

Chair Parkins asked if there were any questions regarding any of the Standards or Separates attached to the agenda.

Comm. Harger asked for information about Separate #5678, regarding the second and third floor additions.

Mr. Schultz responded that the ZBA allowed the conversion of a single family to a three family which allowed the construction of a second and third floor expansion to the house. It is a multi-family zone and there is no opposition.

Chair Parkins asked what the variance requested was.

Mr. Schultz responded that the address is 321 River Road. He added that both homes on both sides were 2 and 3 families, and they felt that there was a hardship.

#100 – R.D. SCINTO, INC., 88 LONG HILL CROSS ROAD, PLATFORM EXTENSION TO LOADING DOCK

Mr. Schultz recalled that the Commission approved the loading dock addition onto this building. They have the occupant going in now and they are a plastic distribution business. They need to add a pre-engineered metal platform in front of the garage for their box trucks. It is really insignificant. If they have driven by, it can barely be seen. This just specifically addresses their needs for the box trucks.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve Separate #100.

#5667 – R.D. SCINTO, INC., 2 TRAP FALLS ROAD, SIGN REPLACEMENTS

Mr. Schultz showed the Commission a rendering of the proposed signage and indicated that it was a corner lot on the corner of Bridgeport Avenue and Trap Falls Road where there is an office building with a fountain.

These signs are upgrades. Two signs were erected about four years ago and these are more permanent and much better – an upgrade.

Comm. Flannery asked if the picture, the logo, was considered OK in the sign regulations.

Mr. Schultz responded that it was the Commission's call.

Comm. Sedlock asked the old and new signs were the same size.

Mr. Schultz responded that it was a little bit larger; - they allow 80 square feet or 8'x 5'.

Comm. Sedlock asked if it was internally illuminated. Mr. Schultz responded yes, it was.

Comm. Flannery noted that it was bigger than 8' x 5' – it was 7 feet.

Mr. Schultz commented that it has to be reduced to 5 feet.

Chair Parkins suggested reducing the logo a little bit and that would reduce the whole thing down. The consensus was to reduce the logo a little bit so it would be in proportion.

Comm. Harger asked if it would even be useable at that point though. Why even include it? She suggested just using the space for the wording.

Comm. McGorty asked if there were any problems with the sight line there.

Mr. Schultz responded no, that there was a very wide State right-of-way there.

Comm. Pogoda asked if there was anything besides the logo signifying that it was St. Vincent's.

Chair Parkins indicated that she wasn't suggesting taking the logo out but just reducing it a little bit. It does say St. Vincent's Medical Center underneath it though.

Comm. Pogoda commented that they don't really need it then or at least not that big.

Comm. Flannery commented that the existing sign looked fine. They are trying to make the wording small and the logo bigger but she likes the way it is now with the small logo and the bigger wording.

Comm. Harger stated that this isn't like the Red Cross symbol that you can see from a distance. If they reduce this down it won't be recognizable from the car.

Chair Parkins agreed that the way it looked on the old sign was fine.

Mr. Schultz indicated that the applicant was here to address the signage.

Chair Parkins asked the applicant why they were reversing it out to being blue rather than white on blue/black background.

The Applicant, a representative from the ABC Sign Co. (name not provided) responded that it was being done to provide more visibility.

Chair Parkins asked if they could put it back to the way that they had it on the original sign.

The ABC Sign Rep. responded that yes, they could. However, the white is more visible because it is an urgent care facility and they want to make sure that people know where it is.

Comm. Pogoda commented that the "Urgent Care" was in red letters and that was pretty significant. He added that he thought that was more than sufficient.

The ABC Sign Rep. responded yes, it sure is, but it is St. Vincent's too. St. Vincent's has a great reputation for their hospital and for their walk-in centers. But if the Commission would rather have them reverse it, then they don't see a problem with that. The Applicant conferred with a representative from St. Vincent's (physician's name inaudible) how he felt about going back to the white on blue for the logo and reducing the width of the whole sign. They agreed to the modifications and requested that they could keep it at 7 feet wide and reduce it vertically.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #5667 for sign replacements with the noted modifications.

#5677 – SIGN LITE, INC., 350 BRIDGEPORT AVENUE, SIGN REPLACEMENTS

Mr. Schultz indicated that this was the new shopping center across from Curtiss-Ryan. New Alliance Bank is now First Niagara Bank.

Chair Parkins questioned if that merger had actually gone through because there were some people fighting that merger. She added that she knows that they obviously won't replace the sign if the merger doesn't go through.

Comm. Sedlock asked if they were just taking the New Alliance down and putting First Niagara up.

Mr. Schultz responded yes.

Comm. Harger commented that she thought their logo was too small and would hardly be seen. She asked if they had any alternate signage, any variations or if they had a wall sign.

Mr. Schultz showed the proposed wall signage on the second page and indicated that they submitted no other alternatives.

A representative from Sign Lite Inc. (name not provided) indicated that the merger had gone through and they would begin manufacturing the sign once the permit went through.

On a motion made by Joe Sedlock seconded by Joan Flannery, it was unanimously voted to approve Separate #5677.

#5679 – MARTY SIGNS, 405 BRIDGEPORT AVENUE, 405 BRIDGEPORT AVENUE, TEMP. GROUND SIGN

Mr. Schultz indicated that this was the advertisement for the Crabtree property that was approved by this Commission at the last meeting. He showed the location and described the sign as a 12' x 8', single face, and temporary ground sign. The reason that they are going so large is to show a visual rendering of the project. He showed the Commission a copy of the proposed signage.

Comm. Flannery asked if this had the same requirements of being 8' x 5'.

Mr. Schultz responded no, this is a PDD, so it is the Commission's call.

Comm. Harger asked what the trend has been in the past for the size.

Mr. Schultz responded that it is usually the standard plywood size which would be about 8' x 4'.

Mr. Panico commented that they want to illustrate the proposed development as it stands right now. He asked if it was double facing.

Mr. Schultz responded that yes, it would be perpendicular, double-faced.

Comm. Harger asked if there was some time limitation that they requested.

Mr. Schultz responded that the time frame would be the Commission's call.

He added that normally they put these signs perpendicular to get the north and south traffic.

Mr. Panico commented that they normally mount a sign of that type parallel to the road instead of perpendicular.

There was further discussion in regard to the size and orientation of the proposed signage (inaudible comments).

Comm. Flannery proposed that the sign itself be what is usually allowable – 8' x 5'.

Chair Parkins asked what the size would be for temporary signage.

Mr. Schultz responded that this is a PDD and that is why they are asking for much larger.

Comm. Harger commented that part of it has to do with the visibility there.

Comm. Sedlock indicated that 8' x 5' was a huge enough sign.

Chair Parkins asked if there was anyone present from Marty Signs. There was no representative present.

Comm. Sedlock asked what the size of the actual sign was without the poles.

Mr. Schultz responded that it was 10 feet.

Comm. Harger indicated that the panel is 12 feet wide and 8 feet high.

Comm. Flannery added that then it is 2 feet off the ground making it 10 feet.

The consensus was to have it 8 feet wide – 8' x 5'.

Comm. Flannery asked how long they would want to have it up.

Mr. Schultz suggested increments of one year.

Mr. Panico asked how much time they had given them to come back.

Mr. Schultz responded two years.

Mr. Panico suggested making it two years then and tying it into that.

Chair Parkins indicated that she would like to see it kept in good condition.

Comm. Sedlock recommended that they only do it for one year to observe it.

Mr. Panico suggested making the second year conditional provided that the sign is maintained in good condition.

Comm. Sedlock asked if they could revisit this at any time.

Mr. Schultz responded yes, the one year would allow them to revisit it.

On a motion made by Joan Flannery seconded by Joe Sedlock, it was voted (5-0) to approve Separate #5679 with the conditions that the sign be 8'x5' and reviewed after one year. Comm. Pogoda abstained from voting.

#5634 – R. D. SCINTO, INC., 2 ENTERPRISE DRIVE, BUSINESS OFFICE

Mr. Schultz indicated that the next four applications were for occupancy at 3 different locations. The first at 2 Enterprise Drive is for a software office with a 11,175 square foot leased area with 7 employees, M-F hours 9 a.m. to 8 p.m. Staff recommends approval.

On a motion made by Virginia Harger seconded by Joe Sedlock, it was unanimously voted to approve Separate #5634.

#5635 – R.D. SCINTO, INC., 2 TRAP FALLS ROAD, ORTHOPEDIC OFFICE

Mr. Schultz indicated that this was for Valley Orthopedic Specialists (VAS). The lease area is 7,337 square feet, 29 employees. Hours of operation are Monday through Friday 7:45a.m. – 5:45 p.m.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5635.

#5665 – R. D. SCINTO, INC., 88 LONG HILL CROSS ROAD, PLASTIC DISTRIBUTION BUSINESS

Mr. Schultz indicated that this was the occupant going into 88 Long Hill Cross Road. The leased area is 21,879 square feet, 24 employees, 7:30 a.m. – 5:30 p.m., one delivery truck.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #5665.

