

SHELTON PLANNING AND ZONING COMMISSION

March 23, 2011

The Shelton Planning and Zoning Commission held a regular meeting on March 23, 2011 at 7:01 p.m. Shelton City Hall, Room, Auditorium, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins
Commissioner Joan Flannery
Commissioner Virginia Harger
Commissioner Thomas McGorty
Commissioner Patrick Lapera (alternate for Comm. Anthony Pagoda)
Commissioner Joe Sedlock

Staff Present: Richard Schultz, Administrator
Patricia Gargiulo, Court Stenographer
Karin Tuke, Recording Secretary

Tapes (2) and correspondence and attachments on file in the City/Town Clerk's Office and the Planning and Zoning Office and on the City of Shelton Website www.cityofshelton.org

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairperson Parkins called the meeting to order at 7:01 with the Pledge of Allegiance and a roll call. She reviewed the procedures of the public hearing for all those in attendance.

PUBLIC HEARING

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

Secretary Virginia Harger reads the Call of the Hearing and three pieces of correspondence.

***See attached correspondence to P&Z Administrator, Richard Schultz from Kristal Kallenberg-Dorismond, Environmental Analyst, CT DEP Office of Long Island Sound Programs dated March 23, 2011**

***See attached correspondence to P&Z Administrator, Richard Schultz from City Engineer, Robert Kulacz dated March 17, 2011.**

***See attached correspondence to P&Z Administrator, Richard Schultz from Fire Marshal, James Tortora dated March 23, 2011.**

Atty. Dominic Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission on behalf of the Applicant. Atty. Thomas submitted photographs of posted property and the notices that were sent out. He requested that this public hearing be continued. Their engineer has been in contact with the Fire Marshal to work out issues; however, the main reason why they would like to continue the hearing is because, in the course of their due diligence on the property, certain issues were discovered when test bits were being done on the property, related to construction. They were revealed at the end of last week. He's been in contact – they are the contract purchaser of this property – so he contacted the attorney representing the owners who have given him permission to continue the public hearing in accordance with it so that they

can sit down and resolve these issues before the continuation date. Atty. Thomas stated that they would not be making a presentation at this time. They will also be using this time to address issues with the Fire Marshal; however, all of that becomes moot if they can't resolve the other issues.

On a motion made by Patrick Lopera seconded by Thomas McGorty it was unanimously voted to keep the public hearing for Application #11-03 open until April 12, 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

Secretary Virginia Harger reads the Call of the Hearing and three pieces of correspondence.

***See attached correspondence to P&Z Administrator, Richard Schultz from City Engineer, Robert Kulacz dated March 17, 2011.**

***See attached correspondence to P&Z Administrator, Richard Schultz from Fire Marshal, James Tortora dated March 17, 2011.**

***See attached correspondence to P&Z Administrator, Richard Schultz from Fire Marshal, James Tortora dated March 21, 2011.**

Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission on behalf of the Applicant. He submitted notification letters and photos of the posting in accordance with the requirements.

Atty. Thomas provided a brief history of the application. He indicated that it was done in 2007 and 2008. The Initial Concept Plans were approved in 2007 and the final Detailed Development Plans were approved in 2008. An appeal was taken by the residents from the Buddington Park Condominium Association. The appeal won at the Superior Court level, it went to the Appellate Court wherein it ruled that procedurally there were improper out-of-hearing communications.

Atty. Thomas explained that there had been a discussion regarding density (7 or 6) and they had 7, meaning 2 up front/5 in back versus 6, meaning 2 up front/ 4 in the back. They had shown conclusively, that even at 7, it was less dense than Heritage Point. And, basically, it was meant to be modeled after the Heritage Point clustered housing. During the course of it, the Town Planning Consultant asked their P.E. to show him if there was a reduction to 4 in the back, would the house on the left be pulled out of the upland review area. The meadow in the middle of this is a wetland that was farmed for years. Their P.E. did that, it was discussed and shown to the Town Planning Consultant that it could, in fact, be done to create better spacing in the back.

