asked if they get their service on the left or the right.

Mr. Schultz responded it was to the right side because it is on grade. The other side has steps.

Mr. Panico expressed concerns that the bank and the Chinese Kitchen restaurant would have their service obstructed if they were located on the left side.

Mr. Schultz responded that they have to make sure that doesn't happen.

Mr. Panico asked if State law required them to have direct access from their inside space to their outside space.

Ms. Roberts responded – yes, the kids could get out the back door.

Mr. Panico asked if it was mandatory for their kids to go directly from their inside space to the play yard or can they cross the sidewalk.

Chair Parkins asked if they could not block the sidewalk is the question -can they have an access gate right next to a sidewalk?

Ms. Testani responded (inaudible).

Mr. Panico asked if she could maintain the continuity of the sidewalk and simply put an access gate through the fence directly opposite to where their doorway is. So when the kids go out, they can open the door and open the gate...so, is that permissible by the State?

Ms. Testani responded yes, (inaudible).

Mr. Panico asked (inaudible...)

Comm. McGorty commented that they would obviously bring them out versus them being able to just go out where it is already fence in.

Chair Parkins responded that would preclude the opportunity to put in an additional sidewalk – they said that they were going to put in additional pavement, cement, or whatever to expand the basketball area.

Comm. McGorty asked if they still need to do that.

Mr. Panico responded if these dimensions are correct, they are still going to have 14 or 15 feet from the walkway to the wall so that would be the width of their play lot.

Comm. McGorty commented that the apprehension is an issue of where the service is – it may be a non-issue.

Mr. Panico showed Comm. Harger how they would plan to carry their fencing all the way across, keep the sidewalk intact, and directly opposite their doorway put in a gate. He commented that he thinks that would do it.

There were comments (inaudible) regarding the location of services for the China Kitchen Restaurant.

Mr. Panico commented that he doesn't want to see a situation, where because of convenience; any restaurants want to bring the refuse out the front.

Comm. Pogoda agreed that they don't want it out the front.

Mr. Panico indicated that they have the Chinese restaurant on one side and (inaudible) on the other side.

Chair Parkins asked how the bookstore there gets rid of their trash – do they have to walk around the building to get the dumpster that is on the left-hand side. She asked how they access the dumpster.

Comm. McGorty asked if the dumpster was all the way down at the end by the Bank.

Chair Parkins responded yes.

Mr. Panico noted that the tenant here should have the ability to go down that sidewalk and get rid of their trash.

Comm. McGorty asked if they typically go out the back – that's something they need to know.

Chair Parkins responded that she would prefer them to go out the back.

Mr. Panico commented that they need to make the play yard physically separate from the buildings so the integrity of the walkway stays.

Chair Parkins added – and not connected.

Mr. Panico concluded that they need a gate directly opposite to the door.

Ms. Roberts and Ms. Testani agreed that they could do that.

Comm. Pogoda asked the applicants to explain how they have coordinated with the BOE and how the buses are going to work.

Ms. Testani responded that she spoke to the Laura Dempsey at the BOE and she is now in the process of talking with the bus company. They do have a special exception for the buses to come into the parking lot because they pick up at Kid's First, and they park the buses right next to the Bank in the morning and they go right by the area they are looking to open...

Comm. McGorty commented that he had asked that question before of how the kids would be dropped off and picked up.

Ms. Testani responded that they are looking at whether they want to stop in front of the building or do they want them to have another bus stop. So, that is what they are presently working on.

Chair Parkins commented that they can't go on private property and pick up children, there is a liability issue – they already went through this with the (inaudible...)

Ms. Testani responded that because of an accident with (inaudible) ...they got a special exception to be picked up behind the building.

Comm. McGorty commented that years ago they wouldn't allow it. When his kids were younger, they wouldn't allow that.

Ms. Testani commented that they used to walk the kids (inaudible) but when they opened up a Dunkin Donuts and put in two houses, they thought it was too dangerous for them to walk the kids to (inaudible) and the buses are in the parking lot.

Comm. Pogoda asked if they would be designated to be dropped off right in front of the building – at the door.

Ms. Testani responded that is what they are looking at to do.

Comm. McGorty asked if they are looking at whether or not it is one stop or two.

Ms. Testani responded yes.

Comm. Pogoda responded that it isn't up to him, but it seems like it would be safer than walking them across to the other place.

Ms. Testani agreed, yes, because they drive right by it anyway.

Comm. McGorty agreed, yes, they don't want kids walking through a parking lot – especially with traffic and bad weather and everything.

Chair Parkins asked if the Commissioners had any other questions. There were none; she asked if any member of the audience wanted to speak for or against this proposal. There being none, she asked for a motion to close this public hearing.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Application #10-06.**

### **OLD BUSINESS**

#### **APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE SEPARATE #5268 TERNIAN, LLC, 30 CALI DRIVE, HOME OCCUPATION**

Mr. Schultz asked the applicant to give the Commission an update since the last meeting.

**Victor Calicci, 30 Cali Drive, addressed the Commission.** Mr. Calicci indicated that at the last meeting he was asked by the Board to furnish more information and contact his neighbors. About 8 days ago, Tuesday of last week, he sent in a 4-page letter that he thinks answers all the questions the Board had. As suggested, he sent out a letter to four of his neighbors, requesting their name and their signature as approval of what he will be doing.

Chair Parkins asked if Mr. Dawson signed this and had no comment, is that what he's saying.

Mr. Calicci responded no, he spoke to all of them and explained to all of them what he was doing, about the classes, about being approved for the home business permit to allow him to get approved with the Federal Government so that he can get his Federal Firearms License and his students can order their firearms through him. They were all accepting of it. One of them thought it was great, and the gentleman across the street from him also has his license and told him stories of the people he deals with in Stamford. To his surprise, people were more accepting than he thought. When he originally sent out the letter, he left his phone number and the date and time of tonight's meeting too.

Mr. Calicci indicated that he got a call from Mr. Schultz this afternoon, and he told him that he hadn't spoken to them yet.

Chair Parkins asked if these property owners were abutting him.

Mr. Calicci responded yes, the only neighbor he wasn't able to get in touch with is his neighbor to the left. He contacted the neighbor to his right, behind him, and two neighbors across the street.

Chair Parkins asked where Stonybrook Terrace is.

Mr. Calicci responded that he lives behind him and their backyards about one another. He only didn't hear back from one neighbor.

Chair Parkins asked when he sent these out.

Mr. Calicci responded on Monday.

Chair Parkins asked if these were their signatures that they read these – this is their acknowledgement that they read the letters.

