

Comm. Harger asked about Separate #077, 88 Long Hill Cross Roads, LLC, for a commercial construction.

Mr. Schultz responded that was for Mr. Scinto's loading dock addition that was approved at a previous meeting.

SEPARATE #5530 – SVW, INC., 5 HUNTINGTON PLAZA; WIND SCREEN & AWNING FOR ATM

Mr. Schultz indicated that this was the bank set in the back by Sassafras. He showed some diagrams of the awning structure. It's a fairly simple structure; they have their company logo on the side.

Comm. Harger commented that there is an existing cover there now.

Mr. Schultz responded that this was just an upgrade and it adds a shelter to the ATM machine.

Comm. Harger commented that it was partially screened too, for privacy. She asked if the red color of the awning ties in with their logo or something.

Mr. Schultz responded that it is a small logo and on the side.

Comm. Harger asked if they could consider using the blue, and if they planned on painting the area around it in a beige - as it appears in the picture.

Mr. Schultz responded that he would pass that on.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve Separate #5530.

Comm. Flannery arrives 7:08 p.m.

SEPARATE #5557, MALCOLM PIRNIE, INC. CONSTITUTION PARK SITE, CLEAN-UP LAND FILL CLOSURE

Mr. Schultz reviewed for the members that are not familiar with the land lock piece that this is within the Mas property that will turn into Shelton's next industrial park off of Exit 13 when Constitution Boulevard gets extended. This is an area of land that has to be cleaned up. The City rejected taking title to it because it needed to be cleaned up. They are now going to be cleaning it up. He provided a quick overview of what would be done.

Mr. Schultz showed a location map to the Commissioners and pointed out all the sites that were going to be cleaned up. He added that it is mostly junk cars, parts, tires, and things of that nature.

Mr. Schultz clarified for Comm. Harger that Malcolm Pirnie was not the property owner but the company doing the clean-up work.

Mr. Schultz read a letter dated September 29, 2010 addressed to himself from Malcolm Pirnie regarding the property.

***See attached correspondence dated 9/29/10 to Richard Schultz from Andrew Danzig, P.E. at Malcolm Pirnie.**

Mr. Schultz indicated that their objective is to clean this up. He anticipates that down the road that they will try again to offer it to the City or to Land Trust or something like that.

Mr. Schultz indicated that on August 12, 2010, the Shelton Wetlands Commission issued permit 10-05 to FDIC to conduct the proposed clean-up as noted. DEP approval enclosure plan submitted in July 2010 is expected very soon. They anticipate being able to complete the bulk of work this November/December and completing final cover and seeding work in the spring, if necessary. They understand that a P&Z permit may be necessary.

Mr. Schultz stated that he contacted them after learning about Wetlands to let them know that the P&Z Commission wants to know about this. Because equipment is going in and when that happens, they will start receiving calls about it. So the best way to do this is to issue a permit.

Mr. Schultz concluded that was what is being proposed and, it is in accordance with DEP. Inland Wetlands has approved it, and they are cleaning up the site which is a good thing.

Comm. Harger asked if Staff would have to make daily visits there.

Mr. Schultz responded that Inland Wetlands is more involved but the P&Z department will be monitoring it. They will be coming in two ways – through Walnut Avenue down by Donofrio's Pond and the access through the American Legion property. Staff recommends approval as submitted.

On a motion made by Thomas McGorty seconded by Joan Flannery, it was unanimously voted to approve Separate #5557.

SEPARATE 5541 R.D. SCINTO, 3 ENTERPRISE DRIVE, BUSINESS OCCUPANCY

Mr. Schultz indicated that this was for another tenant at 3 Enterprise Drive. Sila Solutions Group is a consulting firm that will be leasing 7,562 square feet. The previous tenant was AIS, Inc. They have 40 employees, 8 a.m. – 5 p.m. M-F. There is parking on site. It is a permitted use for this corporate setting. Staff recommends approval.

Comm. Flannery asked the nature of their consulting but Mr. Schultz responded that he did not really know.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #5541.

SEPARATE #5566 DERBY/SHELTON LIONS CLUB, 405-407 BRIDGEPORT AVENUE, TAG SALE

Mr. Schultz indicated that he had a letter to read from the property owner, Monty Blakeman regarding the permission to use this location for a tag sale to be held on October 16, 2010 with a rain date of October 23, 2010.

He stated that Staff contacted the Lion's Club and advised them that the Zoning Commission needs to act on this because this is the use of a private, commercial property. They have notified the Fire Marshal, Building Department and the Police Department.

Comm. Flannery asked if they have to pay for that or does the City of Shelton have to cover it.

Mr. Schultz responded that his understanding is that this is the policy for non-profit groups because this is a fund-raiser - because they give back to the

community. He doesn't think that they charge anything. Obviously they want a high turnout; this is a highly visible site and that is why this Commission needs to be advised. They said that they didn't need any structures or shelters, but he anticipates some tents. The Fire Marshal will review that because he reviews when the general public goes to a private site. There was further discussion about the use of the site for other events that have been sponsored there.

Mr. Schultz indicated that they try to remind them, and other departments have to monitor it, because it is an issue of public safety. They don't regulate car washes for fundraisers but large events such as this tag sale need to be monitored.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5566.

CRANBERRY HILL ESTATES: APPROVAL OF CONVEYANCE OF OPEN SPACE WITH PEDESTRIAN EASEMENT TO HOMEOWNER'S ASSOCIATION AND PHASING OF PROJECT AND ENTRANCE DESIGN.

Mr. Schultz indicated that the new owner/developer is present tonight with their attorney. Staff acknowledged that they have just about completed the tree replanting program. As of last week, it was about 75% complete which is good news.

Comm. Harger asked Rick Schultz if he had any pictures of that.

Mr. Schultz responded that John Cook was kind enough to take pictures and the Inland Wetlands Commission regulated that because it was in their jurisdiction. Mr. Cooke was very pleased because they exceeded the sizes of the specimens and tonight he is hearing that the replanting is completed.

Mr. Schultz stated that they have started clearing for the main entrance. They posted all their bonds. They have decided to move ahead with the existing approval plans that he will present. They have been signed off.

He showed a rendering of a 40-unit cluster residential development. This was part of the settlement with Avalon at the other site and this particular site. It is a private residential community with one way in. It does not connect to the road system in the back. The site is served by municipal sanitary sewers and public water. Sewers still have to go in so there will be some work within Armstrong Road.

Comm. Flannery asked if they were going to take care of all the expenses and make sure Armstrong Road looks the same way.

Mr. Schultz responded yes, they have to.

Comm. Harger commented that to put it in perspective, how does this compare to Olive Hill on Meadow Street or Wesley Village or something like that.

Mr. Schultz responded that Olive Hill is more intense and compacted – this is spread out a lot better and it is a bigger site overall.

Comm. Flannery asked about a pathway from the street to Armstrong Road and it was supposed to go along here and be the open space.

Mr. Schultz responded that they will discuss that tonight. Tonight, they need supplemental action by this Commission for the conveyance of open space to the Homeowner's Association with the pedestrian easement that will allow the public

to walk on the trail system that will be provided. This went before the Conservation Commission and they are aware of it. The BOA has rejected the conveyance to the City so it comes back to this Commission who has to acknowledge the conveyance to the Homeowner's Association. If this was owned by the City, the public could walk on it at any time but if it is private open space, it requires a pedestrian easement.