Atty. Thomas indicated that during the last meeting, there was some exchange among the Commission and one Commissioner asked if they would accept it. Acting Chairman Lopera responded that it wasn't a matter of if they would accept it; it was a matter of if it would be acceptable to the Board. However, another Commissioner asked if it would work and the Town Planning Consultant pulled out the sheet showing the reduction to 4 houses in the back. Atty. Thomas indicated that the sheet being pulled out was the technicality; otherwise, there would have been no issue.

Atty. Thomas stated, in addition to that, in a footnote, which the Connecticut Bar Association Planning & Zoning Committee Meeting refers to as the Paper Newspaper Enhancement Act, the judge indicated that the notice was defective based on this other case, and they actually petitioned to the Supreme Court which was denied. It was not their notice because theirs is not jurisdictional. This was the notice that Mr. Schultz did which basically refers people to the Town Clerk's Office which has the maps, metes and bounds. Basically, until that footnote is resolved, the Court seemed to be saying that in the notice for the newspaper, they have to do the metes and bounds description.

Atty. Thomas stated that as a result of the technicalities, and to give the Commission an opportunity to comment on the six unit configuration, they have submitted the application for approval of both the Initial Concept and final Detailed Development Plans at the same time. Basically, the submission that they made was with a set of plans that this Commission approved in the final site development plans.

Atty. Thomas stated that he is going to resubmit everything that is necessary for it. Because this is a residential development, the architectural isn't as important. He resubmitted the architectural of the individual houses that were proposed. He commented that they understand that as they build them, they will have to come back in to show them. This is not to represent exactly what is going to be done, but basically it's a two-story colonial look modeled after Heritage Point, which is next door.

Atty. Thomas provided an aerial view photograph of the subject area (marked by a black dotted line) and the areas surrounding it. He pointed out the property located to the left and indicated that it was Country Walk, a high-density condominium. Across Buddington Road, he showed the location of another high density development (5 units/acre) called Buddington Park. He showed the cluster development of Heritage Point next to the subject parcel and in the far right, he showed the location of Woodland Mobile Home Park. Also, he showed the location of Walmart above the subject property.

Atty. Thomas indicated that the LIP line runs at an angle through the rear of this property and did run through the Heritage Point property. Based on the fact that this property borders on commercial to the rear, cluster single-family to the south, cluster condominium to the north and another cluster condominium to the north, they believe it is clearly a transitional zone.

Atty. Thomas provided a second page to his hand-out to compare the density of what is around it, and what is abutting it. He indicated that the analysis was done by their engineering at the request of the Commission members back then. Nothing has changed to this point. This analysis is of Meadow View and Heritage Point. Obviously, there is no point in comparing it to Buddington Park because that is substantially denser. So they are comparing it – apples to apples, to single family. Atty. Thomas explained the highlighted areas, with the Wetlands in the rear area. He added that they were asked to divide this between the rear area and then the whole piece together. He indicated that up front there is an existing house where Mrs. Farrell's parents reside. Their goal is to develop this, live in one house themselves and convert the front house to a handicapped accessible home for her parents.

Atty. Thomas noted that in the photograph, they will see how close the house at Heritage Point was allowed to be next to the parent's house without anywhere near the buffer they are going to be providing.

Atty. Thomas stated that the analysis of the rear density with the wetlands comes out to 1.72 units per acre and without the wetlands it comes to 2.06 units per acre. That is just for the rear area.

Atty. Thomas indicated that the total area density with wetlands is 1.8 units per acre and without wetlands it is 2.02 units per acre. He referenced the portion of the handout showing the density for Heritage Point. With the wetlands it is 2.25 units per acre which is greater than their density without the wetlands. At six units for this property, their density is less than Heritage Point. He referenced the aerial photograph and indicated that there is a band of cluster development that runs from Country Walk all the way through to Woodland Mobile Home Park with the subject property in the center of it. Atty. Thomas stated that they believe, clearly, that it establishes without a doubt, it is a transitional zone and this is an appropriate use.

Atty. Thomas presented an updated petition signed by many area residents. During the public hearing in the fall of 2007, neighbors addressed the Commission and were very angry and said "how could you even question this project when you approved Heritage Point." At that time the neighborhood had been asking questions about it. Atty. Thomas stated that the neighbors want to show that they are in favor of what the Farrell's and the Farrell's parents would like to do. This petition is in favor of this proposal.