#5672 – R. D. SCINTO, INC., 2 CORPORATE DRIVE, LAW OFFICE

Mr. Schultz indicated that this was for a law office leasing 9,142 square feet, 31 employees, M-F, 8 a.m. – 5 p.m., parking for 31 cars. Staff recommends approval.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5672.

#5683, D&M FUEL OIL AND HEATING, 97 BRIDGEPORT AVENUE, FUEL, OIL, HEATING & PLUMBING BUSINESS

Mr. Schultz indicated that this was Bruce Butler's building on the top of the hill where the canopy fell down. This is a licensed contractor occupying 1000 square feet, one employee, hours of operation 7:30 a.m. – 5:30 p.m. with one fuel oil delivery truck and one service vehicle.

Comm. Harger asked if the oil was kept on site.

Mr. Schultz responded no, except for the oil in the vehicle. The Commission approved that for the contractors so that they don't have them in private residences. He added that they did clean up the area but there is still a lot of snow. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #5683.

APPLICATION #10-22, 252 GROVE STREET, LLC FOR SUBDIVISION APPROVAL (SCENIC GROVE, 15 LOTS), RICHARD BOULEVARD (MAP 94, LOT 17), R-3 DISTRICT

Mr. Schultz indicated that since the last meeting they have had an opportunity to digest all the reports. He showed a displayed map of the vicinity. He reviewed that the two options are for the two temporary cul-de-sacs that would allow someone to connect them if and when that need should arise, or for the through road.

Comm. Flannery asked for some clarification as to what a green area on the map was showing the road with the cul-de-sac.

Mr. Schultz responded that the area in green was existing residents. He thinks that there are two homes on that property.

Chair Parkins stated that this has been a very tough application. They need to keep in mind that this is an as-right development. She thinks that she has put more time and effort into this one than some that require a public hearing. She has attended many meetings with Corporation Counsel on this as well as speaking with Paul DiMauro, the Director over the City Engineer.

Chair Parkins added that Atty. Bellis did raise a very valid point, a valid concern the last time he was here regarding their regulations. The regulations do specifically specify that the City Engineer needs to sign off on this plan. As a Commission, they can sign off on this plan but the problem that the Applicant will face is that the City Engineer is the one that issues the permits for the roads and the driveways. So even though the Commission would approve it, and the Applicant still can't get their permits - then it is really a nullified application.

Chair Parkins stated that in going through all of this, the tone of his letter and a lot of the comments by the City Engineer are definitely outside of his purview and that is definitely going to be addressed separately from this application. But the fact that he won't sign off on this application certainly does present a large problem for the Applicant. Their regulations, under 3-1, specifically say that the construction plan and contour plan shall bear the signature and approval of the City Engineer. So although he does not have purview in public safety aspect of the application...

Chair Parkins noted that her other concern is about the temporary cul-de-sacs. At the last meeting Rick Schultz raised the issue that the temporary cul-de-sacs had to be temporary or again they would also be in violation of their own regulations. In creating two temporary cul-de-sacs, the one that exists currently on Richard Boulevard and the one that exists on Grove Street, the Fire Marshal indicated that he was OK if they gave a waiver to the 100 feet and the 80 feet would be OK. But there had to be that connection and that access. If they consider the snow that they have just recently had and take a look at a street like Hill Street with an 18% grade - there is no way that they are going to get any emergency apparatus near it.

Mr. Schultz indicated that they just removed the rope on the two side streets near City Hall. They were temporarily closed off.

Chair Parkins responded that it would definitely present a huge problem if that were a requirement of the Fire Marshal. From a planning perspective, they have heard that it makes sense to do the cut-through. This is a very tough call.

Comm. Flannery asked if she could make a suggestion for something that is not been considered. It would be where they would have had the temporary cul-de-

sacs. They could have the cut-through, but at that point have open space with a park for the children and the neighborhood. It would be a way of saying sorry that they cut through the road, but here is something that may make up for it as a nice gesture. They haven't considered that yet and it would not disturb the wildlife as much either.

Atty. Steven Bellis, representing the Applicant asked if he could point something out.

Comm. Flannery responded that she was still speaking...

Atty. Bellis stated that he was representing the applicant though and asked why he couldn't speak.

Chair Parkins stated that the Conservation Commission has made it very clear that they are...

Comm. Flannery indicated that she has spoken to Tom Harbinson since they last met and that was one of the suggestions that he made to her.

Chair Parkins responded that it has to come from that Commission.

Comm. Flannery added that Tom Harbinson told her that she could bring it up, so that is why she is bringing it up.

Comm. Sedlock asked if he could go back to another issue – he asked if the City Engineer doesn't want to cut the two cul-de-sacs for safety purposes.

Chair Parkins responded no, well, she'll go back to the last letter...

Mr. Schultz added that the City Engineer has been in the community for about 25 or 30 years and he has participated in the development of Richard Boulevard, Joseph Court, etc. so he has always been of the opinion that this would be a through road.

Mr. Panico stated that the last couple of sections of Richard Boulevard never would have gotten approved if it wasn't based upon the fact that it was a temporary cul-de-sac because a permanent cul-de-sac area wouldn't be that large.

Mr. Schultz added that Mr. Panico was the Staff Engineer.

Chair Parkins stated that his five points when they started considering this was that the alternate plan eliminates over 30 years of neighborhood planning to provide a second access to the homes on Richard Boulevard, Bruce Drive, and Joseph Court.

Chair Parkins continued that another point is that it creates a public health and safety issue. She commented that it isn't his purview, so that should just be taken out of this mix.

Additionally, he states that it creates a unnecessary cul-de-sac that increases snow removal time. Again, he is in the Engineering Department but he is not the Director of Public Works.

She stated that it leaves the existing Richard Boulevard cul-de-sac pavement permanently on property that only has a temporary easement for the pavement. But again, in that condition, they are not proposing a permanent cul-de-sac although in reality it becomes a permanent cul-de-sac because with an 18%

grade, she doesn't think that they are going to get a street history so that presents a problem. The new cul-de-sac is shown as a temporary easement which is the way that they asked for it to be.

Comm. Sedlock asked if he was going to refuse to sign off if they went with the two temporary cul-de-sacs. Then, it would come back again and then they absolutely have a right to build the new through street.

Chair Parkins indicated that they have the right and they have been willing to work with the Commission because the Commission expressed an interest in seeing an alternate plan. Their initial proposal was for a straight-through because, from an engineering planning perspective, that was the most desired.

Comm. Flannery commented that what she is suggesting is that instead of \$10K for the open space, they take the open space and make it a park for the children.

Mr. Panico indicated that if there is real estate that it can be done on, than it's not necessarily a bad proposition.

Chair Parkins stated that they have received nothing from the Conservation Commission and the Commission is out of time to act on this.

Comm. Flannery commented that it is a possibility though.

Comm. Harger responded, yes, if they had presented it.

Mr. Panico clarified that the Conservation Commission's role is as an advisory board. They don't make any decisions.

Chair Parkins agreed and added that they have never expressed any request for that.

Comm. Flannery recalled when they did the development on Wells Hollow/Far Mill River. They did take the open space along the River and made a path there as a trade-off for the residents. They didn't take the money; they took the path along the River instead. She appreciates that path and uses it often.

Chair Parkins indicated that they received a letter from Thomas Harbinson, Conservation Commission received on December 9, 2010 indicated "they reviewed the site development plans for Scenic Grove Estates and received input from the applicant's representative as well as several neighbors on Richard Boulevard. The Commission feels that the fee in lieu of open space would be appropriate for this development. The Conservation Commission recommends that the P&Z impose conditions of approval to insure that the stone walls around the perimeter of the subdivision be preserved except for the necessary openings for the continuation of Richard Boulevard and the intersection of Grove Street. We further recommend the P&Z Commission require the six corners of Parcel A be pinned for delineation and for maintenance purposes. Finally, the Conservation Commission suggests that Planning & Zoning ensure that they have a report from the City Engineer regarding the sufficiency of the design plan for the detention pond to address the concerns of the downstream neighbors."

Comm. Flannery indicated that she is just trying to find a compromise for the neighbors.

Chair Parkins responded that she can appreciate Comm. Flannery's comments but with the amount of time that she has spent on this proposal trying to find a compromise, but she doesn't think that putting a park in there is going to solve the problem of the fact that they no longer have a cul-de-sac. It is going to be a

through street. They've presented all of the issues that were raised by the residents.

Comm. Flannery responded that as she knows, she is in favor of the two cul-de-sacs but if that isn't a possibility then she would like a compromise.

Chair Parkins reiterated that it was not going to address the concerns that they had. It is not going to stop the increased traffic. It is not going to stop people from speeding. That is certainly something that is going to have to be addressed by the Police Dept. if there is speeding.

Comm. Flannery responded that they could add speed bumps.

Chair Parkins indicated that, again, that is something that the residents will have to go to the Police Department about. It is outside of their jurisdiction.