Comm. Flannery asked if that was the same as the easement on Far Mill River.

Mr. Schultz responded yes, same type of situation.

Comm. Flannery added that with the Far Mill River, they made the pathway, the City accepted it, but it isn't that great. It is all overgrown, it's horrible and you can't walk on it. She wants to make sure that with this easement, that people can use it.

Mr. Schultz responded that the maintenance of it is going to be done by the Trails Committee.

Comm. Flannery indicated that she was on that Trails Committee – and she is saying that they did not do a good job on the Far Mill River. It doesn't make her life easy trying to keep that path.

Mr. Schultz responded that's right, yes, that is an issue because they focus on other trails that are used but all trails should be maintained.

Comm. Flannery commented that you can go in about 20 feet and it is great, but after that, forget it.

Comm. Harger asked who is supposed to be maintaining it.

Mr. Schultz responded that it's the volunteers.

Comm. Flannery indicated that it wasn't really put together right in the first place so it is hard for the volunteers to keep it up. She has Boy Scouts there trying to maintain it and it is just all overgrown.

Mr. Schultz stated that the applicant will acknowledge. They've gone before the Conservation Commission's agents that have it on as an agenda item. The Trails Committee is ready to work with them to design and, hopefully, it will be maintained but time will tell, obviously. He recalled that they did a trail by Pitney Bowes and they used to put a lot of time into it but the employees there didn't want to use it because of the ticks. They preferred to use the roads and that's why sidewalks went on Huntington Street. They kind of pick and choose because there are only so many volunteers and they have miles of trails in this community.

Mr. Schultz indicated that this will serve the purpose for the occupants of the 40-unit private residential community and the immediate neighborhood. The long range plan is to ultimately get to Roosevelt Forest in Stratford. He reiterated that the purpose of tonight's meeting was to accept the conveyance of open space with the pedestrian easement to the Homeowner's Association. The documentation will be reviewed by Corporation Counsel and the Applicant will acknowledge that. Also they are proposing to phase the project into four separate phases.

Mr. Schultz showed a map depicting the Phase I where the model units will be shown as well as the office trailer. He said that this is exactly what Staff likes to see instead of clear cutting. Some developers prefer to clear cut and get it out

of the way. But then, if we get into a recession like they have now, the years add on and there may be erosion issues. So they are very pleased and realize that the market played into it too.

Comm. Flannery asked where the fire hydrant that is supposed to be there is located on any of these plans.

Mr. Schultz responded that the Fire Chief handles that aspect of it so he isn't sure where that goes.

Comm. Flannery commented that she wants to make sure that there is an easement because there is supposed to be an easement there for the fire hydrant.

Mr. Schultz responded that he wasn't knowledgeable on that issue.

Comm. Flannery asked the Applicants about the fire hydrant.

Sean Nettleton, Developer, Cranberry Hill Estates addressed the Commission.

Mr. Nettleton responded that he knows that there needs to be a fire hydrant and that it would be handled by an easement. They know that the fire hydrant is serviced through the water main that runs into their property and Aquarion sizes all the mains to that, and then they provide an easement in lieu of the Fire Department to work and service on that. As far as he knows, it should reflect in the approved set of plans. If it doesn't, they meet with the City Fire Marshal and he will tell them where he wants them. In their past experience in other developments, they put it where the Fire Marshal wants it because they have to use it.

Jim Strub, attorney with Secor, Cassidy & McPartland in Waterbury addresses the Commission. Atty. Strub indicated that all documents will be reviewed by Town Counsel Tom Welch and Ray Sous (inaudible)

Mr. Schultz asked Sean Nettleton to advise the Commission as to how he's been working with the neighbor to the west because his driveway encroaches.

Mr. Nettleton responded that yes, his driveway encroaches and as part of a previous agreement that he made with Avalon will be honored. Not only will they be monitoring his well upon the starting of any blasting that they have to do, they are going to provide him a new water service from the City water. They'll run it down his driveway and grant him an easement along the property as far as usage of his driveway. He is thrilled to death. Also, because his original agreement was that the water line would come off of their property and come down with an easement onto his property, they told him that they would be happy to do that because that was the agreement, but that would take them a year away from doing it by the time they got the site complete and ran that water main. However, he told him that in the next 90 days if he wanted to run water off an existing tap on Armstrong down his driveway, then they'd do that immediately. Additionally, they would take care of any damage to his driveway that is incurred while they do that and rake and seed any other disturbance. He was very happy about their promptness on that.

Mr. Schultz asked Sean Nettleton to go over the blasting plans that they've done to date.

Mr. Nettleton responded that they have done no blasting at all to date. They anticipate that probably in the next week to two weeks, having to start blasting. Their first order of business after stumping and grubbing the site will be to build

this first retention pond so that way, as they start construction, they will have a place for all water to flow during construction without just trying to maintain it by natural sediment and erosion controls. They want to be able to control it by the engineered design.

On the site map, Mr. Nettleton showed the end of the pond where there is already ledge that they'll have to deal with right away. (inaudible) Blasting Company does all the blasting for them. He roughly quoted blasting laws, because it isn't his expertise, but roughly, the way he understands the law is that houses 250 feet from any blasting should be notified of the blasting. They have gone ahead and measured out 700 to 1000 feet and not only will those houses be notified but they will be surveyed.

Comm. Flannery asked how they notify them.

Mr. Nettleton responded by mail and by phone – the blasting company does that.

Comm. Flannery asked for a list of those people because she wasn't on it and she's within distance.

Mr. Nettleton responded that the Fire Department has it and he'd be happy to get that to her.

Comm. Flannery indicated on the site map that she was on the end of the street.

Mr. Nettleton used the site map to explain that by scale, if they measure from anywhere in Phase I – that isn't even within 700 to 1000 feet of where they are working. But they did look at houses on the end of Daybreak and he believes that the two gentlemen on the cul-de-sac of Daybreak did get notification letters. They are well within distance of a needed survey. Their blaster and the Fire Marshal consulted on doing any further. He was told that the Fire Marshal was very happy with what they were doing. If someone in specific comes and wants one done, he'll leave it up to the blaster but he'll recommend that they are happy to do anyone who asks – but he ultimately has to make it the blaster's call.

Comm. Flannery indicated that she would like one.

Comm. Harger asked if they could point out where they did all the replanting.

Mr. Nettleton responded that there is an actual replanting plan that was accepted by the Town but it all happened along the open space line. They planted the exact approved plan. And to make sure that happened, he had the engineers go out and give them 11 stakes in key points of that replanting that they can measure off of to try to get it as exact as possible. Upon those 11 stakes going in and the start of planting, they had John Cooke come out and examine it to insure that he approved of what they were doing, and he did.

Mr. Schultz added that the Conservation Commission's agent is scheduled to go out tomorrow too because her Commission members said that they had driven past the site and saw some clearing. They can't relate where the construction is going to take place in relationship to where the replanting is. So Sean has been kind enough to show her at the site so she can do her report. This way, all boards and commissions because Wetlands – John Cooke will give an update this Thursday, P&Z is tonight, and Conservation will also have a report.