Atty. Thomas indicated that even though this is a small residential proposal, at the time of the previous hearing, the Commission requested a traffic analysis which he would like to resubmit for the record.

Atty. Thomas stated that as a condition of their approval, since this is a private road and since there is a detention basin, their approval required a declaration and road maintenance agreement which they had negotiated. Therefore, for the record, he submitted the Declaration of Road and Detention Basin Maintenance Agreement which was agreed to with Staff at the time of the Final Site Development Plans. Obviously, it is a private road that has to be maintained by the Association.

Chair Parkins asked if the Association has approved this letter.

Atty. Thomas responded no, the Association hasn't been informed yet because it was always on appeal. Actually, it is Mr. and Mrs. Farrell as the owners who would be sending this and then it would be recorded on the land records and subject to the sale. They would have to form an Association and do everything appropriately. He concluded and turned the discussion over to their engineer to discuss site plans and drainage issues.

Jim Rotondo, P.E. and principal of Rotondo Engineering LLC, 25 Brook Street, Shelton, CT addressed the Commission. Mr. Rotondo stated that the Meadow View development consists of six single-family residential dwellings. They will be accessed by a new roadway that intersects with Buddington Road. The name of that roadway is proposed to be Sgt. John's Ridge. The roadway is proposed to be 26 feet in width and will terminate in a cul-de-sac. Each of the proposed dwellings, two will be adjacent to Buddington and the additional four will be located off of the cul-de-sac. Each of these houses is proposed with two-car garages for the resident parking. They are also proposing three visitor parking spaces along the roadway just at the entrance of the cul-de-sac. At the location of the visitor parking, they are proposing a common mailbox for everyone. They have one single site light which would be a decorative post type no greater than 15 feet in height. He showed the location of that on the site plan. Each house would have a post-type light at the driveways which would have cut-off shields so all light would be directed downward.

Mr. Rotondo stated that for the buffering, they are proposing a 20 foot conservation easement along the entire perimeter of the parcel. It will remain all in its natural vegetative state. In addition, along the property line adjacent to Heritage Point, they are proposing some white pines as additional buffering. There are several residences close to the property and at the vicinity of the visitor parking spaces, so they will provide additional buffering.

Mr. Rotondo indicated that each house will have individual trash removal. Each house will bring trash receptacles to the curb and private trash pickup will be through the private roadway. Utilities will be extended into the property from Buddington Road. There is existing sanitary sewer and municipal water. They will be extended down to serve the site. The site slopes in the rear so the lower four structures will require pump stations. They will pump them up to a gravity store which is located in Buddington Road.

Mr. Rotondo stated that they have also submitted a Storm Water Management Plan in accordance with the City's new Storm Water Management Ordinance. They are collecting run-off within a collection system in the roadway through catch basins. They are proposing a detention basin to the north of Sgt. John's Ridge. In addition to detention they do have storm water quality components in the storm water system for treating the storm water, removal pollutants prior to discharge into their detention basin. The detention basin has been sized to collect and detain on the site the storms for the 2 year through 100 year storm frequency. Those will be discharged into an existing watercourse which runs under Sgt. John's Ridge. As they leave the detention basin, the flows will be brought down to below what the existing condition flows are as they leave the site. This watercourse then runs through an existing wetland which is located on Heritage Point underneath Freedom Way and down toward Bridgeport Avenue.

Mr. Rotondo stated that they also prepared an Erosion and Sedimentation Control Plan for the project conforming to the 2002 Connecticut Guidelines for Soil Erosion and Sedimentation Control.

Comm. Flannery asked about the water flow to Bridgeport Avenue and if it was underground.

Mr. Rotondo responded that there is an open watercourse that goes through a culvert under Freedom Way, then another open watercourse and a series of open watercourses and piping systems down to Bridgeport Avenue.

Comm. Flannery asked if it already existed.

Mr. Rotondo responded yes, it already exists.

Comm. Flannery asked if it was sufficient or overflowing from the existing houses.