Comm. Sedlock asked if it would be within their jurisdiction to put those recommendations from the Conservation Commission as part of the approval.

Chair Parkins responded that they have no recommendations from the Conservation Commission other than what is in this letter – payment in lieu of open space. They have nothing from the Conservation Commission. If they felt strongly that there should have been a park or something like that then they should have gotten some kind of documentation. They have to act on this application this evening.

Comm. Flannery commented that it doesn't say to make the decision.

Mr. Schultz indicated that they have an extension that takes them until tomorrow. The Commission either gets an extension tonight, if they voluntarily give one or it has to be acted on one way or another. This is an as-of-right application. So, you'll need to come to a consensus first and then take it from there.

Comm. Harger indicated that she went up to the area and she was really taken aback by the change in the grade. She is not that crazy about it but she does understand that this has been something that had been planned for the last 30 years. It is just difficult that residents moved into that area with the impression that this was going to stay as is. But the parcel apparently became available within the last year when an elderly resident that owned the whole property passed. So apparently, someone in the family who inherited it, decided to sell it. Sometimes you can't foresee what is going to happen but a couple of meetings ago, Chair Parkins brought up something about due diligence when moving into an area. There is documentation in the Town Clerk's Office about the development of Richard Boulevard showing it marked as a temporary cul-de-sac. She can see how someone might overlook information that was available to them or maybe not even know that it existed, and that could have made a big difference for...

Mr. Panico added that when there are viable alternatives then they can be explored. But in this situation, there don't seem to be any viable alternatives.

Comm. Harger stated that a new resident may not have understood that there was information available on file in City Hall that could have changed their mind about where they were going to live. Unfortunately, now, their hands are tied in a way.

Chair Parkins added that if the grade wasn't so steep it might be more viable.

Mr. Panico commented that generally these things become very emotional and they look like it is going to be the end of the world but in reality, when all is said and done, and the dust settles, life goes on as usual without any real hardship. He recalled a tremendous argument in the Blueberries about a road that was intended to go through to another street as a shortcut. The neighborhood had been up in arms but the Commission did what they had to do and the shortcut never happened and nothing really changed. This is not a shortcut. The connection does not really provide a shortcut between anything.

Chair Parkins commented that it doesn't really provide any benefit to the people that are on Richard Boulevard. It doesn't provide them easier access to anything.

Mr. Panico responded that it does provide a choice of travel paths and it improves access for emergency services.

Comm. Flannery commented that she is concerned about more speeding though.

Chair Parkins responded that is definitely something that the residents are going to have to work with the Police Department on because that is their jurisdiction.

Mr. Panico stated that they could put a lot of STOP signs up there but the first people to complain about the STOP signs will be the residents there. There can be speeding on a 600 or 700 foot stretch of road, it doesn't matter.

Chair Parkins asked Atty. Bellis if that layout would be conducive to doing that if it becomes an issue with the Police Department to put a STOP sign at the bottom of that grade coming from the new development into... there's no intersection.

Atty. Bellis responded that he doesn't know the requirements about where the Police put STOP signs. He has seen them put them where there is not an intersection to slow traffic. He doesn't know the requirements for that exception so he can't answer that question.

One of the area residents (name not provided) showed the location of a major curb on the displayed map of the vicinity to explain that a STOP sign there could slow everything down before the steep curve.

Chair Parkins responded that is something that the residents would be able work out with the Police Department. She added that they can't get a best case here and it is not from any lack of trying. It is just not to be and it is in their own regulations. That is something that they are going to have to revisit.

Comm. Flannery indicated that she was in favor of a park with the open space and not to take the \$10K.

Yan Jiang, 56 Richard Boulevard, Shelton addressed the Commission.

Ms. Jiang indicated that she wanted to suggest one idea. If they have to have a through road, is it a possible to obtain those State Park kind of gates and just stop the traffic from using those roads in the general case.

Chair Parkins responded no, because it is a public road. They have to be able to plow through it.

Comm. Sedlock asked what the procedure would be to make it known that the P&Z is concerned about the safety in that area regarding the through road.

Mr. Schultz responded that the Commission would direct him to send a letter to the Traffic Authority.

Comm. Sedlock asked Chair Parkins if they could do that.

Chair Parkins responded yes, absolutely – no motion required.

Mr. Schultz indicated that as they know, they have made a referral to them so they are well aware of it. Staff does have a design question though. If they are to go with the through road, the older Richard Boulevard is 30 feet wide; that is an older standard that they have. They have reduced the widths to 26 feet, but in this case, he thinks that the Applicant might want to maintain the 30 feet.

Atty. Bellis responded no, they would go to the 26.

Mr. Panico stated that he would agree with Rick, he doesn't think it would make sense to take a 30 foot road and narrow it down to 26 for a short stretch.

Chair Parkins asked if the existing Richard Boulevard was 30'.

Atty. Bellis responded yes, 30 foot paving.

Chair Parkins asked if they were parking on the street.

Mr. Panico responded that yes, it happens when they have the smaller subdivisions, RF-3 and RF-4, there is on-the -street parking. The ? was totally convinced that 26' was the right way to go on the last section mainly because of the small sized lots. He thinks that if they continue the street, it should logically be 30'.

Mr. Schultz added it should, especially in this type of winter. Utilities are underground and that makes sense and there are no sidewalks.

Chair Parkins commented that if they were to go down Richard Boulevard heading down from the new section to the older section, the last lot on the right is the detention pond, it would be possible to put a STOP AHEAD sign and a STOP sign further down without obstructing anyone's property.

Atty. Bellis responded yes, that would be City property.

Chair Parkins asked if there were no other questions, if someone could put a motion on the table.

Mr. Schultz indicated that he had a draft resolution to read. He is basing this on the consensus that this is a through street.

***See attached Draft Resolution for Application #10-22, 252 Grove LLC for Subdivision Approval dated February 8, 2011.**

Mr. Schultz read that this resolution is to approve the subdivision for P&Z Application #10-22, 15 lot subdivision, R-3. The plan is entitled Scenic Grove with the through road design prepared by James R. Swift. He read the conditions of the approval.

End of Tape 1A 7:49 p.m.

Chair Parkins asked for a motion to accept the resolution.

Comm. McGorty made a motion to accept the resolution for #10-22. Comm. Harger seconded.

Chair Parkins asked if there was any further discussion before the roll call vote.

Comm. Flannery asked if everyone was set on taking the \$10,000 in lieu of open space.

Chair Parkins responded that they have no other documentation from the Conservation Commission, so, yes.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to approve Application #10-22, 252 Grove, LLC for Subdivision Approval. Comm. Flannery voted in opposition.

One of the residents (name not provided) asked the Commission how long Richard Boulevard had been out of code and a safety violation.

Chair Parkins responded that it is not out of code.

The resident (name not provided) commented that he understood that they are only supposed to have so many houses on the street before it is opened up.

Chair Parkins responded that is only if it is permanent, but it has always been temporary. Richard Boulevard has always been a temporary.

The resident (name not provided) commented that it looks as though the city planner has not had this up to code and maybe there are other places in the City that they need to look at to make sure that everybody is safe.

Mr. Panico commented that he is sure that there are a lot of other places in the City that have temporary dead ends that serve more than 12 plots a side that are permitted because the concern is that they will eventually be extended.

The resident responded that he doesn't mean to criticize anyone's efforts, but if the city planner didn't do things right 30 years ago, he hopes that the Commission holds him accountable.

Mr. Panico responded that to the contrary that the city planners did everything right 30 years ago and that is why they are having the problem. The right planning solution is that the roads should have multiple points of connection. That was intended to eventually be one of them.

The resident commented that he has lived where it has not been that way.

Chair Parkins added that their other issue is that their regulations as they are written - they have to follow their own regulations.

The resident responded that he has seen the effort that they have all put in to considering this and he appreciates the efforts that they have made. It's just that if the city planner has done something that he shouldn't have done, he hopes that he's held accountable. That is all that he is asking for. He realizes that they have struggled with this.

Chair Parkins indicated that it is not the case, but they will be revisiting their own regulations.

APPLICATION #10-24, PIONEER GAS AND APPLIANCE CO., INC. FOR SITE PLAN APPROVAL (STORAGE TANK FACILITY), 65 RIVERDALE AVENUE (MAP 118, LOT 48), IB-2

Mr. Schultz indicated that he has a letter to read dated February 8, 2011 that reads that the Applicant requests to withdraw his application without prejudice.

***See attached correspondence to Richard Schultz from William Papale, Jr., Vice President dated 2/8/11.**

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to accept the withdrawal of Application #10-24.

APPLICATION #10-28, 140 BRIDGEPORT AVENUE, LLC FOR MODIFICATION OF SITE PLAN APPROVAL (PARKING EXPANSION FOR PERSONAL FITNESS TRAINING), 140 BRIDGEPORT AVENUE (MAP 105, LOT 163), CB-2 DISTRICT

Mr. Schultz provided a site plan, blueprint and read correspondence from the City Engineer dated December 29, 2010 endorsing Application #10-28. There was no correspondence from the Fire Marshal.