Mr. Nettleton indicated that it is his plan to contact John Cooke tomorrow and see what his schedule is between Wednesday and Thursday before his meeting so that he can come out and check. They have been trying to meet with John or Rick weekly so that they can see their work and their progress and keep them

abreast of their plans, so if they get any phone calls, they know what is going on.

Mr. Schultz responded that they have done a good job of installing the sediment erosion. They have all these different components and they are getting all the various departments involved.

Comm. Flannery asked about something that came up years ago. She asked about a stone wall that ran along there and if it is remaining.

Mr. Nettleton responded that it would reflect better on the approved set of drawings.

Mr. Schultz commented that some of the walls that are in the way of the actual construction are being preserved, and they are doing a stone wall. That is part of tonight's action too. They want to do an elaborate entrance stone wall, so they are staying on site.

Mr. Nettleton responded that they really pride themselves in trying to use all onsite resources. Any existing stone walls that fall within their construction, rather than trucking them offsite or just wasting them, they pride themselves on trying to use them. He tried to show on the site map the location of some of the stone walls right in a driveway. They harvested those and moved them to down for the entranceway. Any that fall, not in working space, out in open space areas or designated open spaces – they will not touch. He showed the location of one stone wall that goes through about 5 house sites and a cul-de-sac, and for obvious reasons, they have to move it but their plan is not to use it as fill. Their plan of attack in their architectural shown is kind of a back to basics approach. They want to get away from sort of what the City has been inundated with and they want to go back to a real traditional colonial look. Their stone entranceway is going to be built with all the stones from the site – a dry look but a cement wall. Their houses will be the same way – traditional colonial houses, farm house porches on all of them. They are doing a cedar impression (inaudible).

Mr. Schultz pointed out that the wall is very long and they are going to be the native rocks from that site.

Comm. Harger asked if they were planning a berm or anything against Armstrong Road area.

Mr. Nettleton responded that the top elevation of the pond is 190 feet and the road ranges anywhere from 187 all the way up to 194 because they are going uphill. That first retention pond is bermed and then will be surrounded with a traditional split rail fence and planted on all sides around one to give a nice look to the street and also to provide privacy to the homes in that location. They are going to heavily plant small plantings in front and then come heavier in the back. This is a natural berm. The street, as approved, has to be widened to straighten out the curving and then there is a 10-15 foot (depending where you measure from) level shoulder and then it is about a 5% exceeding no more than a 10% slope up to this grade. Right now, if you go out there, it is very steep with no shoulder. Not only does the road get wide in there, the shoulder gets wide and then it is a much gentler slope as it is reflected in the approved plan.

Mr. Schultz commented that Sean should note that they are trying to preserve the smaller trees. They believe it is important tool for their marketing.

Mr. Nettleton responded that was correct. His tree clearers have worked for them for over 25 years now. It is not a big company; it is two men, a small

truck and a chipper. It goes so slow that he can see what is happening. He can run out for a cup of coffee and come back without them having lost 25 trees. He showed an area on the plan where they were able to save four nice existing trees— two ash and two maple. There is another tree that they are saving by the mailboxes and more in the corner. They know that no matter what they buy or what they spend, they can never plant the size of an existing tree. Also, it adds to the community to have as many existing large trees if they can. They don't want to go so fast that they miss opportunities like that. They are trying to go for quality not quantity here.

Comm. Flannery asked if there was actually going to be a pond there where you can see water.

Mr. Nettleton responded that it won't necessarily be standing water. It is a retention, dry pond that services about six catch basins roughly. Any run-off comes into a stone plunge and that slows water down and absorbs it. In a big storm, like a 100 year storm, it will rise. They've determined the depth of what it will hold. It flows out to a basin and then into other basins. It is designed in length so that it doesn't overwhelm those other basins.

Comm. Flannery commented that all she knows is that area is very muddy.

Mr. Nettleton responded that it has been a dry year so he won't argue that because he doesn't have the knowledge of what the property looked like before he saw it. It has been dry. All the erosion control is in place. They have anti-traction pad in place, and they are there all day long monitoring it. That is also the reason that they are putting the pond in because if they do get into a rainy season and mud, they need a place.

Comm. Flannery responded that is what she is saying, the entranceway goes right where the mud is and where the water accumulates. She explained that they can have deep water there after a rain.

Mr. Nettleton indicated that is an engineering issue and that is all contended with once that topsoil is taken out, boxed down and built to plan. Their plan of attack from once this is built, is that it has to get boxed out, and all the drainage put in. They are actually going to put all the stone basin in and then pave it. So that whole issue is taken out within the next 2 to 3 weeks.

Vice Chairman Pogoda asked for a motion if there were no other questions.

Mr. Schultz indicated that it would be a motion for conveyance of open space with pedestrian easement to the Homeowner's Association, the four separate phasing areas of the project and the entrance design, which is the native stone wall.

Comm. Harger asked if there was an artist's rendering of that entrance.

Mr. Schultz responded that it is in the phasing plan. He asked Sean if they would get something drawn up in color.

Mr. Nettleton responded yes, but not in color, probably in black and white. He showed the entranceway on the plan and explained what they would be building. The wall would be no taller than 3 feet, monuments higher than that. It is kept well back from the road and curved in not out to allow for a proper sight line.

Mr. Schultz asked if he was going to get a rendering done for his office.

Mr. Nettleton responded yes.

Mr. Schultz indicated that as soon as he does that, he'd like to show it to the Commission.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve the conveyance of open space with pedestrian easement to Homeowner's Association and phasing of project and entrance design at Cranberry Hill Estates.

NEW BUSINESS

APPLICATION #10-18, TWO LONG HILL, LLC FOR SITE PLAN APPROVAL (PARKING RECONFIGURATION, LANDSCAPING AND BUILDING RENOVATION), 2 LONG HILL AVENUE (MAP 117B, LOT 47), CA-3/CB-2 DISTRICT – ACCEPT, DISCUSSION, AND POSSIBLE ACTION.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #10-18.

Mr. Schultz showed the Commission the architectural drawings and read reports that he received regarding Application #10-18. He indicated that these plans were a result of the Downtown Subcommittee. It was recommended to the property owner to submit detailed plans so the Full Commission can see it. He read the report from the City Engineer and indicated that the property owner, Mr. Goodman was present.

***See attached correspondence dated October 7, 2010 from Robert Kulacz, City Engineer to Richard Schultz, P&Z.**

It was recommended that realistic parking spots be provided on site. Two spaces can be provided on the left side next to Puffy's Garage, as shown. They also asked them to add some plantings along the side of the building which are shown on the plan. There are a total of nine spaces on the right side, which is the main parking. This is one of the few lots downtown that has decent, onsite parking.

Comm. Flannery asked what this would be used for.

Mr. Schultz responded that the applicant will be converting this two-family dwelling to a professional office, an insurance company. The owner also thought about doing some major renovation work for the detached garage but he scaled back. He showed another parking spot that will be maintained for an employee.

Comm. Flannery asked if this was residential.

Mr. Schultz responded that it was commercial, that was pre-existing because that home was a hundred years old. The DSC really wanted to preserve the brick façade of the building. They had heard initially when they approved the conversion of the two-family to the insurance office that they were going to put siding. The DSC changed their mind and they are able to preserve it, fix it up where needed and then enhance it from there. He indicated that there would be some vinyl siding, the shingles, that will really compliment it. The windows and doors will be completely upgraded. The DSC is very pleased that they went in that direction. In addition, there is a new entrance which is to the rear of the building. The company is using both floors because at one time it was two separate dwelling units up and down. Now there will be no more residential use to it.