Mr. Rotondo responded that the drainage divide on this property is approx. at the northerly property line so a portion of this property does drain in that direction. This basically collects most of the run-off from Heritage Point. Heritage Point does have a detention basin located, essentially in the central portion of their site, just south of their property line. A large portion of Heritage Point discharges into there into a small pond which straddles the property line and then discharges into that watercourse. There is also an existing collection system within Freedom Way which discharges directly into that wetland and down through that watercourse. So, the majority of that water coming through there, and the existing condition is from the Heritage Point development.

Comm. Flannery asked, with all the water they have experienced in the last few months, if it was sufficient. She asked if it would still be sufficient with the addition of more houses.

Mr. Rotondo responded that he did not do an analysis downstream...

Atty. Thomas indicated that she may have missed their point - their discharge is less than what is on there now. As a result of detention - this property has no detention - their discharge is less. That is the whole point of detention and that is why it is done by people with P.E. after their name, which it was. It has to be sized appropriately, studied by the City Engineer, which it was, and which was approved.

Atty. Thomas commented that both Heritage Point and this project are required to detain all those storms and release them at a release point that is less than what is on there right now. So, if they left it alone, it would actually be generating more water into the watercourse but there have been no reported issues in the Wal-Mart, Crown Point or Wells Hollow Farm until getting to the Far Mill River.

Mr. Rotondo added that in all their development, all their impervious areas, all the run-off is being conveyed to that detention basin - all the roof leaders are tied into that system, all the roadway drainage, etc.

Comm. Flannery asked who was responsible for cleaning the detention basin.

Mr. Rotondo responded that it would be the Association named in the maintenance agreement.

Comm. Flannery asked if they were going to affect the trailer park with flooding in and out.

Mr. Rotondo responded that based upon their calculations and based upon the size of this detention basin, they are releasing less water in the developed condition than what is coming out at the analysis point in the existing condition.

Chair Parkins asked if all six homes would be included in the Association.

Atty. Thomas responded yes, all six homes.

Chair Parkins asked for clarification about the trash receptacles. She asked if they would be put out curbside on Buddington Road or Sgt. John's Ridge.

Mr. Rotondo responded that it would be curbside on Sgt. John's Ridge. It is a private roadway so it would be private trash collection.

Chair Parkins commented that she is only asking because she knows that the City picks up in other condo complexes.

Mr. Rotondo responded that if they were to bring it out to Buddington Road, it is quite a distance; but, Buddington's a City road so the City would pick up and that would certainly be an option. But this is a private road so the City trucks wouldn't travel down the private roadways.

Chair Parkins stated that she wanted to clarify this so that when people buy these houses, they don't say "we pay taxes, why doesn't the City pick up our trash?" In most condo associations, the City truck comes into the property to pick up trash so it is a matter of whether or not it can safely be done.

Atty. Thomas indicated that it can safely be done; obviously, if an emergency vehicle can get in and out, than the garbage truck can. However, they aren't putting it on that basis. They are putting it on the basis that they expect the people to hire a private pick-up.

Comm. Flannery asked if this sewer is public sewer.

Mr. Rotondo responded that yes, Buddington Road is a public sewer. It would remain private on Sgt. John's Ridge.

Comm. Flannery asked if the pipes that have to go in would be paid for by the the people buying the homes.

Mr. Rotondo responded yes, they would pay for installation, and the developer would do that.

Chair Parkins indicated that the purpose of this public hearing was to make sure that members of the public had an opportunity to see the material that is being presented to the Commission. She asked if anyone had been provided with any information. She wants to make sure that everyone has a chance to review the drawings.

Atty. Thomas responded that he sent out the notices in accordance with the requirements. Their notices aren't jurisdictional. They went to the Association as is the policy in Shelton. For Heritage Point, since they own individual lots, they sent them to individual land owners as well as the property management company. His policy, when they get the notice, they get the SPF1 sheet so that they can actually look at the plan.

Comm. Flannery asked why the road is going to be 26 feet wide and not 30 feet wide.

Chair Parkins responded because it is a private road.