Mr. Calicci yes, and he had them put their phone numbers to. Since the last meeting, he tried to answer every question and explain things and give as much information as (inaudible)

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

Comm. Harger asked about 45.3-2 about “no finished consumer goods shall be acquired outside the doorway for sale on the premises.” She said that the applicant spoke about ordering things and he’d receive them for his clients. The applicant had spoke about how he would be doing the ordering, and then it would be delivered and he’d receive it for his clients. He said he’s not keeping a display case of things for sale – it is catalog sales.

Mr. Panico commented that with a home occupation it is one where you can bake some pies and sell them – that type of thing, not that you can import something and sell it.

Mr. Calicci asked if he could point out something to the Board. He thinks it may be something that just got lost in translation. A Federal Firearms License isn’t necessarily a license for him to sell firearms. Using the Board members as examples, he stated that if Mr. Pogoda and Mr. Schultz were both permit holders in the State of Connecticut to have a fire arm, they could make a transaction with each other with nothing more than a 5 minute call to the State and filling out a mail-in carbon form. The only thing a Federal Firearm License will allow him to do is to buy it wholesale and get the item cheaper. So Mr. Pogoda could have Mr. Schultz come to house without a Federal Firearms license, as long as they were both licensed to carry a firearm and he can sell his own private firearm. He can also own as many firearms as he likes. Again, the Federal Firearms License doesn’t allow him anything other than to be considered a dealer to get things at a wholesale price.

Comm. McGorty commented that the question then is that there is no way to regulate – he could have a thousand of them and selling them not just per custom or special order from somebody – he could have a whole stock of them. There is nothing to prevent him if he has a license and a permit.

Mr. Calicci noted that he could too.

Comm. McGorty responded yes, he agrees. But he is asking to have a business at the house, whereas, he may just have them as a hobby where he might sell one; but he’s actually setting up a business where he’ll have clients coming and going. That’s an established business – that’s what he’s looking for – and he’s looking for the right to do that out of the house. So, there is nothing to prevent him from going out, after everything is granted, from going out and buying a thousand guns and setting up shop. He doesn’t have an issue with weapons but there is no prevention from him stocking and he thinks that changes things...he has a young son there. He didn’t hear a lot about storage, safes, etc.

Mr. Calicci responded that he wrote about four pages in which he answered those questions.

Comm. Harger commented that they didn’t see that, they didn’t get any of that. Comm. McGorty added that he didn’t see that either.

Mr. Calicci responded that he brought it in last week and handed it to (inaudible)...

Comm. McGorty reiterated that he hadn't seen it but it would be good to have it.

Mr. Calicci added that he dropped it off with his application on Tuesday of last week with a copy of his NRA license.

Comm. Sedlock asked if he was going to order a gun, say for him, he has to have a license, correct? Who does the background checks on that?

Mr. Calicci responded that the Federal Government, if he was interested in buying a firearm from him, he'd have to show him the license. After showing him the license, before he can fill out paperwork or get anything, he has to call up the State, the Government for an NICS background check and immediately, on the spot, do background verifications – that's the same info for any background check.

Comm. Sedlock asked if that is all that would have to transpire before the gun is delivered to the house – before the wholesaler sends the gun.

Mr. Calicci responded that the gun is sold to him.

Comm. McGorty added that he can buy a gun anytime he wants – and as many as he wants.

Comm. McGorty commented that he just has to be careful on the sell side that everything is in place for when he sells that gun – that it is a clean transaction.

Chair Parkins indicated that her concern is, and she knows that he told the Commission last time, that he's just doing this as a part time thing – probably only on Sunday because he works full-time; but what if that situation changes and this becomes a full-time job for him. There is no assurance to the Commissioners and they can't regulate it. So, that would be her concern, that this would become a full time job and doing this much more often than once a week.

Mr. Calicci responded that he can understand that because there really is no way for him to prove otherwise – other than his records.

Comm. Sedlock asked how this is monitored – where does the Commission fit into the monitoring of the situation.

Chair Parkins responded that only way they can monitor is if someone, a neighbor complained, that he had a lot of people coming in and out all day long or something.

Comm. Sedlock asked what they can do if this becomes a bad thing or something dangerous.

Mr. Schultz responded that they could revoke the permit (inaudible...)

Mr. Calicci added that it could also revoke his ATF license as well. (Inaudible) because he isn't worried about high volume.

Comm. Harger asked if this is a one-on-one kind of instruction.

Mr. Calicci added yes, it is much too time consuming and the NRA also stipulates that there be one instructor for every two students so even if he wanted to do a group session, he wouldn't be able to.

Chair Parkins asked for confirmation again that he takes students off-site to do lessons and use the physical address to be able to purchase the gun.

Mr. Calicci responded absolutely.

Comm. Sedlock asked when the gun is delivered to his house, does he have to physically sign for it or do they leave it in the garage like they sometimes do for UPS.

Mr. Calicci responded yes, State law mandates that when shipping a firearm, notification must be given to the carrier that there is a firearm in that box and it requires signature.

Comm. Sedlock asked if it comes to his house on a Tuesday and he is at work – then it absolutely cannot deliver it unless they can put it in your hands and your hands only?

Mr. Calicci responded yes, absolutely. They would leave notification on his mailbox probably and he would have to go down to FedEx or UPS personally.

Comm. McGorty added that they usually try to deliver three times. Will they request an ID from him or can any adult at that residence receive it.

Mr. Calicci responded that it has to be signed by him.

Chair Parkins commented that her last question would be, since she isn't that familiar with Cali Drive, if the four or five addresses that he provided are a pretty good representation of what the neighbors would be.

Mr. Calicci responded that everyone is on about a one acre lot (inaudible).

Chair Parkins asked if they had a consensus among the Commission members.

Comm. Harger indicated that she had no problem with it.

Comm. Sedlock stated that his original concern was the safety part of it and he thinks the gentleman has answered it and he's satisfied with it and he's comfortable with it.

Mr. Panico indicated that if they are concerned about the scale, they could limit how many he sells per year.

Chair Parkins responded that she didn't know that they could do that; that is under the permit with the ATF.

Mr. Panico stated that they can limit it from the point of view of trying to minimize activity to and from the site by limiting the amount of sales.

Chair Parkins asked if they would limit the amount of sales or the amount of visitors to his home.

Mr. Panico responded that he assumed that the two would be related.

Comm. Harger asked if that was enforceable.

Chair Parkins responded that she didn't know and asked how they would regulate that.

Comm. Harger agreed and asked who would oversee it and all that.