***See attached correspondence to Richard Schultz from City Engineer, Robert Kulacz dated 12/29/10.**

Comm. Harger asked if the access to the 2nd floor was on the right.

Mr. Schultz indicated that there were multiple accesses and the applicant will go over that with the Commission.

Chair Parkins asked Rick Schultz who they originally indicated was going to be up there on the second floor.

Mr. Schultz responded no one just storage.

Chair Parkins commented that storage doesn't take up any parking. She asked for clarification about what type of fitness place this would be.

Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission representing the applicant and the property owner. He introduced Mr. Marco Reinheimer to explain the plans and Kyle Goeller who is the proposed tenant.

Atty. Thomas stated that the Statement of Use is for a one-on-one fitness center, not an open fitness center which Mr. Goeller can explain in more detail. He continued that the plan that they have put up here is the plan that the Commission approved. That plan has four spaces in the rear of the building that are restricted to owner or employee parking only. They are not changing that at all. He wanted to point out that four of the spaces are either partially or totally in the resident's zone. The plan that they are proposing goes from 36 public spaces to 39 public spaces and the rear area, instead of five, now with the new configuration, has 8 spaces or three extra spaces. Those spaces in the rear are reserved for tenant and employee parking.

Atty. Thomas stated that the two tenants down below – Chaves Bakery and Wine & Spirits – are in-and-out type businesses not stay-around type businesses. The entrance to the second floor is going to be around the right side of the building so the patrons would park in the front and walk into the rear. He asked the Applicant to introduce himself and explain more about his type of business.

Kyle Goeller, 55 Kneen Street, addressed the Commission. Mr. Goeller explained that this would be one-on-one training. There would be two trainers. It is private or semi-private so each trainer would have one client or two clients at one time. The sessions are anywhere from 20, 45 or 60 minutes.

Comm. Flannery commented that she did not understand what the changes would be here other than adding a couple of parking spaces in the back.

Atty. Thomas responded that the plan that they propose is to use the second floor for this purpose.

Comm. Flannery asked if the 8,000 square feet on the bottom would be the same 8,000 square feet on the top.

Atty. Thomas responded no. In this Statement of Use – the entire building is approximately 8,000 square feet but the second floor area that they are talking about is about 2,000 square feet.

Comm. Flannery asked for clarification as to why the top space was so different than the bottom.

Mr. Marco Reinheimer, Architect, Primrose Companies addressed the Commission. Mr. Reinheimer used a rendering of the building to show the location of attic space to be used (explanation inaudible).

Mr. Panico stated that it was the space under the eaves and when they take off the walls (inaudible).

Chair Parkins commented that there would still be storage up there but it is a smaller space (inaudible).

Comm. Flannery stated that they were only adding six people and four parking spaces.

Atty. Thomas responded that would be the maximum that they would have. The spaces in the rear will still retain the limitation that they can only be for employee or owner parking. He is sure that the landlord will probably designate some spaces that are farther away, but not so far away – but these are spaces for people going in for fitness training anyway. The spaces up front will be for the bakery and the liquor store.

Chair Parkins asked where the equipment would be located.

Mr. Goeller responded that it is functional training so there is no actual equipment like other gyms; just some small tools like kettle bells, ropes, etc. Everything will easily fit in this space.

Chair Parkins asked which space on the plan he was talking about.

Mr. Goeller showed the location of the open area in the center to be used for training, and the location of the men and women's locker rooms.

Mr. Schultz asked Tony Panico to show them the points of egress.

Mr. Panico showed the main point of egress on the side and the second one up where the bakery is. There is an access in the back where the employees go. He asked why they needed another stairway for the employees.

Mr. Marco Reinheimer responded that it is required as a means of egress. He showed the location of the main entrance where the reception desk is, the location of an exit only and the emergency exit.

Chair Parkins asked why they required a reception desk if there is only one or two clients in there at a time.

Mr. Goeller responded that it would just be to check in.

Chair Parkins asked if this was going to turn into something larger. They can't control how many clients are in there at one time.

Atty. Thomas responded that they have a Statement of Use. If the person changes the business plan than he is violating his Statement of Use. And even though the use may be a permitted use, they still maintain control over that. They can't file a Statement of Use, as they did, and then say – "Fine, I'm changing the business plan."

Mr. Panico stated that the Commission's major concerns here are the parking in the back, that upper rear area and secondly, and more importantly, the overall parking that is available to all the tenant's in the building – especially in lieu of the fact that the Liquor Store has not even open yet.

Atty. Thomas responded that he'll grant them that on certain days like the Friday before Super bowl, Thanksgiving or days when a lot of people are rushing in – there is more traffic. But in the front they have 31 spaces.

Mr. Panico added that there are 31 spaces – when there is no snow on the ground. If they have 25 today, they are doing well.

Atty. Thomas commented that they have two basic businesses on the bottom and 31 spaces in the front. As he said, he doesn't think that there is any problem in restricting the client spaces and they could be the four parking spaces that are farthest away for this business. He doesn't think that there is any problem with that at all. But these spaces which are basically only holiday spaces (closest to the road) - nobody is probably going to use them unless the parking lot is totally filled. They are talking about 31 spaces. At the bakery and the liquor store, they would probably be very happy if that had that many customers there every day. It is unlikely, but they could designate 4 spaces (#23, #24, #25 and #26) as the spaces for the fitness clients.

Atty. Thomas continued that in the rear area, all they are doing is continuing the restrictions for the employee and owner parking only.

Mr. Panico responded that the Commission's concern is going all the way back to when the original site plan was approved and because there was concern about whether there was adequate parking in the front, it was Staff's suggestion that three parking spaces or so be added above and beyond the required parking and limited in use to the owners. This was an attempt to free up three or four spaces in the front that the owners might otherwise take. Now to add this use with this required parking and adding up the total ratio, the surcharge of 2 or 3 spaces is gone. They are being used to justify the second floor activity.

Atty. Thomas stated that this is a permitted use that meets the parking standards and addresses the issue of keeping the employees in the rear so that they don't take up the front spaces.

Mr. Panico responded that if the Commission thought that there was room for an active use of the second floor, they would have entertained it way back in Day #1. They felt that they had a very tight site with a very marginal parking ratio even though it makes the code. A very active bakery and ,hopefully, a very successful liquor store. Maybe 6 months from now, they will all be proven wrong because the place will be up and running and there will be plenty of parking. That might lead to a different conclusion by this Commission, but he is asking

the Commission to make a decision today with only one established tenant there today.

Atty. Thomas stated that it meets to parking standards and addresses the issue of the rear entrance. They have the right to restrict it to this Statement of Use – this type of a low use tenant.

Mr. Panico added that this is making Staff almost regret that they had ever recommended that those surplus spaces be created because they were intended to be a very low-key, non-active area. This is making it grow to 6 or 7 spaces instead of the 2 or 3 that they originally had.

Chair Parkins added that they certainly don't want customers parking back there. She added, and she hates to say it, but it is amazing when you go to these gyms, like the Edge where athletes or people going to work out, who want to park so close, even the no parking zones so that they don't have to walk far. It kind of defeats the purpose of going to the gym, but her point is that they have no way to police it and that is the concern.

Atty. Thomas responded that they can assume violations of the law with any application but the bottom line is that the prior application had five spaces in the back with the same restriction. All that they are doing is adding a couple more spaces – from 5 spaces in the rear to 7 spaces in the rear.

Comm. Flannery asked if there was a way to postpone this until the liquor store was open.

Chair Parkins indicated that they could deny it without prejudice until the other operation is up and running.

Comm. McGorty agreed that he would feel more comfortable after both operations are up and running.

Chair Parkins stated that they could deny without prejudice, wait and see what goes on and then the applicant can come back.

Comm. Sedlock asked if the owner of the building was the person who owns the bakery.

Atty. Thomas responded yes, and the liquor store.

Comm. Sedlock asked if they had anything from that owner saying that this is a good idea and it won't interfere with their businesses.

Atty. Thomas responded that they were not looking for any type of tenant who would take up an extensive amount of parking. With this, they are talking about 4 spaces in the front for clients and 2 spaces for employees in the rear. So, they added an extra space in the rear. So, they have 5 spaces restricted to employee and owner and now it is 7 spaces restricted to employee and owner. So they have this tenant with only 2 employees so they added those spaces in the rear.

Chair Parkins stated that they have at least 3 employees because they have a receptionist.

Mr. Goeller responded no, that the reception desk is just to check in, do paperwork and billing.

Comm. Sedlock commented that if this would be one-on-one training and there are only 2 employees than the most that would be there is 4.

Comm. Flannery responded, no, the applicant said that one trainer could have 2 clients at a time – so 6 people could be there – there could be 6 cars.