Comm. Flannery asked about Page 6 of the traffic report regarding "the intersection sight distance measured along Buddington Road at the proposed site roadway indicated insufficient sight line." She asked if that had been corrected.

Atty. Thomas responded that in the Addendum, they addressed those issues. Additionally, back then, there were also some concerns about moving the driveway but it was vetted through the Initial Concept Plans and the Detailed Development Plans. They addressed the person across the street as to where they were coming out. One of the points was to move the driveway. This is going to generate very little traffic and the point was made that if they adjusted the exit road, they would be moving the road into a situation where the lights would go right into the property across the way. When they analyzed it, being a single family home, this is a road in which the P&Z Commission approved 40 units, 3 ½ years ago and they were adding very little traffic to it. That is why they got the Addendum, with the sight line issue, it was better to keep the road where it was so that the cars pulling out wouldn't shine their lights into this single family home. Atty. Thomas indicated that he can't recall the name of the individual but they did try to address his concerns at that time.

Atty. Thomas commented about the conservation easement that they are proposing it. At Heritage Point some of the homes are tight up, so they are going to enhance it but at Buddington Park, the condos are sufficiently back and they won't be touching what is natural there. He referenced the aerial photograph of the site and mentioned the area that Buddington Park thinned out the trees. They know that because they actually asked Mrs. Farrell's parents for

permission to access it through their property. Atty. Thomas commented that if they were thinning it out, he hopes that they filed an application with Inland Wetlands because they were taking down a substantial amount of trees in a upland review area of the wetlands. However, that is another issue whether they did or not. It is not opposite the homes, he's talking about the area opposite the meadow that is being proposed as open space.

With no other questions from the Commission, Chair Parkins asked if there was anyone in the audience wishing to speak for or against this application. She invited anyone wishing to review the site plan renderings to come to the front to see them.

Atty. Timothy Lee representing the Buddington Park Condominium Association addressed the Commission. Atty. Lee indicated that they are here tonight in objection to this Planned Development District. First, they don't believe that this application complies with the PDD threshold criteria set forth in Section 34. Secondly, they don't believe that this application complies with the Plan of Conservation and Development (POCD). Thirdly, they have some questions about the site plan that they would like to have addressed.

End of Tape 1A 7:48 p.m.

Atty. Lee commented that, as the Commission is aware, the PDD is governed by Section 34 of their regulations. Under Section 34 of the regulations, they are authorized to approve a PDD under two circumstances. One, is that the property is located in a SDA (Special Development Area). He added that they can take it as a given that this property is not in an SDA.

Atty. Lee stated that under Section B, they can approve a PDD on property adjacent or abutting an established non-residential area with the purpose of accommodating a proposed use and development that will provide an effective transition in land use and buffer to the adjacent residential neighborhood. Atty. Lee indicated that it is their position that the Applicant cannot provide that criteria in this case. The only non-residential property abutting the Farrell property is the Wal-mart property in the rear. All the other surrounding properties are residential. Under the regulations, they have to create a buffer between the non-residential property (Wal-mart) and their property. Instead of creating this buffer to act as a transition, they are actually making the property denser from a residential perspective. They are locating at least portions of two units in the LIP zone (the portion that abuts Wal-mart). LIP does not allow residential uses in that property. Therefore, by approving the PDD, it actually locates houses in areas that have already been zoned not to have houses. Based upon that, they don't feel as though this has created an effective transition zone. In fact, they are doing the opposite by creating a denser residential neighborhood closer to the commercial property. This does not meet the criteria set forth in Subsection B of Section 34. Atty. Lee stated that they request that the Commission deny this PDD based upon that alone.

Atty. Lee indicated that secondly, they don't believe that the PDD complies with the Shelton Plan of Conservation and Development (POCD). He stated that when the Commission approves a PDD, they are in effect, enacting an amendment to the zoning regulations and the zoning map. Under Connecticut General Statutes 8-3 (B) when the Commission makes an amendment to the zoning map or regulations, the Commission must take into consideration, the Plan of Conservation and Development prepared pursuant to Section 8-23 and shall state on the record its findings and consistency of the proposed establishment change or appeal of such regulations or boundaries with the plan.