Mr. Panico commented that if someone opened a small operation and wanted to do used car sales, they have often times said OK, but they can't sell more than 10 or 12 cars a year or whatever number.

Mr. Schultz commented that he thinks it is more if Staff gets complaints, it would go directly to the Commission and be evaluated from there.

Chair Parkins asked if they could do it with that condition – that is probably standard, but at least if they can let the applicant know that if they receive any complaints, then they will certainly revisit and potentially revoke the license – as long as he is aware of that.

Comm. Harger added that on the flip side, for the first year could they have something where Staff could contact the neighbors routinely in case they have problems.

Chair Parkins responded that she thinks that they would contact P&Z.

Comm. Harger commented that it would be a little more proactive.

Comm. Sedlock responded that he would come in right away if he thought there was a problem in his neighborhood.

Comm. Harger commented that they could get in touch with the neighbors for the first six months or something.

Chair Parkins responded that she didn't want to put the oneness on Staff of having to go out to the neighbors. Comm. Harger suggested a phone call.

Comm. McGorty asked Chair Parkins if she had read through all this information.

Chair Parkins responded no, she had not.

Comm. McGorty indicated that he was going to abstain because this is important information that he wanted before the meeting and he's surprised they didn't get it. He wants to review it before making any decision. He doesn't want to do it at the 11<sup>th</sup> hour, at the time of making the decision - he wants some time to go through it. He wants to review it before making any decision.

Mr. Calicci indicated that it is dated as to the day he brought it in.

Comm. McGorty responded that he can see that it's the 11<sup>th</sup> but for some reason it didn't get to them.

Chair Parkins commented that she is sensing that the Commission is looking at this favorably but they did have a lot of questions the last time and they do appreciate realizing that it isn't your fault or (inaudible)

Comm. McGorty responded to the applicant that he put the work in and provided the information and he'd just like an opportunity to look at it.

Chair Parkins commented that they meet again in two weeks, if the applicant doesn't mind they'd like to table this one more time.

Mr. Calicci responded no, he just has to be in touch with the ATF to let them know the outcome of this meeting. The application process takes about two months; after they finally approve the application, ATF sets up a meeting and comes out and talk to him and everything. So, he still has a process to go through – but they only give him 30 days to do that before they pull the application and he has to reapply. It isn't a concern of the Board, but it's a good chance that his 30 days are up this week. There is a good chance that someone from the ATF is going to call someone from the Town tomorrow.

Mr. Schultz responded that he has contacted him and he'll be ready to tell him what transpired tonight.

Chair Parkins added that they will let him know that the Commission is looking favorably on this; they just need time to go through the information given, and the Commission is satisfied with his outreach to the neighbors because that was one of their major concerns. She asked for a motion to table this until May 11<sup>th</sup>.

**On a motion made by Virginia Harger seconded by Joe Sedlock, it was unanimously voted to table Separate #5268 until the May 11<sup>th</sup> P&Z Meeting.**

Mr. Calicci thanked the Commission

#### **SEPARATE #5279 SHELTON SQUARE LTD., SIGN**

**Paul Dumont, Related Properties addressed the Committee.** He stated that he was present tonight representing Shelton Square Limited Partnership to receive feedback about a sign and answer any questions that they have.

Chair Parkins indicated that she appreciated them putting that sign on the site. It actually held up pretty well over the weekend.

Paul Dumont responded that they are surprised too.

Chair Parkins commented that she got out there Monday, and they were having some pretty heavy wind. Her first impression is that it's huge, but then she realized that entrances are what they are. Personally, she thought the sign was fine but some of the other Commissioners had a few questions and possible suggestions of moving it back a little bit further.

Comm. McGorty commented that he thinks that they will still get a clear view from Bridgeport Avenue in both directions. On the Duchess side, there is a corner that comes up pretty quick with the trees and everything obscuring the view. He thinks that if they were to shift that back another car length. It's probably because he's not used to it, but sitting at the light and there's a car, it is pretty big on the side. The light is traffic controlled which isn't an issue, but he thinks if it is moved back a little bit they will still get the view from the Duchess side, which is really the questionable side. And the other side is a non-issue.

Comm. McGorty added that he just thinks he would give it a better – because it is big, and it is – right there. Shifting it back a little bit may help.

Mr. Dumont responded that presently the sign was placed 25 feet from the curb line. They originally anticipated 20 feet, but when they put the marker in, they decided to push it back. It is probably 25 feet, that is almost two car lengths. Probably five feet more to thirty feet, would be two car lengths through that intersection.

Comm. McGorty commented that he was the second car in line and it was on the side of him, but they may have been back a little so it was right there.

Mr. Dumont responded that they are really talking about a driver's view so the second car would really be a car and a half or so.

Chair Parkins asked if they'd be amenable to pushing it back another five feet then.

Mr. Dumont responded yes, another five feet would be fine.

Chair Parkins added for the record that Comm. Flannery was not able to stay tonight but she relayed that she drove by there and she also suggested pushing it back 3 – 6 feet. So, she thinks that would satisfy Comm. Flannery's concern as well.

Comm. Harger indicated that her concern was the overall height of it. Coming from Burger King, she thought the line of sight to the People's Building was obscured and she didn't know if anyone else noticed that or felt the same way; but she thought it looked a little bit too high.

Chair Parkins asked if it was obscuring the sign at People's.

Comm. Harger responded the building view.

Chair Parkins commented that pushing it back might help.

Comm. Harger asked what the dimensions were of the existing sign.

Mr. Dumont responded that it is in conformity with the existing regulations – that is about 5 feet higher than what they proposed – in the 20 foot range.

Comm. Harger asked about the width.

Mr. Dumont responded that he didn't specifically know the width – he knows that on the new sign the illuminated portion is approximately 9x5.

Comm. Harger asked if that was the portion that would be "Shelton Square Shopping Center." What is the proposed sign in relation to TJ Maxx and the Shop-Rite one across the street.

Mr. Dumont responded that the part that will have the tenant's names are approximately about the same size – about 49 square feet.

Comm. Harger asked about the top part of the proposed sign.

Mr. Dumont responded that if it is in conformity with the existing code it is probably around 45 feet.

Comm. Harger asked about the comparison to these two.

Mr. Dumont responded that he didn't know, he didn't measure them.

Comm. Harger indicated that she thought it was a little bit too big. She drove up and down Bridgeport Avenue a couple of times last night and thought the proportion of the one near Sears and FedEx was a little bit more in proportion from her perspective and not so overwhelming. She thought this was a little oversized.