Chair Parkins indicated that it is residential back there and that was a concern too. They did not want to have an impact on the residential on Long Hill Avenue. She asked if there was entrance back there.

Atty. Thomas responded that there was no entrance for the public back there. The clients are going to come in on the side. They won't be allowed to enter where there is a fire door. It is up to the landlord to police that.

Chair Parkins asked if landlord was going to be on the premises.

Atty. Thomas stated that if it is a problem and the Commission gets complaints, he tells his clients that there will be a Cease and Desist Order. But the fact of the matter is that the access to the building is through this side so a person who parks in the back will have a hard time walking all the way around. There is going to be designated parking. It is up to the tenant to tell them – whether it is part of the lease, the zoning approval, etc. There will be designated spaces.

Comm. Sedlock asked when the liquor store would be up and running.

Atty. Thomas responded that they have had a little bit of a delay with the provisional. He explained the reason for the delays due to a typo in the paperwork. He thinks that it is probably going to be open this week because they started ordering.

Comm. Sedlock suggested tabling this until the next meeting when the liquor store is up and running.

Chair Parkins commented that she didn't know if a week was going to be enough.

Comm. Sedlock commented that they are going to get the biggest traffic during the first couple of weeks because everyone will want to go down and check it out.

Comm. Flannery suggested after St. Patrick's Day or Easter – it's a bakery and a liquor store.

Chair Parkins agreed that they should go through a couple holidays.

Mr. Panico commented that it was accepted on January 11th and they have 65 days from that.

Atty. Thomas commented that the application is dated December 7th.

Mr. Schultz indicated that they'll need an extension because the Commission accepted it at the December 14th meeting.

Chair Parkins commented that she didn't know if one extension would be enough time. She'd be more inclined to deny it without prejudice and have the applicant come back in 6 months.

Comm. Sedlock asked if they deny it without prejudice, can they come back in two months.

Atty. Thomas suggested continuing it to the second meeting in March and go through St. Patrick's Day.

Comm. Sedlock commented that if people decide to go to that package store and they like it, they are probably going to go there regularly and they should be able to see within two months. With the bakery it is one or two day inconvenience at a holiday time.

Chair Parkins indicated that she doesn't think that it is any specific holiday. They just need to get an idea of what the flow is going to be like there.

Comm. Flannery commented that a lot of people probably haven't gone down there because of all the snow and everything.

Mr. Panico asked what the hours of operation would be for the fitness gym.

Chair Parkins responded that it says 7 days, 6 a.m. – 5 p.m.

Atty. Thomas stated that Sunday wouldn't be as much traffic.

Comm. Sedlock responded that is going to change though – because he is going to sign it.

Chair Parkins commented that she doesn't think that the economics are going to be there to just have one or two people there at a time unless they are charging \$150/hour. She is concerned about creeping, more and more.

Atty. Thomas responded that it would be a violation of the Statement of Use. He thinks that the person who is here realizes that he is not going to be able to do that or the tenant is going to go away. Then they will have to come back to the Commission with another Statement of Use and it can't be something with more than 2 or 3 employees because they are limited to parking in the rear. This is an anomaly because they have control over the Statement of Use. It is not that anything can be put in there.

Chair Parkins asked the Commissioners for a consensus about the extensions of two, three or six months.

On a motion made by Joe Sedlock seconded by Joan Flannery, it was unanimously voted to deny Application #10-28 without prejudice and revisit it in three months.

NEW BUSINESS

APPLICATION #11-02, STEVEN BELLIS FOR SUBDIVISION APPROVAL (SILVER OAK ESTATES: 4 LOTS), 816 LONG HILL AVENUE (MAP 12, LOT 17), R-3 DISTRICT – ACCEPT FOR REVIEW

Atty. Steven Bellis representing the Applicant, Jules Gajdosik addressed the Commission.

Atty. Bellis submitted the notices signed by property owners that live within 100 feet. He introduced Mr. Gajdosik and Fred D'Amico, the surveyor and engineer. Atty. Bellis showed a map with the location of the proposed subdivision and the existing home. He explained that they are asking for a conventional subdivision that meets all the subdivision regulations for three additional lots. The house would stay and the lots are located on the left hand side going down Long Hill Avenue going toward Route 110 near Pine Rock Park. He added that all the lots

meet the P&Z and subdivision regulations for lot size, square and area. They are single family homes about 2000 square feet and they have city water and sewer.

Chair Parkins stated that there was a current drainage issue on that road in that area. She asked if this was anywhere near that.

Fred D'Amico, P.E. and Surveyor addressed the Commission. Mr. D'Amico responded no, that right now there is existing catch basins in the street so there are no problems with drainage. They are proposing that the 3 additional new houses will have roof drains that will be tied to galleys to mitigate the increase in run-off from the impervious areas from the houses and no added run-off into the street. There are city sewers and city water so there is minimal excavation – no excavation for septic systems or anything like that. There is steep property in the back but it is all untouched because the houses are all going to be built closer to the front which is pretty flat until half way back on the lot. The four lots meet the regulations for size of lot, square and all the data was put on each lot to show the subtracting of the steep area and the remainder of the net area.

Comm. McGorty asked about the size of the lots.

Mr. D'Amico responded that one lot is 17,000, one is 18,000, 17,000 and one lot is 21,000.

Chair Parkins asked how close they were to the road. She asked for clarification as to which of the squares represented the houses on the plan.

Mr. D'Amico showed the location of yellow marked houses and the gray marked galleys.

Comm. Flannery asked what the galleys were made of.

Mr. D'Amico responded that they would either be concrete or plastic. They drain the water into the ground so that it gradually seeps out to detain the water rather than letting it rush out.

Chair Parkins asked which lot had the existing house.

Mr. D'Amico responded that it was the 1st lot and it is staying.

Chair Parkins asked if they were just subdividing and adding 3 new houses.

Mr. D'Amico responded that was correct. He added that the total site was an acre and a half so it is not a large site to begin with. Each lot will be about a half acre.

Atty. Bellis added that this is an as-of-right so a lot of it is administrative.

A neighborhood resident (name not provided) asked what the average frontage was for each house.

Mr. D'Amico responded that the frontage on two of the lots would be 75 feet, one is 85 and the other is 110 feet.

Chair Parkins indicated that they still have no information from the City Engineer or the Fire Marshal so it will have to wait until the next meeting.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to accept Application #11-02 for review.

APPLICATION #11-03, DOMINIC THOMAS ON BEHALF OF DWD PARTNERS, LLC FOR FINAL SITE DEVELOPMENT PLAN APPROVAL AND ADOPTION OF PDD ZONE CHANGE AND CAM SITE PLAN APPROVAL (SELF-STORAGE FACILITY FOR TRANSPORTATION VEHICLES), 496 RIVER ROAD (MAP 54, LOT 1), CA-2 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

Mr. Schultz asked if everyone was familiar with the location where the bus storage yard was.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #11-03 and schedule a public hearing for March 25, 2011.

APPLICATION #11-04, DOMINIC THOMAS ON BEHALF OF CAROL AND ROBERT FARRELL FOR FINAL SITE DEVELOPMENT PLAN APPROVAL AND ADOPTION OF PDD ZONE CHANGE (6 SINGLE FAMILY CLUSTER RESIDENTIAL DEVELOPMENT), 122 BUDDINGTON ROAD (MAP 62, LOTS 31.1 THRU 31.8), R-1 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

Atty. Dominick Thomas, 315 Main Street, Derby, CT addresses the Commission.

Atty. Thomas indicated that this is a matter that this Commission approved the PDD in 2007 and the final site development plans in 2008. It was taken up on appeal. The appeal was dismissed at the trial court level. At the Appellate Court level the appeal was sustained on two bases not relating to the PDD per se. It was sustained on the basis that during the final deliberation vote on the PDD, there had been a discussion of 7 versus 6. This application was initially for 7, and in the rear there were 5.

Atty. Thomas continued that in the Staff sessions and based on the Commission comments, to put one of the homes out of the upland review area in the wetlands and it was reduced to 4 in the back – making 6 total. In Staff sessions, the Town Planner asked the Engineer if that plan would work mathematically, so they did. During the final session, Chairman Pogoda recused himself and Vice Chairman Lopera was chairing the meeting. During that meeting, a comment was made by one of the Commission members if the Applicant would accept it. Vice Chairman Lopera responded that it wasn't up to the Applicant to accept it, it was what the Commission does. At that point, one of the Commission members asked if that worked and Mr. Panico took out the plan provided and said that it does and how.

Comm. Flannery asked if this was along the power lines.

Atty. Thomas responded no, it was between Buddington Park and Heritage Point, both of which are cluster developments. He continued that at this point they challenged it as an exparte communication and the Appellate Court found that act of pulling it out was an exparte communication because the Applicants were denied the ability.

Atty. Thomas commented that another thing that they had in there was a footnote, scary to most Commissions because they publish their applications for PDD's and put it in the Town Clerk's Office and it has the map and the metes and bound. The Appellate Court seemed to (inaudible) be seeing that every –

End of Tape 1B, 8:38 p.m.