Mr. Schultz showed the existing garage on the site plans and asked the applicant what work he would be doing on that.

Mr. Goodman, the property owner, responded that it was just going to be storage at this point. They have abandoned the finishing of the garage because of the cost involved. The emphasis is on the main building. It was way too expensive to run all the utilities underground. It just didn't make sense to do that so they took that completely out of the plan and their focus is really on the main structure.

Comm. Harger asked about the exterior of the main structure and if it was going to be sand blasted.

Mr. Goodman responded that it was going to be power washed.

Comm. Harger asked if they intend to do that to the garage.

Mr. Goodman responded that the garage is going to have a complete brick veneer face. It will not look as it does now at all.

Comm. Harger commented that she recalls Tony Panico suggested at the DSC about the depth of these two spaces.

Mr. Goodman responded yes, and they have complied with that – they are shorter and they moved as far as they could to the Puffy's side leaving them space to do some plantings. He isn't exactly sure what they are going to do with the plantings because he is concerned about the sun because that side doesn't get much sun at all.

Mr. Schultz asked if Mr. Mato was still assisting him.

Mr. Goodman responded yes, absolutely.

Mr. Schultz added that he just says that because he knows the Commission is pleased with Stanley's Market. It is good to have someone with a good track record assisting him. So, if the Commission is pleased with what they are seeing, Staff does not have a problem and a copy has been sent to Mr. Panico.

Comm. Harger indicated that another thing Tony suggested was a change in the corner space which is reflected here.

Mr. Goodman responded yes, they have done everything that he asked.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Application #10-18.

Mr. Schultz asked for the timeframe of their grand opening.

Mr. Goodman responded that he wasn't 100% sure but he was hoping for the 1st of next year. They will be in there sometime in January. He is hearing that all the work is going to get done. They are working hard on the outside now so that they can get it paved before the asphalt plants close.

Mr. Schultz indicated that the DSC will contact him regarding some site visits.

End of Tape 1A 8:34 p.m.

APPLICATION #10-19, BRIDGEPORT AVENUE FITNESS, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (FITNESS CENTER), 466 BRIDGEPORT AVENUE (MAP 63, LOT 23), IA-3 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz indicated that this is the old Sikorsky building off of Todd Road going up the hill. It has that stone retaining wall across from Wal-Mart. They are proposing the fitness center in that location. This does require a public hearing. He spoke to the Chairman before the meeting to discuss possible dates in November.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #10-19 and schedule a public hearing for November 30, 2010.

APPLICATION #10-20 CENTER PROPERTY, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (FULL SERVICE RESTAURANT), 100 CENTER STREET (MAP 117B, LOT 42), CA-3 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING.

Mr. Schultz indicated that this was for the building that Center Stage used to occupy. There are four dwelling units in the upper floor area. They do have on-site parking and there are designated parking for the apartments. This is something new for that portion of Center Street; a full service restaurant with onsite parking. This does trigger a public hearing because it is a food establishment. Staff recommends 11/30 for a public hearing.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept Application #10-20 and schedule a public hearing for November 30, 2010.

APPLICATION #10-21 NEW CASTLE HOTELS AND RESORTS, MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #27 (HOLIDAY INN EXPRESS), POOL BUILDING EXPANSION FOR FITNESS CENTER, INTERIOR/EXTERIOR BUILDING RENOVATION, AND SIGNAGE, 695 BRIDGEPORT AVENUE (MAP 29, LOT 1) – ACCEPT, DISCUSSION AND POSSIBLE ACTION.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #10-21.

Mr. Schultz indicated that the Applicant was present to make a presentation, and the Commission members were made aware of this some time ago through e-mails and through the submissions that they have.

Mr. Schultz read the narrative stating that the existing 3.8 acre parcel located at 695 Bridgeport Avenue is owned by Shelton Four Hotel Equity, LLC in care of New Castle Hotels and Resorts. The existing 128 room hotel on site operates under the Holiday Inn Express brand name and was previously approved as PDD #27. Site improvements include a 130 parking spaces on site and adjacent to the site by virtue of parking easements. The owner requests to renovate the existing hotel and to convert the brand to a Hampton Inn. Minor modifications include the addition of a small fitness room to the rear, the expansion of the indoor pool building, associated concrete sidewalks, building façade improvements, and changes to the building and signage. He received the signage today and will pass that to the Commissioners shortly. Additionally, interior renovations will result in the consolidation of hotel rooms resulting in a total of 125, down from 128. PDD #27 requires a total of 125 parking spaces and 129 will be provided. Handicapped accessible parking spaces will be restriped.

Mr. Schultz read correspondence from the City Engineer and Fire Marshal.

***See attached correspondence to Richard Schultz from Robert Kulacz, City Engineer dated October 12, 2010.**

***See attached correspondence to Richard Schultz from Fire Marshal, James Tortora dated October 12, 2010.**

Mr. Schultz indicated that the Applicant was here to show the Commission the details and if they feel comfortable, they can take action accordingly.

Jeremy Bolcom, New Castle Hotels, addressed the Commission. Mr. Bolcom introduced Stan Novack, Civil Engineer from BL Companies; Rolf Biggers from BMA Architectural Group. He provided a quick summary of New Castle Hotels. They own, co-own or operate 28 hotels up and down the eastern sea board. They were founded in 1981 with a small hotel up in Bangor, Maine. In 1990, they moved to Shelton, CT, their corporate headquarters, where they still are located.

In 1998, they developed and built the Hilton Garden Inn on Stratford Avenue which they still operate. In 2004-2005, they purchased the Ramada Hotel and converted that to a Courtyard on Bridgeport Avenue that is very close to this facility. That hotel was later sold and earlier this year in the spring, they acquired the Holiday Inn Express and they would like to convert that to a Hampton Inn. Hampton Inn is a great brand right now; it is very family-oriented. They run about five of those brands up and down the east coast. In that hotel, the Hilton Gardens, and in their corporate offices, they employ about 100 people right here in Shelton. He thanked the Commission and introduced Stan Novak from BL Companies.

Stan Novack, Civil Engineer, BL Companies, addressed the Commission.

Mr. Novack indicated that the proposed renovations to the hotel consist mainly of an addition to the pool building. This is the enclosed pool that is situated behind the main structure. Using a drawing, he explained that the dark shaded area was the pool addition and the other dark shaded area was the addition to the fitness room. Site work is fairly limited and straightforward and due to the expansion, there will be some sidewalk modifications to reconfigure the sidewalks and to align with the doors and new additions.

Mr. Novack indicated that site work will also consist of restriping the handicapped parking spaces situated in the front of the hotel to comply with current dimensional requirements for the State of Connecticut. Overall, there are presently 130 parking spaces on the site and with the restriping it will become 129; so they will lose one space. However, the PDD requires a minimum of 125 parking spaces, so they are within the requirements for the PDD. There will be limited site work, they are proposing a trench drain to drain the rear garden area. That will be tied into a catch basin with a six inch pipe. Currently, there is a yard drain situated in the proposed pool expansion area; they are just replacing it with a different structure.