Comm. Pogoda commented that he thought moving it back five feet sounded reasonable.

**On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5279 for signage with the condition that it be moved five feet back from the proposed location.**

Chair Parkins noted for the record that **Commissioner Spinelli joined the meeting at 8:05 p.m.** and would be sitting in for Commissioner Flannery.

**SEPARATE #5297 WAL-MART, OUTDOOR GARDEN AREA**

Mr. Schultz showed the newer members the location highlighted in yellow for the outdoor garden area. Wal-Mart has, for the last several years, designated 24 spaces in the front parking lot for their outdoor garden products area. This is for a 90-day event from May 1<sup>st</sup> to July 31<sup>st</sup>.

Mr. Schultz commented that over the years it had grown and expanded from the 24 and gotten a lot bigger. The Fire Marshal intervened, but they have complied, it has worked and Staff is recommending that it be confined to those 24 spaces.

Comm. Harger noted that from what she's noticed, as the products get sold, they consolidate the area; so, it does get smaller as the days go by.

Comm. Sedlock asked what the request from Wal-Mart is – to continue this.

Chair Parkins responded that it was a temporary outdoor garden area from May 1<sup>st</sup> – July 31<sup>st</sup>.

**On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #5297.**

**APPLICATION #10-04, KEVIN RUSSO FOR MODIFICATION OF SPECIAL EXCEPTION APPROVAL FOR A CRD DEVELOPMENT AND RE-SUBDIVISION OF LOT 7, MEADOW WOODS ESTATES, 7 PLUM TREE LANE (MAP 145, LOT 124).**

Mr. Schultz read the draft resolution for Application #10-04.

**\*See Attachment C: P&Z Application #10-04: Modification of Special Exception Approval for Meadow Wood Estates, a 7-lot CRD and Resubdivision of Lot 7 into two lots: 7 Plum Tree Lane, Dated 4/28/10**

Comm. Harger asked if #6 on the first page was really valid. (#6. There was no public opposition at the public hearing.)

Chair Parkins commented that the neighbor didn't really speak in opposition, she just said she wanted clarification of a question.

Mr. Panico added that she did have a little bit of concern about the view from her windows.

Chair Parkins commented that she didn't publicly state she was opposed to it, she just wanted clarification.

Mr. Schultz stated that it is important to note that at the ZBA there is no public hearing and that is a public hearing. There is no opposition.

Chair Parkins asked for a motion on the draft resolution as written with the conditions listed.

**On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously roll call voted (5-0 with 1 abstention) to approve Application #10-04. Comm. Spinelli abstained from voting.**

**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.**

Mr. Schultz read the Draft Resolution for Application #10-06 dated April 28, 2010.

**\*See Attachment D: P&Z Application #10-06 Special Exception/Site Plan Application for the Establishment of a Child Day Care Center: 194D Leavenworth Road, White Hills Shopping Center.**

After reading the draft resolution, Mr. Schultz asked the Commissioners if they were satisfied with the black vinyl fencing which really won't be seen because it is behind the wall. Staff indicated that it will coordinate this with the Applicant and call the Commissioners because they really need to see this when it is a child daycare center to make sure it doesn't impede the travel way.

**On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously roll call voted to approve Application #10-06 (5-0 with one abstention). Comm. Spinelli abstained from voting.**

#### **NEW BUSINESS**

**APPLICATION #10-09, UNITED RECYCLING OF SHELTON FOR MODIFICATION OF SITE PLAN APPROVAL (MISCELLANEOUS SITE IMPROVEMENTS ASSOCIATED WITH VOLUME REDUCTION FACILITY), 90 OLIVER TERRACE (MAP 63, LOT 13), IA-2 – ACCEPT, DISCUSS AND POSSIBLE ACTION**

Mr. Schultz indicated that Mr. Panico will read a Staff Report after the presentation and they have a favorable report from the office of the Fire Marshal.

**Joe Salemme, United Recycling of Shelton, addressed the Commission.**

Mr. Salemme indicated that he was there to answer any questions and clear up any uncertainties. The Site Plan that they reviewed was minor changes like parking spaces, landscaping, tree-planting for future buffers for (inaudible).

Mr. Panico asked if this revision is beyond the March 29<sup>th</sup> one. Is it a different revision or the same one.

Mr. Salemme responded (inaudible)

Comm. Parkins asked the Applicant to give the Commission a little update as to where he is on this project. She knows the Commission, for those members not on the Commission at that time, this Commission did approve a site plan back in 2007.

Mr. Salemme responded that where they are now – they are continuing their process with the DEP permit - which is a long process. Along the way, they have made some changes to the site plan. They've changed the scale location for the trucks, downsized the scale from a double scale to a single scale. They

have added some parking spaces for both the office and for the employees. They acquired the property to the west – and they discussed this with the Commission, and he believes that the Commission is aware of, the storage containers and where the storage containers are going to be. They are highlighted on the site plan.

He commented that it was the J&L Properties – that is owned by himself. And over the last couple of years when they were preparing the site at 90 Oliver Terrace, they did some blasting up there and leveled that area off and continued it over to the property that they acquired for storage and that they would like to continue to fill in, in the future, retain it, stabilize the property and put up some pine trees for a buffer along the Bridgeport Avenue side.

He indicated that he believes there was some confusion on a tip floor that was to the south approved building that they identified on this application as a future, covered building.

Mr. Panico asked if he was referring to the 6,000 square foot building.

Mr. Salemme responded yes, they identified that as something that they'd like the Commission's approval to construct that in the future. That is part of their Phase 2 Part of the application with the DEP. The Phase 1 application with the DEP would be for 400 tons and that would uphold for approx. two years. And if everything is up to the DEP standards, they will consider increasing it to the 800 tons that they are requesting in their permit application.

Mr. Salemme explained that the confusion that they had with this Board was, and from the Engineering Report of two years ago, the City Engineer was under the impression that it was 1600 tons. That is not correct. He wants to clarify for everybody here that the total amount that they are requesting from the DEP at the fullest extent of use on property, which is hardly ever met to begin with, the total amount they are requesting is 800 tons. They are through the process. They have discussed it with them and they would be more comfortable, and they are fine with this, if they approve it – it would be Phase 1 400 tons and Phase 2 800 tons (inaudible) for approximately a two year period.

Mr. Panico inquired about the information shown on the plans and asked if, with the future 6,000 square foot addition, and the future parking – those are all the facilities that he'll need for the total operation of 6800 tons – correct.

Mr. Salemme responded that is correct.