Atty. Thomas stated that every notice is now going contain the entire metes and bound description – that is what they seem to be saying. The Town was following their lead and they did a petition for certification to the Supreme Court. What they have done here is taken the final site development plans approved by this Commission and packaged it into a new application. They hope that this Commission will look at what was approved once, and they'll have a public hearing. And if the opponents who appealed it want to come and make their pitch, they can come and make their pitch.

Atty. Thomas requested that the application fee either be waived because they have to go back in for this reason or that they only have to pay for the court reporter's fee for the public hearing. The request is for a fee waiver. They would request a public hearing as soon as possible. They will basically be restating everything that was said at the first public hearing. Once they take that action, he can't speak to them anymore except to answer questions about the case.

Chair Parkins indicated that they did discuss this at the end of one of their meetings in that they lost this court case, the reasons why and lessons learned so that it wouldn't happen again.

Mr. Panico commented that the interpretation that boils it down to requiring it to be a metes and bound description is very bad. For years they never did metes and bound descriptions. The way they had been doing it recently referring to a Map and Parcel number – he would have a problem with that himself. The legal notice ought to be clear enough so that an average person can read the notice and determine whether or not they may potentially be impacted by it without ever having to go look at the application. If they read Map and Parcel number they aren't necessarily going to know where it is.

Dominic Thomas added that one of the things that they pointed out to the Appellate Court was – and this is why it is scary. They were citing a Supreme Court case – Bridgeport vs. Fairchild Wheeler Golf Course – and that is when they ruled that. their point was that you can't tell someone Map & Parcel and send them into the Assessor's Office.

Atty. Thomas indicated that theirs is different. Rick's Notices say "on file in the Town Clerk's Office" where zone change applications have to be. When you walk in on a PDD, you have an A-2 Survey, his Statement of Use which at the end has a metes and bound description. So both of them are in the Town Clerk's Office.

Mr. Panico added that it just needs to be a step above what they have currently been doing such as the abutting property owners, the street intersections and that type of thing not necessarily a 150 line metes and bounds description.

He gave the case of 714 LLC with the description that says bounded by Buddington Road, Nells Rock Road, Bridgeport Avenue and such and such a property owner. Then everyone knows where it is. It doesn't need to be a big metes and bounds description.

Chair Parkins responded that it was a technicality. The more serious issue was the fact that there was evidence introduced after the public hearing had been closed.

On a motion made by Virginia Harger seconded by Joe Sedlock, it was voted (5-0) to accept Application #11-04 for review, schedule a public hearing for 3/23/11 and to modify the application fee. Commissioner Pogoda abstained from voting.

APPLICATION #11-05, PRAMOD KANDEL FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVENIENCE STORE RELOCATION), 556 HOWE AVENUE (MAP 129B, LOT 11), CA-3 DISTRICT – ACCEPT AND SCHEDULE PUBLIC HEARING

On a motion made by Joan Flannery seconded by Joe Sedlock, it was unanimously voted to accept Application #11-05 and schedule a public hearing for March 25, 2011.

Application #11-06 SHELTON IV HOTEL EQUITY LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #27 (POOL BUILDING RECONSTRUCTED), 695 BRIDGEPORT AVENUE, ACCEPT, REVIEW AND POSSIBLE ACTION.

Jeremy Buffam, New Castle Hotels, Project Manager addressed the Commission.

Mr. Buffam indicated that he was the Project Manager for this development down at the former Ameri-suites, former Holiday Inn Express, now known as the Shelton Hotel and soon to become the Hampton Inn. He gave the Commission some information on the company before so he won't go through that again when they were here in October 2010. Their headquarters is based here in the Corporate Towers and they've been around here for 25 years in Shelton. They own or operate about 30 hotels.

He indicated that in October they were here to present changes to their existing building which included the demolition and construction of the new pool facility and the expansion of that to include an indoor water slide. Since that time for a variety of different reasons and some complications with the water slide arrangement with the Department of Health in Hartford, they have made some changes to the design. They have actually shrunk the proposed new footprint of it substantially.

Mr. Buffam continued that the biggest change that they've made is that they have moved the slide with the flume or tube outdoors. So the children or adults will now access the slide indoors, exit the building in a flume, and then return back indoors.

Comm. Flannery asked why the Health Department made them change that.

Mr. Buffam responded that their change limited to the position of the run-out. The slide is now separate so the children don't return into the pool. They return into a separate run-out, like a rectangular box of water that is not connected to the pool. The Department of Health has some limitations on the access to that run-out.

Comm. Flannery asked if the parents would still be able to supervise the children.

Mr. Buffam responded yes, actually more so. The previous building was more crowded as well and there were a lot of complications but they are just trying to focus on the larger ones. John Schmitz from BL Companies will discuss specific details. But the issue with the Department of Health was about the access at the run-out.

Comm. Flannery asked if that means that the children go in, the slide goes outside through the wall and then they drop back in again.

Mr. Buffam responded yes, correct.

Mr. Panico asked if that won't detract from the attract-ability of those rooms on the back side of the hotel.

Mr. Buffam responded that the back of the building on the first floor is all mechanical rooms so the second floor would actually be the first floor with a view out. The slide is roughly 21 feet high so a couple rooms would see the slide.

Mr. Panico commented that even the upper rooms in the back are going to look down and see the slide though.

Mr. Buffam responded yes, that is true – from the back of the hotel. He added that they may have seen one at the Coco Keys facility in Waterbury.

Mr. Panico indicated that is an amusement facility – you can come in off the street and go water sliding. They don't have to be a tenant in one of those hotel rooms.

Mr. Buffam responded yes, that is correct.

Mr. Panico commented that his concern quite frankly is if they don't get enough activity to justify that slide based upon the tenants, are they then going to want to take in people off the street, for a fee, that want to use it.

Mr. Buffam responded no, and he does not think the Hampton would permit that either. Of course, they allow meetings.

Mr. Panico asked if Hampton has done this on any of their other facilities.

Mr. Buffam responded yes, they do have a Hampton in Dartmouth, Nova Scotia which is near Halifax and that has the same idea with an pool facility and a water slide.

Mr. Panico asked if they had anything here in the States.

Mr. Buffam responded that they don't have any water slides in the States, they do run about six Hampton Inns and several Hilton Hampton Inns so that's a different brand.

Comm. Harger asked if there was any way of expanding the wall to have it fully enclosed.

Mr. Buffam responded by asking if she meant to have them expand the footprint of the building.

Comm. Harger responded yes.

Mr. Buffam responded, well, they can do anything, but the issue with that is the parking and having to heat and cool that large building all day just to house the slide which doesn't really give that much benefit of that space.

Comm. Flannery asked if the slide would be used during the wintertime.

Mr. Buffam responded yes.

Comm. Flannery asked how they keep the water (inaudible – multiple conversations).

Mr. Buffam responded that the water is obviously moving continually and heated continually (inaudible – multiple conversations).

Chair Parkins asked if they rent out the meeting rooms.

Mr. Buffam responded yes, they have one meeting room – they used to have two but now they just have the one.

Chair Parkins asked if that rental use was restricted for business use or could it be rented for birthday parties or other public functions.

Mr. Buffam responded that he would assume that it is available for other functions.

Mr. Panico asked if someone from the public rents the room to have a party, their kids can then use the pool and water slide.

Mr. Buffam asked if he meant the people were staying there or were just in the meeting room.

Mr. Panico asked if they rented the meeting room for a kid's birthday party and part of the party was that the kid's bring their bathing suits and go down the water slide.

Mr. Buffam responded yes.

Mr. Panico stated that then it would be an entertainment facility. It's not just a hotel anymore.

Mr. Buffam responded that he would have to check with the Hampton as to whether or not they would permit that. If the slide component were taken out, he could ask if the pool could be used at another hotel that rents the meeting room and has a pool.

Mr. Panico stated that would be customary because most every hotel has a water slide but not every hotel has a waterslide.

Mr. Buffam responded that he does not think that they presently allow pool parties for outside guests; however, he does not know and he'll have to follow that up for them.

Comm. McGorty commented that it sounds like it could happen.

Chair Parkins added that it sounds like the road it is going down.

Mr. Buffam responded that he really does not know if that is allowed by the Hampton's standards but it is a good question, and he'll get the answer for them.

Comm. Flannery asked if they were just accepting this tonight and scheduling a public hearing.

Chair Parkins responded no, there is no public hearing on it.

Mr. Schultz clarified that they have submitted a minor modification but the Commission decides if it is minor.

Comm. Flannery asked if they could table it until he can get back to them with that answer.

Mr. Panico responded that the Commission has an application before them and they have to make that judgment. If this were to be processed, do they think that this would be a minor modification or is it significant.

Chair Parkins commented that she thinks it is significant. Comm. Flannery, and Comm. Harger agreed.

Mr. Buffam indicated that it was approved before when the slide was in the building.

Chair Parkins responded that in the building and outside of the building are two totally different things.