Mr. Novack indicated that site signage will be a replacement of the pylon sign currently signed as the Holiday Inn Express with the Hampton Inn standard signage. Landscaping will be replaced because in the expansion some of the landscaping will be removed. So they will replace in kind essentially the same species so there is a pleasant garden appearance to the rear pool area and rear portions of the hotel.

Comm. Harger asked about the area around the expansion to the rear right, is that parking right now?

Mr. Novack responded that right now that is a landscaped area.

Comm. Flannery asked if any blasting was going to be involved.

Mr. Novack responded that none is anticipated. The grade changes are essentially nil here. This area presently is very flat. Back when this was constructed in 1998, there was some blasting (inaudible). But as far as grade changes, it's practically none at all; it is mainly to build a slab out with a crosswalk. Grades will virtually be unchanged. The current line around the perimeter of the expansion area in the garden is unchanged. All the work is essentially confined to (inaudible).

Comm. Harger asked about the driveway around the back.

Mr. Novack responded that there were no changes. It is still the 2-way circulation around. No changes to the driveway.

Vice Chairman Pogoda commented that Rick had mentioned that there was a downgrading in the amount of units from 128 to 125. He asked if that was because of the expansion or were they just taking some of the rooms out.

Mr. Novack responded that there is some consolidation of hotel rooms and Rolf Biggers will explain that. There will be a downsizing from 129 rooms to 125 rooms for space consolidation.

Comm. Harger asked about the addition on the back, from the rendering, it looks to be about 2 stories high?

Mr. Novack indicated that it would be a good time to turn this over to Rolf Biggers for questions about architect unless there are more questions about the site.

Rolf Biggers, BMA Architectural Group, addressed the Commission. Mr. Biggers indicated that most of the new work that will be seen is taking place in the back where the pool is being expanded. Other than that, the entire building is being renovated. All the rooms inside, the guest rooms, the quarters, the public areas and there was a question about the room count. That is being decreased because modern hotels, because of the way that they have evolved over the last two or three decades, there has been an amenity increase. So many more functions take place in the lobbies and public spaces. So on the rendering that they see on the submittal, the lobby is a much more elaborate area now. It is conducive to more than just grabbing a donut in the morning. It is actually a place to lounge and relax, or get on the laptop. The kitchen service expands; they are doubling the size of the kitchen and the lobby expands. That is why they will have a loss of rooms. They would rather not lose them, but they have to in order for the other 125 rooms to be the best that they can be.

Mr. Biggers explained that the entire interior is being refreshed. That is probably of lesser concern to them than what is being done on the outside. The exterior envelope on the outside – it is a very prominent building up on a hill. He showed a photo of the existing building that he described as dated in design. He pointed out the two renderings that show what it will be looking like. Most of the work takes place in terms of the upgrades to the exterior cladding, and the synthetic stucco on the building. They are rebuilding the parapets so some of the peak parapets that they see – the signature of the original AmeriSuites – those will be coming off and replaced with more of these simplified, contemporary classicism that is the signature of the Hilton Hampton Inn brand. They will be happy to know that the overall height of the building decreases by about 4 feet. From the overall peak, the tallest portion now will be about 4 feet less.

Mr. Biggers explained that the pool building, the enclosed pool building in the back, is a little bit past its sell-by-date. It's not the best that it can be – it just kind of happened and wasn't well thought out. Pools, just like the lobby and the interior space of the hotel have become much more important, especially since this is going to be a hotel that caters to families; the pool becomes a much more important space. That building will be demolished. They will keep the foundation on one side and expand on the other side to capture space for seating areas, lounges and a water slide. He pointed out the taller portion shown on the drawing and explained that it was the 2-story portion with a clear story window. That is a taller pool building - pool buildings, by nature, need to have a taller space. It is going to be a nice space with the clear windows, there will be a ton of light in there.

He showed a taller element where the water slide is located. They are trying to get the back, not as an afterthought, but in concert with the building as a whole. They also have a perspective image in the packet provided.

Comm. McGorty asked if that meant that the whole pool area would be new.

Mr. Biggers responded yes – the existing pool area is going to be demolished and then they are going to rebuild it, but bigger. The existing is just under 3000 (2,968) square feet right now and it will be demolished. The combination of the pool building and the exercise room expansion is 5,062 square feet total. This area has become much more necessary now than it was 10 or 15 years ago.

Mr. Biggers indicated that there is a net difference of 2,094 – about a 2,000 square feet increase from what is out there today. The total square footage of the building is 78,790 – almost 80,000 square feet so it is relatively small amount – 2000 square feet. It doesn't contain any guest rooms. It is basically an expansion of existing functions that support the hotel.

Vice Chairman Pogoda asked – there is no loss of parking spaces, correct?

Mr. Biggers responded no, only one parking space due to the restriping. As a part of this and what was mentioned earlier about the enhanced landscaping, they are trying to pull around to the back what currently exists in the front so it is a very pleasant space. Parking spaces are around the entire building. About half the people come in the back as well as in the front, so they don't want that to be an afterthought. They want that to be as attractive as the front. It is very important to have curb appeal for the guests and for the town.

Comm. Harger indicated that she had a question for the representative from New Castle if the fitness center and pool were for hotel guests' use only.

Mr. Bolcom, New Castle Hotels, responded yes, they make (inaudible)

Comm. Harger asked about pool parties and if that was something that might be offered.

Mr. Bolcom indicated that they have meeting spaces; he's not in sales but he's sure that the salespeople might make it an option.

Mr. Biggers added that they have done a lot of these pool enhancements. It seems to be a common trend lately, even elaborate water parks but the reason that they are spending all this money to provide enhanced facilities to the hotels is because they want to sell rooms. It is only a vehicle to sell rooms, so they are reluctant to give those spaces away even for a fee to the general public. It impacts the hotel guests and they are paying the rate to stay there because of

those amenities. There is a natural economic disadvantage to renting it out for kids parties – unless the kids buy a bunch of rooms.

Mr. Schultz stated that he wanted to remind that Commission that PDD's are highly scrutinized by the Commission. It works so well because of that so they want to know every aspect of it should it change. Not just physically but the uses too, such as special events and those type of things.

Comm. Harger asked if he knew if these lights were going away.

Mr. Biggers indicated that those blue lights are going away. Every Holiday Inn Express across the country is getting those blue lights.

Comm. Pogoda commented that there was a lot of action on those lights when they went in.

Mr. Biggers responded that this is turning into a Hampton Inn - so the blue lights are going.

With no further questions, Vice Chairman Pogoda asked for a motion.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Application #10-21.

PUBLIC PORTION:

Vice Chairman Pogoda asked if there was anyone wishing to address the Commission on any item not on the agenda. There was no one.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the Public Portion of the meeting.

OTHER BUSINESS

APPROVAL OF THE MINUTES – 9/14/10 & 9/22/10

The Commissioners requested that this item be tabled.

838 BRIDGEPORT AVENUE: REQUEST FOR RELEASE OF SITE BOND

Mr. Schultz indicated that Sierra Suites, next to Fairchild has replaced the dead evergreens. The Commission requested five additional evergreens to provide a better buffer. They did a nice job and Staff recommends the release of the site bond.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve the request for release of the site bond at 838 Bridgeport Avenue.