Mr. Panico commented that if this successful now then they don't have to go through it again to go from 400 to 800.

Mr. Salemme responded yes, exactly, this would make it to the final stage for the 800 tons. They wouldn't be constructing that for at least (inaudible).

Mr. Panico asked if the building will be big enough and the other on-site supporting areas will be big enough to support the potentially 800 ton total maximum.

Mr. Salemme responded yes.

Mr. Panico indicated that part of the issue they've been having is that some of the information, quite frankly, is very vague on the drawings, and really needs to be taken up another level. He commented to Mr. Salemme that he probably knows what he wants to do out there but the drawings don't necessarily reflect it. He really has to clean up a lot of that stuff. It is not unusual with an

application of this nature whether it is for this type of activity or for any other site plan. There is always things that have to be done to dot the "i's" and cross the "t's" so that there is no misunderstanding between what the applicant thought he was getting approved and what the Commission thought they were approving.

Mr. Salemme responded that he understands and he briefly wanted to discuss one other building that they wanted to modify in the future – their asphalt shingle recycling processing building. It is currently a three-sided lean-to type of concrete building with wood and steeled rope to keep the shingles dry through the recycling process. They would like to extend that in the future to keep both the unprocessed and processed shingles undercover. He believes that they showed that on the map in the same location. It would be along the Route 8 easterly side of the property and again, they talk about that for the future. It is something that he would like to see the equipment all under one roof – everything. He thinks it would be environmentally beneficial and it would be an aesthetic improvement to the property.

Mr. Panico asked Mr. Salemme if he wanted to bring the Commission up to date on what's going on with them and the State and the DEP, and Wetlands about the incursion into the State right-of-way with their activities.

Chair Parkins commented that as part of that, maybe they just want him to address what he can on the City Engineer's letter because the Commission was cc'd on the Engineer's letter. She would like the applicant to have the opportunity to discuss those concerns.

Joe Salemme asked if she was referring to the letter that they just received tonight or the original one.

Chair Parkins responded on the original one.

Mr. Salemme commented that they just got an updated one that he just received.

Chair Parkins indicated that she thinks that one is just kind of a recap.

Mr. Salemme referenced the first page of a memorandum from Robert Kulacz, City Engineer, P.E. dated 4/21/10.

**\*See Attachment E, Memorandum dated April 21, 2010 to Richard Schultz, P&Z from Robert Kulacz, City Engineer P.E.**

Mr. Salemme noted the first bullet on the list under "the following observations..." which states that "significant tree removal and filling operations have taken place to expand operations onto the J&L Enterprises property..." Mr. Salemme clarified that the J&L Enterprises property is his property. They have a lease...

Mr. Panico interjected that is part of what is going on here and that's part of what they are going to try fire fight...

Mr. Salemme continued to say that is part of his DEP – he referenced an application that says "area for lease to United Recycling by J&L..." He indicated that this application is identical to what is up at the DEP. He showed the exact same map and the clarification for what is going on at the property. He wanted them to be aware so that there is no confusion.

Chair Parkins asked if that lease was included in his application to the DEP.

Mr. Salemme responded that lease is included in their application to the DEP. They provided it; it is notarized and it is part of the application package. He stated that he can provide that at any time for them. It is about 5.5 acres that goes down to Todd Road and it is owned by them. They have left a large buffer of trees for now. And they show that in the future as they continue to fill that they are going to build it up and put a row of pine trees up there.

Mr. Panico stated that is the kind of thing that they are going to have to sit down and get it properly shown on the drawing so that there is no confusion about it.

Mr. Salemme stated that he understands and continued to say that immediately to the west of the existing building is the same property. That area was an area that was between both property lines and they blasted, and basically pushed a lot of it over. They did fill some of it also, but they are using it for nothing but storage for the dry containers – the empty containers. He thinks that everyone has seen it. It is neat and as soon as they are finished he'd like to put a row of trees up to keep anything from looking unsightly in the wintertime.

Chair Parkins commented that row of trees will be a buffer between the facility and Bridgeport Avenue.

Mr. Panico responded yes...(inaudible)

Mr. Salemme continued to comment on the next listed item in the memorandum stating that "there are no erosion and sedimentation control measures in place at the base..." He indicated that there are now. Since this letter has been sent to them, they have made immediate provisions and they immediately brought a couple of extra machines in to do exactly what was recommended to them. They did it over the weekend. They worked hard and secured the sediment control, put the silt fence down, tapered the property down and if there is anything else that he's aren't comfortable with, they'd be happy to move a quickly as possible to get that done.

Mr. Salemme commented on the next memorandum item stating "It appears that the paved parking area to the north of the existing building extends onto the Beard property on the north." Mr. Salemme explained that was incorrect and he believes that they showed Mr. Kulacz where the pins are completely on their property.

Mr. Panico stated than that is a non-issue.

Mr. Salemme indicated that the comment "the wire fence along the easterly boundary of the property that belongs to the Connecticut Department of Transportation is missing. The fence is in place along the abutting property to the south."

Mr. Salemme responded about that fence - they bought the property about two years ago and that fence – they don't recall seeing it there – if it was there, and if they'd like it to be replaced, then they will replace it. They did inadvertently add some mulch and some fill that was put down there that they were just made aware of by the surveying by the State. As soon as they surveyed it, they made immediate actions to clean it up. They held back the bank as much as they could and hydro-seeded that. He will get back to that because that was told to them by local officials also.

Mr. Salemme commented on the next item "filling has taken place on the Rt. 8 State right-of-way beyond the established property line of the applicant. He indicated that they were over the line in some areas and they have, again, completely addressed that issue over the weekend.

Mr. Salemme commented about the City Engineer statement that “significant amounts of wood chips have either washed down onto the State property or were placed over the fill material used to level the project site above the expressway.”

He stated that this was the same issue – they were all pulled back onto their property completely. They have nothing on the State property at all except a silt fence that they were instructed to put there. And, again, they just hydro-seeded over the ...(inaudible)

Mr. Panico asked if the fill material had been removed from the State property.

Mr. Salemme responded yes, as much as they told them to remove. He isn't sure how extensive they wanted to get. There was a little confusion between local officials and the State on how far, or what, or if anything to do. He'll get to that next. He'll try to be as clear as he can – it's just that there was a little bit of confusion there.

Mr. Salemme commented on the last bulleted item on the memo stating that “the placement of wood chips and fill has occurred within 50 feet of the relocated watercourse channel constructed between the property line of the applicant and the southbound lanes of Route 8 on State property.”