Comm. Harger added that it changes the whole flavor of it.

Comm. Sedlock added that he doesn't think this Commission would have a problem with it if it was still in the building but the fact that it is out of the building is...

Chair Parkins agreed yes, the fact that it is out of the building is why they have come back here.

Mr. Buffam asked the Commissioners if they would still like to take a look at the renderings that they have brought with them.

John Schmitz with the BL Companies addressed the Commission and presented the proposed drawings.

Mr. Schmitz indicated that the first rendering showed the exterior and the expansion of the pool building to the rear where the slide would be coming out. He showed a visual of how the slide would come out of the side, circle around and come back into the same side of the building.

Mr. Schmitz showed another rendering to show the proposed landscaping views from the parking lot looking at the side of the building and the rooms that would look out over the slide (inaudible). He showed the location of the rock cut and enclosed dumpster and (inaudible).

He explained that the proposed expansion to the pool building is about 21 feet high. The slide height would be approximately 22 feet high at this location.

Comm. Harger asked what color the slide would be.

Mr. Buffam responded that the designer probably coordinated that with the architect for that rendering. There are probably 50 or 60 different colors but they really haven't finalized any of that yet.

Comm. Harger commented that she was concerned about the maintenance of it because it is exposed to the elements.

Mr. Schmitz responded that he doesn't know the exact plastic composition of it but it comes in sections. They would be able to take out one section, fix it and bolt it back in. He showed the landscaping plan that would be used around the pool and other areas around the hotel. He indicated that there would be junipers at a height of 3 ½ to 6 feet.

Some of the other minor changes included in the expansion of the building with men's and women's restrooms being relocated. Additionally, a storage and maintenance room will be relocated outside to a small building next to the

dumpster area. Some of the mechanical equipment inside the building presently will be moved to a concrete pad outside of the building.

Mr. Schmitz added that they propose 125 parking spaces which still meet the bulk standard for this PDD.

Chair Parkins asked how big the building in the corner that they are proposing.

Mr. Schmitz responded that this storage shed would be approx. 176 square feet. 16 feet x 10 ½ and ? feet high.

Mr. Panico asked if that would be something constructed to match the building or one of those pre-fab things that you go out and buy.

Mr. Schmitz responded that it would be constructed of concrete block units painted to match the building but the front of the building would be (inaudible)

Chair Parkins asked if that would be the only other change to the back of the building – would there be any outdoor patios being added or anything like that.

Mr. Schmitz showed the location of new sidewalk at one location and the reconstruction of an existing sidewalk.

Chair Parkins indicated that they would not be taking action on this tonight. The consensus is that this is not a minor modification but a major modification.

Mr. Schultz stated that a major would require a public hearing – that is the difference.

Comm. Flannery indicated that she didn't have a problem with it as long as it was a dark color like shown in the picture and it wasn't bright orange or bright red.

Comm. Sedlock stated that he would really like to know if it is going to be used by outside people. There was a consensus with all commissioners on that issue.

Comm. McGorty commented about the aesthetics and noted that it was the hotel's call and how it impacts their business was their business. If it adversely affects it then they made a bad decision. His problem would be if they begin hosting large parties with a lot of kids and it lets out with a lot of traffic coming in and out – that is a different use. If it generates a lot of traffic in that location, it is not great because they are right near an intersection.

Chair Parkins commented that entertainment center is not an accessory use to that PDD. They would have to be a guest of that hotel not a party type function.

Mr. Panico indicated that it is probably a rather expensive financial outlay to provide that facility in a corporate environment. If it is not totally justified by the business that the hotel does with their rooms, is it then going to precipitate pressure to open it up, in whenever limited ways, for public use. Now, they would have a public entertainment or amusement facility.

Comm. Pogoda added that they aren't looking for that in a corporate setting.

Mr. Panico asked if it was such a good idea, then why the Hampton Inn hasn't done it somewhere else first other than Nova Scotia.

Mr. Buffam responded that if the concern is that it would be used for entertainment but the use doesn't allow that then it would be in violation of the zone.

Mr. Panico commented yes, that would be unless they come in to amend the regulation so that it could be used.

Mr. Buffam responded that this body could deny that though. Currently, it is not allowed today. He added that their specific goal is to fill rooms on the weekend with the parents with kids. He will follow up on their issue about hosting parties but as far as revenue is concerned from a sales perspective – they want to fill rooms on the weekends because that is where the money is.

Chair Parkins commented that they could have a couple come in with their children, rent a room and also the party room for their kids to have a party room downstairs – it is the same thing. It is the same thing – it is an entertainment function.

Mr. Buffam responded yes, that is true but, if it were permissible, they would weigh that against that extra money for that one room to determine if it is worth it for the impact that it would have on the use of the slide for the rest of the guests. If guests have to wait to use the pool/slide because 50 kids are on it then those guests won't come back.

Comm. Sedlock added that there is also the liability on that too if people from the outside come into to use it.

Comm. Pogoda commented that this is a corporate setting with business people and if it were him there for business, he would be totally turned off if there were a bunch of kids running around screaming. It hasn't been tried anywhere else yet except Nova Scotia. It is inconsistent with the corporate environment that they have on Bridgeport Avenue.

Comm. Harger commented that they should hold a public hearing and open it up to area residents to express themselves

Comm. Pogoda responded that he didn't think they would get much response from area residents.

Chair Parkins commented that she didn't think it was the right location for it.

There was further comments and discussion regarding the location surrounding the Hampton and the impact to the area.

Mr. Buffam explained that he would be happy to follow up and find out if the Hampton has a policy. He reiterated that the general strategy is that it would be a huge revenue producer. If someone rented one room and brought in 20 or 30 kids, it would clearly be a loser for them. They are looking for 20 parents, maybe here for a hockey tournament that stay at the Hampton for the water slide.

Mr. Panico asked what may happen when all the other hotels find out that the Hampton is getting all that kind of business. Then they will want to put a water slide or something else in their hotels.

Chair Parkins noted the issue is the aesthetics of if they want the water slide outside because the waterslide itself was already approved for indoors. So now it is just a matter of the fact that they can't fit it outside and they want to put it outside.

Comm. Harger commented that if they have the space to put the tube outside, why they can't just put a wall around to enclose it.

Comm. Flannery responded that the Health Department won't let them.

Chair Parkins asked what it is they are questioning. Are they questioning the water slide or are they questioning the use?

Comm. McGorty commented that it is the aesthetics.

There were further comments regarding the aesthetics and the use (inaudible).

Mr. Buffam commented that it is possible that in order to get it the way they want it and have it enclosed would eat up too much parking – possibly, he isn't sure.

The main issue was that the run-out used to run parallel to the pool and the area was too congested with pool chairs, etc. and the Department of Health was not happy with the access with children running by, etc.

Comm. McGorty commented that the flume was in a grassy area not the parking area – so if they enclosed it in that area and used the same footprint, it shouldn't impact the parking, correct?

Mr. Buffam responded that it would two parking spots (inaudible).

Mr. Panico commented that keeping the water slide outside is like having a big sign that says "we have a big waterslide."

Comm. Sedlock agreed that it was an advertisement.

Comm. Flannery stated that was why she suggested that it not be a bright yellow or orange.

Mr. Buffam made some other comments that it had to do with safety and needing to have the slide empty into an area other than the pool. Additionally, there were issues (inaudible).

Comm. McGorty suggested having a greater portion of the slide indoors (inaudible).

Other comments (inaudible, multiple conversations)

Mr. Schultz suggested withdrawing it tonight because there are always more alternatives if they don't have the clock running on it. Staff can meet with the Applicant to determine if there are any alternatives before returning the Commission.

Mr. Panico agreed that they could deny it without prejudice because it is not considered to be a minor modification but a major one. That would eliminate #11-06.

Comm. Flannery commented that she lives in that area and she does not think that they are going to get many people showing up for a public hearing on it.

Mr. Panico agreed that it was mostly corporate neighbors with Sears on one side and Tetley Tea on the other side.

Chair Parkins added that there are also all the other hotels that are going to come out and speak against them because they are competition.

Mr. Schultz indicated that they would then deny it without prejudice and let them work with Staff.

Mr. Panico indicated that denying it because it is not a minor modification does not prevent them from coming back with alternative proposal or coming back as a major and having a public hearing.

On a motion made by Virginia Harger seconded by Anthony Pogoda, it was unanimously voted to deny Application #11-06 without prejudice due to the Commission's determination that the application is not minor modification.

PUBLIC PORTION

Chair Parkins asked if there was anyone from the public wishing to address the Commission about any item not on the agenda.

Ken Schiable, Schiable Realty, 431 Howe Avenue, Shelton addressed the Commission.