TWIN LOTS ESTATES SUBDIVISION: ACCEPTANCE OF PAYMENT IN LIEU OF OPEN SPACE

Mr. Schultz indicated that this was one of the last remaining items for that 2-lot subdivision for the applicant to submit a value of the property. Ten percent of that value is the payment in lieu of open space. It goes to the Open Space Trust Fund.

Comm. Flannery asked for clarification about the location.

Mr. Schultz responded that it was the two lot subdivision on Buddington Road right before the power lines. They have an appraisal done by Susan Coyle in which she indicates that the referenced property is \$85,000 and 10 percent of that would be \$8,500. For the Commission's information, he asked Atty. Steven Bellis, who was present, if this would be a one lump sum payment or a fraction of it.

Atty. Steven Bellis addressed the Commission and indicated that it would be one lump sum.

Mr. Schultz indicated that would be a one lump sum payment before the record map is recorded so a motion is in order.

Comm. Flannery asked why they weren't given the open space instead of the money.

Mr. Schultz responded that the entire project was the lots and the Conservation Commission recommended the payment in lieu of. When you have a larger site that is adjacent to an existing open space, or if it is very valuable then they usually get the conveyance of open space. This was a recommendation from the Conservation Commission to take the money instead. They went out and looked at it and they have to relocate the trail that encroached.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept Payment in Lieu of Open Space in the amount of \$8,500 for the Twin Lots Estates Subdivision.

TWIN LOTS ESTATES SUBDIVISION: REQUEST FOR 90-DAY EXTENSION TO RECORD MYLAR MAP

Mr. Schultz indicated that the 90 days expires at the end of the month and it was suggested since they are doing the payment in lieu of, they would get one 90-day extension so the time doesn't run out. He added that if the time runs out, then they would have to reapprove the two lot subdivision. The applicant is entitled to two 90-day extensions. This would be the first one. Staff recommends approval.

Atty. Steven Bellis addressed the Commission and indicated that he wouldn't need the whole 90 days. He's negotiating with the Town for a storm drain easement. Corporation Counsel is reviewing it. He hasn't gotten it back yet. He just doesn't want to miss it by a day or two.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve the request for a 90-day extension to record the mylar map for the Twin Lots Estates Subdivision.

GOLDEN HEIGHTS SUBDIVISION: REQUEST TO ACCEPT THE EXTENSION OF GOLDEN HILL LANE

Mr. Schultz indicated that this one was out of the way – East Village Road to Foxhunt, that's the way to go to the Twisted Vine Estates, go all the way down Foxhunt and it is Golden. It is a dead end that overlooks the Housatonic River. He read a letter from the City Engineer endorsing the acceptance of Golden Hill Lane.

***See attached correspondence from to Richard Schultz from Robert Kulacz, City Engineer, dated September 22, 2010.**

Mr. Schultz added that this is an older subdivision. As a side note, they have another one coming in for Diamond Hill Estates, so they have to go through

these steps. They just did Whippoorwill and the BOA accepted that. The City Engineer is recommending that this Commission accept that portion of Golden Hill Lane. This will then go to the BOA and they will take final action.

Comm. Harger asked if the extension was not so much to connect it to another street.

Mr. Schultz responded that it is a permanent dead end and the Aldermen will ultimately accept it and it becomes part of the City street system.

Comm. Flannery asked why they would accept it if there are still cracks in the catch basins.

Mr. Schultz responded it's because it is over 5 years – it is an old one, just like Whippoorwill. Ideally, they want to get these all approved within the five year period and sometimes it just doesn't work out that way. The developer is still doing work and they allow extensions and it goes on and on.

Comm. Flannery commented that this has been more than 10 years.

Mr. Schultz responded yes, it has been - this one and Diamond Hill Estates. There are three and this is the second one.

Comm. Harger asked if they still had a bond on it.

Mr. Schultz responded yes, but it is useless. The third one is Diamond Hill Estates in upper White Hills.

Comm. Harger asked if there were houses planned for those extensions to go around the back of the cul-de-sac (inaudible)

Mr. Schultz responded that there is one new home – this is the family that did the subdivision. They combined two lots into one so one brand new house is going off of the road. They have to get this road accepted; legally, the City has to after plowing it for so many years. If it goes to court, a judge would say that they had an opportunity to say no, barricade it and keep people from using it but it was maintained by snowplowing, sanding, etc.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve the request to accept the extension of Golden Hill Lane at the Golden Heights Subdivision.

8-24 REFERRAL: BUDDINGTON ROAD AND HUNTINGTON STREET INTERSECTION IMPROVEMENT PROPOSAL

Mr. Schultz indicated that the Street Committee is recommending this latest plan which is for the elimination of the raised island. He referenced the hatched areas on the street map rendering to indicate the new limits of the curb line. This Commission has reported unfavorably over the last 6 years consistently. They want the improvements to be done because they have to be. The original improvements included widening Huntington Street. That cannot take place now because of the new sidewalk and there is a telephone pole there.

Mr. Schultz indicated that this is what the developer of Huntington Wood is proposing at this junction. This is an offsite improvement; one of the rare times they have an offsite improvement because the subdivision is a half a mile away.

Comm. Flannery commented that it wasn't their fault that they put in a new sidewalk and (inaudible)

Mr. Schultz responded that they have a right to report unfavorably like they have consistently twice. That means that the BOA has to have a majority vote, and it sounds like they want to go in that direction. They feel as though this is the right design and the City Engineer is endorsing this. This is a T-intersection design just like Trap Falls Road.

Comm. McGorty asked if there was a proposal for a traffic signal or if it was just going to be a STOP sign there. Now they'll have a 90° turn – that's even tougher to get out because people fly down that hill as opposed to now where it is more gradual.

On a motion made by Joe Sedlock seconded by Joan Flannery, it was unanimously voted (5-0) to report unfavorably on the 8-24 Referral for the Buddington Road and Huntington Street Intersection Improvement Proposal.

Mr. Schultz commented that speaking of that subdivision, Huntington Wood – the Engineering Department is preparing a punch list of all the items that they have to do on site – such as fixing curbs because that needs to come in for final acceptance by this Commission and the Board of Aldermen. So, they have Diamond Hill Estates which is the older one and Huntington Wood. He suggested that the Commissioners go up there because there are some scheduled improvements happening in that area.

Comm. Sedlock asked for more clarification about the 8-24 Referral for Buddington Road and if this was being done for safety reasons or beautification.

Mr. Schultz responded that there are two property owners on both sides that want them to do something. The developer of Huntington Wood is supposed to make improvements there. It needs to be decided what it is and be done with.

Comm. McGorty asked what needed improvement and if there had been a study done there.

Comm. Flannery commented that it was all dollars and cents – it is cheaper to take it out than to leave it there.

Comm. Sedlock responded that it wasn't all dollars and cents because it is going to make it easier for a lot more cars to come down that way.

Comm. Harger indicated that Alderman McPherson said it was a safety issue.

Mr. Schultz responded that the Street Committee is taking the advice of our City Engineer's Office. The project engineer did the design – that is Jim Swift .

Comm. McGorty stated that it is tough to get out of there right now – if they put a 90° turn there, it will really be tough.

Mr. Schultz stated that the Commission will consistently report unfavorably three times now.