Mr. Salemme responded that this is the same issue – and they were pulled back according what they were advised to do, and what they were instructed to do by the City Wetlands.

Mr. Panico asked if all that had been done.

Mr. Salemme responded that it is all done – completely.

Mr. Salemme indicated that he'd be happy to do a site walk again tomorrow for anyone on the Commission.

Comm. McGorty responded that he's seen it.

Mr. Salemme commented that Comm. McGorty was already up there today and he just wanted to be clear about how extensive it was.

Comm. McGorty indicated that it's all hydro-seeded, silt fencing, and everything.

Chair Parkins added that the DOT went out and marked it – they marked it last week; she was up there.

Mr. Salemme noted that he was a little confused about another comment in the memo regarding Mr. Kulacz's review report dated May 12<sup>th</sup> 2009 that states that the site plan drawings are incomplete, lacking clarity and inaccurately portraying existing conditions. He does not recall anything.

Chair Parkins responded that is was Mr. Panico was referring to earlier about the drawings not being too strong.

Mr. Panico commented that he is just speculating that the City Engineer is referring to the ... he had made a submission about a year ago and it was subsequently withdrawn. Apparently, he started his review, noted that the drawings were incomplete or lacking in specific details, and made some observations.

Mr. Salemme responded that is what he is assuming also, but he doesn't have a copy of it so he doesn't know what he is referring to.

Mr. Panico asked Rick if he had one somewhere upstairs in the file – last year's Engineering Report.

Mr. Schultz responded that he definitely has that.

Mr. Panico commented that if he doesn't have a copy, they'll give him (inaudible).

Mr. Salemme asked if there were any other issues that he didn't address, he'd be more than happy to address them and correct anything.

Mr. Panico responded that he suspects it is going to overlap the same concerns that they have to date about the lack of clarity.

Mr. Salemme commented that pretty much wraps up the Engineer's letter of the 21<sup>st</sup> of last week when they came out and inspected.

Chair Parkins noted that his last item is to show proof that a lease agreement has been executed with the abutting property. But that is absolutely in the application.

Mr. Salemme commented that if they need that he can provide it and a copy of the application from the DEP.

Mr. Panico responded they need it for zoning purposes too.

#### **End of Tape 1B 8:40 p.m.**

Mr. Salemme indicated that addresses the engineer's letter from April 21<sup>st</sup>. They received another letter from John Cook, Wetlands on the 22<sup>nd</sup>. It basically discusses the same issues with the fill of woodchips on the State property which had been immediately removed. As soon as they knew that they were encroaching on State property, they were in contact with them, immediately removing the wood chips and pulling back the disturbed areas. They were contacted by New Haven. They told them that they weren't happy with them disturbing area; they had no problem with this is the first place but that they were receiving numerous calls and that they wanted some kind of action. So, there is a little confusion why they did it, when they did it and how fast they did it. They did it as soon as they were told to, according to this letter from John Cook.

Mr. Salemme continued to say that the next day they got a letter from John Cook that said "to resolve the violation you are to remove all regulated activities and restore the areas in question...or prepare an A-2 site plan..."

**\*See Attachment F: letter dated April 22, 2010 from John Cook, Inland/Wetlands to United Recycling of Shelton LLC.**

He indicated that they chose to just restore the area in question. He stated that the Chairperson Parkins came out and walked the property and were aware of what they doing. They were doing nothing but following instructions from local officials. To restore the areas in question, they immediately acted; brought machines in to work over the weekend – Saturday and Sunday to restore the area the best that they possibly could. Mr. Cook was up today and looked at the property. He seemed to be comfortable with it; however, he cannot speak for him, he didn't write a letter, so he's not going to.

Chair Parkins asked the applicant to share with the Commission why all the wood was there.

Mr. Salemme explained that the wood processing operation – wood was just being stored in piles there and over the years the rain pushed it down. It has been there for probably 5 or 6 years now and it was a gradual slope that was seeping down onto the State property. There may have been other areas where they inadvertently pushed it over into an area that they shouldn't have, and when they marked the property line, they cleaned it up and got everything off of there as soon as they possibly could. They spoke with Wayne McCaldo from the New Haven DOT. He has asked them today because there's been some other dialogue between their Engineer and Newington and New Haven. Wayne asked them to fill out a permit and they did that this morning.

Mr. Panico asked what the permit was for – to restore the area – which is already done – so it's an after-the-fact permit.

Mr. Salemme agreed yes, it was already completed but Mr. McCaldo instructed them to stop doing everything and put some trees up there. They asked him where they wanted the trees. They went down there today and he showed them on the map where he wants them to go. After the permit application is approved and sent to them, they are going to be planted.

Mr. Panico asked if those trees were on the right-of-way side or on their property.

Mr. Salemme responded that they were on the right-of-way side.

Was there any talk with him as part of this permit to put the fence back up, if there was a fence, or...

Mr. Salemme responded that no, he stated to them that some of the fence...He commented that his partner, Ben Perry, just informed him that he spoke with him and asked them to do it. So, whatever he asked them to do, they will do it according to where the State DOT wants it.

Mr. Panico asked if he means that they are going to require them to put fencing up where no one noticed it was.

Ben Perry, United Recycling, commented that it was a very small section because further on down the way, they'll notice on Genatasio? property and even further on Brennan, there is no fence.

Mr. Salemme added on a lot of the area there – apparently there was a fence on their property on one time and wherever they want it put back, they will put it back.

Mr. Panico responded that in any event, they know where the line is now.

Mr. Salemme indicated that they are waiting for the permit. They filed it, they filled it out today, they paid, he's meeting, and he's going to get back to them as soon as he can today to plant the trees. They will plant about 8 pine trees, not too far apart but he is going to ask that they be put them a little bit closer.

Mr. Panico asked his status with respect to Mr. Cook, the ZEO, is still up in the air as to whether or not he's satisfied or not satisfied.

Mr. Salemme responded that he can't comment. He seemed to be; he was out today and saw the significant progress that they made over the weekend.

Mr. Panico commented that as he'll see in few minutes from their report, they are going to require both those issues to just be satisfactorily addressed.

Mr. Salemme responded that he understood. He indicated that he would like to clarify a couple of things because there are a couple of key things that he'd like to ask the Commission to act on. Since the site plan modifications are minor in effect, this is an unrelated incident as far as the site plan, they will and have addressed every single issue on there to date, right now. If they could get their approval on the site plan modification just to correct any misunderstanding with the DEP who was notified about potential violations either inadvertently or prematurely by officials in this Town, he would request that this Board to instruct Staff to contact the DEP through a letter and bring them up to speed because letters have been sent to them and they were negative letters and he'd like to just clarify. Or, if they would, ask them to just inform the DEP where they are and how it was acted upon so he could clarify his position with them because all that they respond to are letters. They don't respond to phone calls.