Mr. Schiable indicated that Schiable Realty 3 is the owner of the property at 25 Brook Street right next to the Boys & Girls Club. Over the last several years they have had some issues with the building adjacent to them owned by Hernandez Holdings. Before it was vacant, then the Siding King moved into the corner. They had problems with them parking the trucks very tightly on the corner, getting tractor trailers around the corner, parking on their side, blocking the entrance, unloading a tractor trailer in their driveway (and then telling them that they aren't disrupting anything while tenants are pulling in all around the tractor trailer...). He has gone on to put in a dumpster business. He has storage containers down there and he has commercial vehicles down there – all of which are not allowed in that zone. He has moved over to the other corner, which is a blessing for them but now Szabo's Seafood has moved in. Szabo's is putting signage on their sidewalk which leads people to believe that they can park in his lot.

Mr. Schiable has talked to the gentleman and he is very nice man. Mr. Schiable indicated that he is very pro-Downtown. He doesn't want to see any businesses move out of Downtown and he doesn't want to see any businesses hurt by this. He thinks that the property has enough parking on it to support what he is doing but at the same time, the Siding King is ruining it for him.

Mr. Schiable stated that everyone realizes that it has been a bad winter with snow piled up all over the place. The Siding King materials are everywhere and haven't moved all winter. There is no parking whatsoever on that site. He suggested that the Commissioners take a ride through there.

Mr. Schiable commented that Szabo's Seafood people are coming and parking in his lot because he plows it and keeps it nice and clean then they walk over to his place. This leads his tenants to call him up and complain because their parking is being taken up by people that are eating at Szabo's.

Mr. Schiable indicated that it goes a little further than that because upon looking up the Szabo's Seafood approval himself, he discovered that they were approved only for catering. Szabo's is doing take-out and they have stools in their location. Mr. Schiable realizes now how they got in there because he was not

given notification publicly because of their Statement of Use. They are not doing what is in their Statement of Use.

Mr. Schiabile continued that the Siding King is ruining what Szabo's is doing because he could easily accommodate that business if the Siding King would get his things out of there that shouldn't be there.

Mr. Schiabile stated that he has complained about the Siding King for a year. He doesn't dislike him either but at the same time, he can't have him bothering his tenants. This lead to him receiving phone calls and having to come to P&Z and discuss it at 9:30 p.m. on a Tuesday night. It has been going on for a long time and something needs to be done soon.

Chair Parkins indicated that they would move this up on the priority list.

Mr. Schultz commented that Mr. Schiabile came into his office on Friday and he gave the report to the Downtown Subcommittee because it is a priority.

Mr. Schiabile reiterated that he has spoken to the Szabo's Seafood and he's a nice guy. He thinks that he could run that business successfully and has the parking that he would need in the back if the Siding King's stuff isn't there, which shouldn't be and is moved off site.

Chair Parkins commented that this is a little bit blight and misuse.

Comm. Pogoda added that he wasn't approved for it – he's in violation of his Statement of Use.

Comm. McGorty stated that he had a conversation about that last year because the Siding King has his stuff everywhere – parking lot, up the street, in the back, by the tracks, etc.

There were further comments regarding the location of the Siding King's material inaudible (multiple conversations...)

Mr. Schiabile thanked the Commission. With no further comments, Chair Parkins asked for a motion to close the public portion.

On a motion made by Thomas McGorty seconded by Anthony Pogoda, it was unanimously voted to close the Public portion of the meeting.

OTHER BUSINESS

A. APPROVAL OF THE MINUTES: 1/11/11 – Tabled

B. HUNTINGTON WOOD SUBDIVISION: REQUEST FOR REDUCTION OF PERFORMANCE BOND

Mr. Schultz stated that all the Commissioners received a letter. They have a bond in the amount of \$430,000. The developer of Blakeman Construction would like that to be reduced. There are two areas that have to be completed. One is the Huntington Street/Buddington Road intersection and the cost of that is approximately \$75,000.

Mr. Schultz added that they have the work for the guard rail which is \$50,000 for a total of \$125,000. The City Engineer is not recommending any release but the applicant is here to say that they would like the Commission to retain \$125,000.

Comm. Flannery asked if that was where the small island is located. Isn't that still not settled?

Comm. McGorty responded that is what the \$125,000 would be used for.

Comm. Sedlock asked if the \$75,000 was to remove that.

Mr. Schultz responded that there are two items that still have to be covered.

Comm. McGorty indicated that it would be \$75,000 for the island.

Chair Parkins asked Comm. Sedlock if he thought that was too little or too much for the island.

Comm. Sedlock responded that he doesn't want it removed at all.

Chair Parkins commented that this is just because it is not a settled matter.

Comm. Flannery suggested no reduction, in case he has to widen the road and do other stuff.

Mr. Panico stated that they cannot change the parameters of the work covered by the bond. Widening of the road was not covered by the bond.

Multiple comments (inaudible).

Comm. McGorty stated that the remaining items are the island and the guard rail.

Mr. Panico commented that these are a couple of off-site items of work that were not part of the main subdivision but were precipitated because of the subdivision.

Chair Parkins stated that she was comfortable with the \$125,000. She asked Mr. Schultz if he knew if that was on the upcoming agenda for the Aldermen.

Mr. Schultz responded that it would be coming up (inaudible).

Multiple comments (inaudible).

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve the request to reduce the \$430K Performance Bond at the Huntington Wood Subdivision to \$125K.

C. HOUSATONIC RISE: REQUEST FOR RELEASE OF SITE BOND

Mr. Schultz stated that they have a performance bond in the amount of \$20,000 to insure the completion of improvements at Housatonic Rise.

On a motion made by Thomas McGorty seconded by Joe Sedlock, it was unanimously voted to approve the request for release of the \$20K site bond at Housatonic Rise.

D. 140 BRIDGEPORT AVENUE: REQUEST FOR RELEASE OF SITE BOND

Mr. Schultz indicated that this was Primrose. He is the one who submitted the bond in the amount of \$20,000. Site improvements have been completed. The only issue and everyone is dealing with it – the shrubs are taking a beating – but they do have a year.

Chair Parkins indicated that they could reduce it by \$15,000 because they don't need the whole amount for the plants.

Mr. Schultz commented reduce it to \$5,000 due to the weather.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to reduce the Site Bond for 140 Bridgeport Avenue from \$20K to \$5K due to weather-related plant damage.

E. HICKORY ACRES: ONE YEAR EXTENSION TO COMPLETE PUBLIC IMPROVEMENTS.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to accept the request for Hickory Acres one year extension.

Mr. Schultz indicated that this was for Dana's Pond Construction (Lisa Drive). They were requesting a one year extension due to the poor economy to complete the public improvements.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve the request by Hickory Acres for a one year extension to complete public improvements.

F. PAYMENT OF BILLS

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

G. STAFF REPORT

*See Attached Planning & Zoning Staff Report dated 2/8/11.

ZBA

Mr. Schultz indicated that they had a ZBA matter – ZBA Application #211-1. He asked the Commission if they were familiar with the brick apartment complex at the end of Howe Avenue after Route 8 and after the Church on the left hand side. Ten years ago, this Commission approved a free standing garage with the stipulation that there would be no dwelling units. He indicated that they are now going before the ZBA to get an 11th unit and they need every bulk standard you can. They are also requesting to waiver the Special Exception Site Plan approval that comes before this Commission. Multi-family requires a public hearing. Obviously, he asked if the Commission would like him to draft a letter to the ZBA with the standard remarks. There appears to be no hardship and it is self-created. The original intent was for a garage for the maintenance building and the Commission specifically said no dwelling units. There is a 3-bay garage and there is a lot of space up there for storage.

Chair Parkins indicated that she may have to recuse herself from this matter because she was not here for the original and she is related to one of applicants.

Comm. Pogoda indicated yes, he would make that motion if it was needed to draft a recommendation. He recalls that they spent a lot of time on that and specifically stated no dwellings.

Mr. Schultz stated that he would draft something to the ZBA indicating that there is no hardship and the original approval for the garage specifically precluded no

apartments to ZBA. Additionally, he will attach the meeting minutes from the previous P&Z approval.

REPORT FROM CHAIRMAN

Chair Parkins indicated that she wanted everyone to know that there was a public hearing on ordinances a couple of weeks ago. One of them was the sign ordinance being composed by Alderman Finn. There have been discussions back and forth. She attended a Street Committee meeting at the time they were working on the Draft Regs for Signage and requested an ordinance behind it to beef it up a little. Alderman Finn suggested that the regs don't address political signs.

Chair Parkins indicated that the Alderman have had a public hearing regarding this and it is on their table right. She did not have any opportunity to speak there but has sent a letter to Alderman Anglace to request that they delay the adoption of any sign ordinance until such time that the new sign regulations are in place and can be incorporated into it. She submitted this for their consideration and they are taking it up on their meeting this Thursday.

The Commission decides to tentatively schedule a public hearing for the sign regulations for the 4th Wednesday in April.

ADJOURNMENT

On a motion made by Anthony Pogoda seconded by Joe Sedlock, it was unanimously voted to adjourn the meeting at 9:46 p.m.

Respectfully submitted,

Karin Tuke
Recording Secretary, Planning & Zoning Commission