Comm. Sedlock commented that it is going to be worse than (inaudible)

Mr. Schultz stated that in case they don't know, the Street Committee relies on the Public Works Director, the City Engineer and the Police Department. It does go through its due diligence. There are some residents who are concerned about the final design solution. He knows that they aren't going to jump into it too quick; he'd be surprised to see it done this year.

Comm. Sedlock asked if the final design solution was to have the island out of the way, and what would be put in lieu of that.

Comm. McGorty asked if there have been any accidents there.

Vice Chairman Pogoda commented that Joe lives right up there.

Comm. Sedlock responded that he hasn't seen any accidents there.

Comm. Harger commented that the only accident she remembers is the house where they put up a guard rail up to (inaudible)

Mr. Schultz stated that they were very pleased with the Trap Falls intersection. They are taking that (inaudible). The neighbors are asking them to come up with a final design plan.

Comm. McGorty commented that at Trap Falls the sight lines are nice and long and they aren't coming down a hill. People fly down that hill and don't drive the speed limit. The reality of it is that – its two different situations.

Vice Chairman Pogoda added that you really can't compare them.

Mr. Schultz indicated that they visualize it to be the best solution. That is their call, it is in the right-of-way.

PAYMENT OF BILLS

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

STAFF REPORT

***See attached Planning & Zoning Staff Report dated 10/12/10**

ZBA

Mr. Schultz indicated that he had a few important items on the Staff Report. The first is the ZBA; he sent a letter to the ZBA Chairman regarding variances requesting larger accessory dwelling units. They max it out at 900. There is another request for the next ZBA meeting, 10/19, for item #3, 10-10-3 to increase the 900 square feet to 1,035.

Mr. Schultz indicated that he submitted the letter, and recalled that another letter had been sent by this Commission in 2008 reminding the Board of the same thing. If the Planning & Zoning Commission has to go back and revisit the 900 square feet, then the P&Z should do it and not ZBA granting variances on the size of it. So, he sent out the letter as the Commission requested but then this item popped up on their agenda. He asked if the Commission wanted him to write a letter regarding this specific item or if he should just go on the strength of the letter that he sent. He does not know what they are going to do.

Comm. Harger suggested a reminder.

Mr. Schultz indicated that he'll send out a reminder and spell out that application.

Comm. Harger asked about Application 610-10.

Mr. Schultz indicated that is the one on Cots Street. The ZBA reversed the decision of the ZEO in their department. There was an accessory structure that was constructed without the benefit of a permit. After a three year period,

according to State Statutes, it exists lawfully. It is the position of their ZEO that it exceeded the three year period. They are of the opinion that it was under the three years. He doesn't know what that means because he hasn't received a letter yet saying what it directs his department to do. He was told by the Chairman that he is going to get legal advice from Corporation Counsel in drafting the letter. So, as soon as he gets it, he'll send a copy out. This is the first time that they have had a situation like this.

End of Tape 1B 8:34 p.m.

Mr. Schultz reviewed issues regarding the Zoning Subcommittee and the Downtown Subcommittee.

Zoning Enforcement Program

Mr. Schultz reviewed the properties with ongoing issues that he anticipates will be on the next meeting agenda for legal action.

Filling and Grading Projects

11 Ladyslipper Drive

Mr. Schultz updated the Commission on progress at 11 Ladyslipper Drive where they are monitoring the work being conducted by Mark IV Construction.

44 Lisa Drive

Mr. Schultz indicated that there are people here tonight in attendance regarding 44 Lisa Drive. At the last meeting, the Commission lifted the Stop Work Order with the stipulation that they post a \$2500 cash bond, which they did, and an agreement to finish the work by this Friday, 10/15/10. Additionally, he must correct the silt fencing.

Mr. Schultz stated that he went up there today and he has not backfilled the silt fence. He sent the Commissioners an email today to confirm it. He cannot understand why Mr. Lichvar is playing this game because he is working on the lawn and can have it completed. The swale is not in but he can do it.

Mr. Schultz stated that he will be going up there first thing tomorrow morning (10/13) with the Stop Work Order. If he continues to play this game with the silt fence – and in the realm of things the silt fence is not a big thing – the big thing is to get the project done with the swale.

Vice Chairman Pogoda commented that he acknowledged at the last meeting that he would go out that night with a flashlight and make sure it was there.

Mr. Schultz agreed and indicated that he doesn't understand it either – but considering that he just posted a \$2500 bond that can be called...the Commission controls that.

Comm. Sedlock indicated that he'd like to hear from the people next door as to what has happened there.

Mr. Schultz concluded that he is going out tomorrow with his Stop Work Order sign. That reinforces, and he'd like to Commission to make a motion tonight, to direct Staff to reissue the Stop Work Order, stop everything, and hand it over to Corporation Counsel to take legal action. He gave the Applicant another call to reinforce the urgency of this – he is so close to finishing this project – but he is playing this game.

Comm. Harger commented that the impact of not correcting the silt fence has been that the neighbors have suffered damage.

Mr. Schultz responded that he would not say damaged – but it is a condition of approval.

Comm. Sedlock asked if the berm wasn't a part of the condition too.

Mr. Schultz responded yes, he has to finish everything by Friday. He believes that he can do it but he's going out there first thing tomorrow morning because everyone has had enough.

Vice Chairman Pogoda commented that he has had two weeks to do these things and the weather has been fine, only a couple days of rain. There were concerns after the last meeting if he could get it done because of the rain coming the next day. As Rick has said, he is pussyfooting around – he's put a cash bond on it...

Mr. Schultz stated that after the neighbor makes their comments, he would like them to make a motion to direct Staff to reissue the Stop Work Order, if deemed necessary (if the sediment erosion is not probably installed), and direct him to initiate legal action with Corporation Counsel. Additionally, if all the work is not completed by Friday, 10/15, the same holds true.

Comm. Sedlock asked how the fence would get put up if he issues a Stop Work Order, and how do the neighbors get protected.

Mr. Schultz responded that he has to call the bond.

Comm. Sedlock asked if the money from the bond is used to hire somebody.

Mr. Schultz responded the bond is to hire an outside company to go in and install it and as they know, that doesn't cost \$2500. It might cost \$100.

Fred DelBuono, 40 Lisa Drive, Shelton, addressed the Commission. Mr. DelBuono asked Rick Schultz to expound on his visit to 44 Lisa Drive and the verbal communication that went on.

Mr. Schultz responded that he spoke to John, the owner, his father and his mother was present. John Cooke accompanied him as well.

Mr. DelBuono asked if there had been any verbal yelling and accusations.

Mr. Schultz responded that goes on all the time – he gets yelled at all the time on sites. The Commission doesn't want to hear about people yelling at Staff because it happens all the time. You either do the work or you don't - he has not done the silt fence and he's ready to issue the Stop Work Order.

Mr. DelBuono commented that he thought it was definitely uncalled for.

Mr. Schultz responded that he doesn't take it personally.

Mr. DelBuono explained that the reason he has brought it up is because there are verbal attacks to him and his family and it has been going on for some time and now Mr. Schultz has experienced what he has been experiencing for many years. He is bringing these pictures this evening because Comm. Sedlock, as well as others, pinned Mr. Lichvar down to come to some conclusion before this past rainstorm that didn't materialize the way it was predicted.