Mr. Panico commented that maybe when they get finished discussing the Staff Report, that will take care of itself. It was important for them to get the background from him because it help set the basis for some of the comments made in the Staff Report.

Mr. Salemme responded that is understood and if, they can address the most recent Engineering memo that just came to them tonight.

Chair Parkins commented that she doesn't think the Commission has seen a copy of that memo.

Mr. Salemme responded that everything on it, they have already completed – that he asked them to do.

Chair Parkins agreed, she read it quickly and it is basically a recap of the letter.

Mr. Salemme indicated that everything on it they did already – sediment control measures, soil erosion silt fence, grade and stabilize, etc.

**\*See Attachment G: Memorandum to Richard Schultz, from Robert Kulacz, City Engineer dated April 28, 2010 regarding United Recycling of Shelton Violation of ConnDOT Non-Access Highway Line.**

Chair Parkins asked if he was working with the State DOT on the majority of the issues that were raised in the City Engineer's letter and the Wetland enforcement issues. Items 5,6 & 7 were really wetlands enforcement issues, not zoning enforcement issues so, they area being addressed through the interaction with the State, to her understanding.

Mr. Salemme responded that is correct.

Chair Parkins reminded the Commissioners that their purview is for the Site Plan for this operation – not for the operation itself. The DEP is responsible for regulating this type of facility and this applicant has had an application before them for quite some time now. It is her understanding that the process, and perhaps they can fill in where they are on that timeline; but that the process when they get ready to issue the permit, if they approve it, there will be notice in the newspaper and Notice of Intent to Issue Permit of which the public will have 30 days to comment.

Mr. Salemme responded that he believes that they are going to make the P&Z Commission aware also – that was part of their package and part of the request.

He indicated that the process goes on, in their case, for years and what happens is that they just received a Notice of Sufficiency which means everything was in order on their recent re-application. They reapplied, they hired a new engineering firm out of Farmington and another law firm out of Hartford and they handled the new application which pretty much repackaged and clarified any confusion on the old application.

Mr. Salemme continued that since then, they have sent them a Notice of Sufficiency which is the first step of correspondence indicating all the required permit documents are in place. Secondly, they just received a second review of a technical engineering which is perfectly common in these permit processes and they go back and forth with the engineers from the State and the engineers that they've hired to represent them about some changes that they wanted to see on this site plan and they are part of this site plan here, so when they resubmitted the changes that they requested – pretty much they are dust control, hoses, door sizes and minor changes to the site plan that they wanted total clarification on.

Mr. Panico commented that those are operational characteristics that the DEP will deal with.

Mr. Salemme responded yes, but they are on their site plan modification so if there is any confusion as to any difference – he wanted to make both sets of plans identical.

Mr. Panico commented that one of the problems is that they need to get the right material on the right drawings. The conditions map shouldn't show proposed grade – that is part of the proposal.

Mr. Salemme indicated that is where they are in the process. They just received a second letter from them and they are now in a 60-day period to respond to them on the changes. The engineers are acting on that now and then, hopefully, that will be one of the last correspondences and then the Notice of Tentative Determination is what is issued next if everything goes according to permit process and then there is a 30-day appeal process.

Chair Parkins noted at which time members of the public can provide comments to the DEP, petition for a hearing...

Mr. Salemme yes, they can provide comments and concerns with the DEP.

Chair Parkins asked if he knew what paper that would be published in.

Mr. Salemme commented that it would be the Connecticut Post.

Mr. Panico indicated that there was some criticism during the last go round because it was in the Waterbury paper.

Mr. Salemme responded that's right – that was part of the reapplication process that they put it in the Connecticut Post and another paper, but he isn't sure. He is assuming that is where they will put the appeal notification.

Chair Parkins added that this Commission will also be notified.

Mr. Salemme responded yes. He thought they were cc'd on the Notice of Sufficiency.

Chair Parkins asked about the Site Plan because years ago when they visited, they had a Visitor's Center up there and they had indicated that they would be

providing tours for students and officials. So she wanted to make sure that there was school bus parking availability nearby.

Mr. Salemme responded that they can section off an area – they don't obviously use all the loading docks right now.

Chair Parkins indicated that she is sure he'll use every safety precaution with children there.

Mr. Salemme responded absolutely, they will with children up there.

Mr. Panico noted a large yard area on the site plan with a large turning area.

Chair Parkins asked if any of the Commissioners had any questions for the Applicant.

Comm. Spinelli asked for clarification – that John Cook did not send a letter to the Commission stating that all these conditions have been met in his review, is that correct? He went out today and looked at it, but he has not sent anything in writing, correct?

Mr. Schultz responded he hasn't prepared a letter yet.

Chair Parkins asked if he sent a letter to begin with.

Mr. Panico indicated that they received a copy of the violation notice but nothing since then.

Chair Parkins responded that it was her understanding that the letter was being pulled that is why she asked the question.

Mr. Panico indicated that the Staff Report tries to pull together all of the history and pertinent issues into one document to have everything documented in one place. So, maybe he ought to just go through it with the Commission and that will probably precipitate some more questions and questions with the applicant as well.

Mr. Panico read the draft resolution for Application #10-09 dated 4/27/10.

**\*See Attachment H: Shelton Planning & Zoning Draft Report for Application #10-09, Application of United Recycling of Shelton for Modification of Site Plan Approval for a Solid Waste Permit for a Volume Reduction Plant (VRP) at 90 Oliver Terrace in an Industrial IA-2 Zone, dated April 27, 2010**

At the conclusion of reading the draft report, Mr. Panico commented that is what he has tried to do - to pull together and he thinks it is consistent with what they heard further from the applicant tonight.

He added that he wanted to touch on the role of the Commission as an administrative role in the renewal of the site plan. It is a permitted use in that zone. They have no choice to say that they don't want that. If it was an operation that was coming in onto a postage stamp site, maybe they could find fault with the size of the site, but the basic parameters are there. Any issues beyond the administrative review of the site plan are really DEP issues. As a site plan review, their hands are relatively tied with respect to evaluating off-site impacts. It is an industrial zone. The presumption when the industrial zone was placed there was that the city's infrastructure, streets and utilities would be adequate to serve that industrial zone.

Chair Parkins asked if they should put a motion on the table for further discussion.

An unidentified public audience member requested to make a comment regarding this application.

Chair Parkins responded that there is no public portion tonight. She apologized that this was not a public hearing and they could not take comments from the public.

**Anthony Pogoda motioned to discuss Application #10-09; it was seconded by Virginia Harger.**

Comm. Pogoda asked a question regarding Page 3 of the draft resolution which states "To minimize any potential for off-site noise impacts on residential areas, the applicant has indicated a willingness to limit morning start up activities to 6:00 a.m. or later." Comm. Pogoda asked if it would be possible to start activities at 7:00 a.m. The reason for this being that he does have complaints from some of the people in his development about hearing the truck back-up noises. If they could make it 6:30 a.m. or 7 a.m., if that is possible.

Chair Parkins asked if they had a noise ordinance – what time is that.

Mr. Schultz responded that it doesn't regulate businesses.

Mr. Salemme asked to address Comm. Pogoda's concerns. He indicated that he understands his concerns and have worked some issues with that request in the past where they lowered the back-up alarms. The gentleman, he can't recall his name, sent them a nice thank you letter indicating that he can't hear it any longer. He wasn't sure which development that was from. He asked them to understand that Wal-Mart is right below and much closer to his neighborhood.

Mr. Salemme indicated that it is just that they have agreed to give up certain rights. It may not sound like much to this Commission, but they are entitled rights that they are entitled to as property owners. It may sound like nothing, like No Left Turn, or No Truck Traffic at certain time periods. Certainly Sikorsky or the Post Office or any of the other industrial – many companies in their zone and in their area – closer to homes - are not giving up. So, he'd like to make the Commission aware that they are already giving up certain rights that they are entitled to. In the past whenever this Commission or citizens have asked them for anything such as staying off Long Hill Avenue whenever possible – they've done it. When Dick Belden got the ? he asked us because a couple neighbors were concerned about it. They were actually doing City of Shelton transfers that they don't do anymore – it was a quicker ride but they made the provisions and went around the residential roads.

Mr. Salemme indicated that asking them to do these things and putting them down on paper as part of their approvals is giving up rights that no one else has had to give up.

Chair Parkins responded that she wanted to clarify for the Applicant and the Commission, that Item #6 states that the applicant is "willing to limit morning start-up activities..." -not cease start-up activities.

Mr. Salemme responded absolutely and they will do their best as they've done (inaudible)...

Chair Parkins also referenced Item #7 "willing to limit their trucking activities, both in-coming and out-going during the afternoon commuter peak from 4:30 p.m. to 6:00 p.m."

Mr. Salemme responded correct.

Mr. Panico added that obviously they can't control independent contractors that bring material to them. They don't know when they are going to come.

Mr. Salemme responded that actually they can and they do – they don't allow them to come up after 4:30 p.m. and they have already implemented that. So they do close outside activity until 4:30 p.m. Some of their trucks do come up later, some start 10 p.m. at night depending upon the routing. They don't come back – they make the circuit to Waterbury, New Haven area – and he thinks they've discussed this. He can't put specific time frames – just like no other industrial company in their zone can do.

Chair Parkins commented that she just didn't want there to be an expectation that there will not be any trucks.

Mr. Salemme thanked her for clarifying that. They have worked with the Commission in the past and with concerns; so, Commissioner Pogoda they will do anything that they can and they will discuss it as far as limiting that activity. And if they can, they will by all means, they will start as late as possible.

Comm. Harger asked if trucks idle at any point when they pull up or do they pretty much go into a (inaudible)

Mr. Salemme responded that they do for a short period depending on – most of the time – they idle for some minutes before they can get cleared to the scale and other times they idle is when they are being weighed. The property that they are moving to in the back is going to significantly reduce that type of activity. They don't have any issues with the City records because they are a private road all the way from Platt Road to the back property. They never have any back up down to the City roads.

Comm. Spinelli asked about the hours. He understands that they are going to try not to have any activity between 4:30 p.m. and 6:00 p.m. but what will they be doing in the evening – 7, 8, 9, 10 o'clock at night. Will there be overnight activity? He knows that it won't begin until 6 a.m. or 7 a.m. but at what point does the day end and the night begin or vice versa.

Mr. Salemme responded that depending on the volume, what they will most likely be doing as far as activity on site after those hours would be processing – separating paper, baling cardboard, separating plastic, baling plastic – that's either all indoor or on-site so it's not going to have any kind of impact.

Comm. Spinelli asked if there would be any truck traffic coming 11 o'clock or 12 midnight.

Mr. Salemme responded that if there is, it is going to be very limited. He doesn't want to say no because that may be the only schedule that they have to work with depending upon trucking, independent trucking, snowstorms, etc. A lot of things get involved with the logistics when it comes to their operation so he can't honestly promise or guarantee anything about activity. They certainly, and already have, limited the trucks after 4:30 p.m. They are not part of the congestion that goes out to Bridgeport Avenue.

Mr. Panico commented that has been paramount in a lot of people's eyes and they certainly appreciate the fact that he understands that there is a problem at that hour and are trying to respect it.

Mr. Salemme responded that he understands. It is bottleneck there and when Sikorsky lets out, it is ugly up there. That needs to be addressed by Engineering or the BOA – they have been saying that for years. They certainly pay their fair share of taxes in that part of town.

Comm. McGorty agreed that there probably aren't too many companies that curtail their operation to accommodate traffic.

Comm. Harger indicated that she wanted to be consistent with something that they did recently. At the bottom of Page 4, Item #7; it is a minor thing but it talks about guaranteeing landscape material for a minimum survival period of one year. She noted that they just did this for the Ladyslipper Drive Application because they required them to do a 2-year survival thing.

Mr. Schultz responded yes, but that was residential.

Comm. McGorty agreed and stated that it was because of the neighbors being right on top of them.

Comm. Harger indicated that she just wanted to be consistent.

Chair Parkins commented that one year is pretty standard on all of the Zoning Commission applications. She didn't think that necessarily set a precedent in lieu of the situation they needed a little more from them.

Mr. Panico agreed that is fairly standard because most landscapers give them a one year guaranteed survival. The time that was expanded at Ladyslipper was because of the materials that were being planted in fill material - which everyone had a lot of concerns about the quality of it and whether or not the plants would survive after one year.

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

**On a motion made by Anthony Pogoda seconded by Virginia Harger, it was roll call voted to approve Application #10-09 (5-1). Commissioner Spinelli voted in opposition.**

#### **ADJOURNMENT**

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

Respectfully submitted,

Karin Tuke  
Recording Secretary, Planning & Zoning Commission