Mr. DelBuono indicated that the first photo that he wanted to show was the sediment control. His attorney, Dominick Thomas, presented similar pictures taken at an earlier period of time. He pointed out that there is nothing different on this picture except the date. This was two days after the storm and as Mr. Sedlock pointed out to him - at least get this minor thing done. It came up at the last meeting why this has taken so long. The reason that this issue continues to go on for 2 ½ years is because Mr. Lichvar is on his own time plan. He doesn't care, in his opinion, about his concerns or the direction of the town.

Mr. DelBuono showed another picture, depicting again, Mr. Sedlock's point regarding the professionalism and non-caring attitude of this individual over the last 2 ½ years. He indicated that the photos he was showing were taken on Sunday, October 10, 2010. He showed a photo taken from his yard of the sediment control.

Mr. DelBuono presented other pictures and commented that at an earlier meeting, Mr. Lichvar indicated that he was ready to seed. These pictures show that his yard is not ready to be seeded. These pictures were also taken on 10/10/10.

Mr. DelBuono showed another photo taken from his driveway to the wall and the growth that has occurred over the last couple of months because he recently moved this dirt there since the August 22nd storm. He commented about the ponding of water that is rushing downhill because there is no sediment control and because of the way he has graded the property toward his property.

Mr. DelBuono commented about Atty. Thomas' explanation of the engineering plan and how this water, although there is no additional water, is being funneled toward his property.

Mr. DelBuono added that his other neighbor, Mr. Filingeri has made some comments a while back about what he is looking at. Mr. DelBuono showed a photograph shot from Mr. Filingeri's perspective. This is the front end of the property facing Lisa Drive.

As part of that completion plan that was supposed to be accomplished several months ago, he was to remove the rocks and dirt and that has not been done. He indicated that is what he and Mr. Filingeri have been looking at for quite some time. Mr. DelBuono had three other photos taken Sunday (10/10/10) that depict the fact that as of that date, there is no swale, and no berm which were all requirements that Mr. Lichvar agreed to. He emphasized the fact that he has agreed with Mr. Schultz multiple times to have things done and multiple times they have been in the situation that they are in tonight. He added that quite frankly, he is disgusted.

Mr. DelBuono commented that he had one last comment that he thinks is going to be an ongoing problem for him and it is that the 15 -20 foot high blue spruce trees on his property appear to be dying. He doesn't know if it is from all the water coming around that wall and across his driveway. Mr. Lichvar has devastated the pine trees that his father planted that separated the two properties. What he is experiencing from this water flow at this time are roots coming up from the ground because the top soil has been washed away. He concluded that in the future, if those trees die it is going to be a problem for him.

Comm. Sedlock responded that he thinks if he remembers correctly, that is where the berm was supposed to go until he completed the rock wall.

Mr. DelBuono stated that over the last weekend, his family is fed up with the heavy machinery there that has been going on for 2 ½ years. In the summertime they can't even have a dinner outside.

Mr. Schultz commented that this ends on Friday. This will end Friday, possibly tomorrow and his motion will cover it all. He stated that this is insane. He has to go up there at 8 a.m. tomorrow morning.

Mr. DelBuono asked why there wasn't sterner action.

Mr. Schultz responded that the Commission has given him until the 15th. The Chair asked him if he would do this and he did – no one in their right mind would post a \$2500 bond if they aren't going to do it.

Comm. McGorty asked if Rick thought it would cover the balance of the work to be done there.

Mr. Schultz responded part of it – but not total. A judge would have to make all the conditions on this. This requires a lot; it is quite involved.

Mr. DelBuono asked to make a final comment that he hasn't seen this water flow that should be going down to his father's property. He didn't want to fire up this situation anymore but Mr. Lichvar is moving this dirt around, because he has the equipment to do it, and now the dirt is blocking the normal flow of water. He thanked the Commission for their time.

Mr. Schultz stated that he would like to read his draft motion.

Vice Chairman Pogoda commented that they are expecting rain again tomorrow. He asked if there was any chance, if Rick goes out there and the sediment erosion control is not in place – is there any chance that they can get someone to get that fence up.

Mr. Schultz responded no, he has to get a court order. When you call a bond, it is not that easy. You have to get permission and that is how it works in Connecticut. Corporation Counsel gets involved.

Vice Chairman Pogoda stated that he wanted to alleviate any problems that may occur with this rain.

Mr. Schultz responded that Corporation Counsel can – if there is an emergency like a wall tumbling down – they can go and get the injunction or court order later.

Comm. McGorty asked if they can leverage that for tomorrow and have one of the ZEO's go out and inspect that it has been done; if not, then tell him they are taking legal action.

Mr. Schultz responded that he already called him and he knows that he's coming. But he'd like the Commission to consider and take action on this motion –to reissue the Stop Work Order, if deemed necessary after an inspection by Staff on Wednesday morning of October 13th for failure to comply with the installation and maintenance of sediment and erosion control measures; OR to reissue the Stop Work Order if the property owner fails to complete all work by Friday, October 15th at 5:30 p.m. (that's the end of the workday) and to initiate legal action and call the cash bond to maintain sediment and erosion control.

This motion has a double component to it. It starts a legal action if he hasn't corrected the sediment and erosion control because that was a condition of approval.

Comm. Harger asked how long it would take to get going. If they issue a Stop Work Order, then he can't do anything else. Is that going to work against these property owners?

Mr. Schultz responded that with the Stop Work Order, they don't have the authority to physically make him stop. That has to come from the judge, so they can do this and he can continue to do what he wants. They would monitor it and then it would go to the judge – and that would get the judge mad because the judge will always side with the property owner; the onus is on the Town. That is how it works in Connecticut. But they will have the photographs from the adjacent property owners, documentation from Staff, all the minutes, all the discussions and the commitment by him at the last meeting. Because the Chair asked him if he would do A, B, and C, and if would post a \$2500 cash bond.

Comm. Sedlock commented that what this motion then means is that by late Friday at the very latest, there better be a berm there and a sediment erosion control better be there or it goes to court.

Mr. Schultz commented yes, that they don't want to do this piece meal and continue to hear from these neighbors.

Comm. McGorty stated that enough is enough and he doesn't want to do this every week.

Vice Chairman Pogoda indicated that they have more rain coming in on Thursday so it is too late to alleviate anything there but if in the next week, they put a Stop Work Order in...that's great but...

Mr. Schultz responded that he is going to ask Corporation Counsel if they can get money, have the department go out there or get a contractor – he is going to ask those questions – because they have to move for the Thursday/Friday storm coming out the coast.

Vice Chairman Pogoda commented that he wants to see because something can happen – just something to alleviate any of that water going on their property. Sediment control or get a berm going, just to prevent anything coming onto his property. Stop Work Order can go in but as Ginny said, it isn't doing the neighbors any good.

Mr. Schultz commented that they have the leverage though – it's a cash bond.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to authorize Staff to reissue the Stop Work Order for property located at 44 Lisa Drive, if deemed necessary after an inspection by Staff on Wednesday morning of October 13, 2010, for failure to comply with the installation and maintenance of sediment and erosion control measures; OR to reissue the Stop Work Order if the property owner at 44 Lisa Drive fails to complete all work by Friday, October 15, 2010 at 5:30 p.m. and to initiate legal action and call the cash bond to maintain sediment and erosion control.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn at 9:01 p.m.

Respectfully submitted,

Karin Tuke
Recording Secretary, Planning & Zoning Commission