Atty. Lee indicated that because this is a zone change, the Commission is obligated to make a finding on the record that this application meets the standards set forth in the POCD.

Atty. Lee stated that he went on line to read the Shelton POCD and there is a section that deals with residential development in Shelton. He referenced a section dealing with PDD's and residential properties. The POCD strongly recommends against the approval and enactment of PDD's for residential development. In particular, Section 4-26 of the POCD "one of the goals should be to reduce the intensity of rural and suburban residential development." Atty. Lee stated that obviously, this application is increasing the number of units that would be available under the traditional R-1 one acre zoning regulations so they are running afowl of that portion of the POCD.

On page 4-27 of the POCD mentions the overuse of the PDD and that it should be used sparingly.

On Page 4-34, in the section entitled Residential Development Strategies, the number one strategy is to eliminate the use of the PDD in the resident's district. Obviously, they are using the PDD in the R-1 district in this case.

On Page 4-28, the POCD cautions the Commission that by continuing to encourage multi-family development in one or two acre rural and suburban neighborhoods, Shelton is needlessly increasing the property tax burden on residents and negatively effecting the rural character and taking the City in an urban direction. For the record, Atty. Lee submitted the portions of the POCD and Section 8-3 for their review.

Atty. Lee stated that, notwithstanding the fact, they do not believe that this PDD meets the standards of their own regulations and it clearly does not meet the standards set forth in the POCD. He added that the Commission will be hard pressed to make the findings required under 8-3B in approving this application.

Atty. Lee indicated that they also have some questions regarding the site plan itself. This property does have significant ledge and they would like to inquire if the Applicant intends to do any blasting if this PDD gets approved. If so, how much blasting would be required and what would be the level of intensity required.

Atty. Lee stated for the record, that they did not thin out any of the trees. In summary, they are asking the Commission to deny the Application. It doesn't meet the regulations. It doesn't meet the POCD. It is, in effect, a zone change application. The Commission is vested with liberal discretion in approving or denying the zone change application. They are asking the Commission to exercise its discretion and deny this PDD application. Atty. Lee thanked the Commission.

Chair Parkins asked if there was anyone else from the audience wishing to address the Commission for or against this application.

John Babina Jr., 9 Freedom Way (Heritage Point), Shelton, CT addressed the Commission. Mr. Babina distributed copies of a DVD and photographs for the Commission to review. He indicated that this is about the question being raised about all the water for Heritage Point and Meadow View being passed through this one drain shown in the photo.

Mr. Babina stated that he had submitted some videos in 2007 and did not know if they were kept for the record so he recopied them onto the DVD he just

submitted. Additionally on the DVD, he included another water flow taken in 2009 and the four photographs he just submitted.

Mr. Babina indicated that when the Secretary did the Call of the Hearing and mentioned the private property owners, there are two other private properties that abut. In the case of Heritage Point, there are some properties with barriers and some without. Lot #11 and Lot #12 in their planned designed development community – not a condo – does abut the property but they weren't mentioned in the call. He thinks that Lot #11 is Tony Pogoda and Lot #12 is Ron? They did get letters for the meeting, which is appropriate, but by a fluke there is no barrier between those two properties. He doesn't think that their names were mentioned in the Call of the Hearing.

Mr. Babina stated that he was not speaking for or against this project. He just wants some clarification that they had raised once before concerning the water flows on the property. He prepared a statement that he would like to read. In some cases, these answers may be in the documents but when he read the Storm Water Management Plan, he couldn't completely grasp whether it was there or not.

*See attached Statement from John Babina Jr.

Numerous Heritage Point homeowners, including myself, have serious concerns about the water flow from the proposed project known as Meadow View to be located at 122 Buddington Road. Heritage Point residents raised these issues at the previous application cycle and these issues reappear with the new application. It has been noted that a large portion of the water flow from the property in question must pass through the property belonging to the Design Development Residential Area known as Heritage Point. Videos of the Heritage Point water flow from the heavy storms of 2007 were provided to P&Z during Meadow View's first application. In reading the new Meadow View Storm Water Management Plan of the application it states that the water flow off the land of the proposed project flows east and south. It does not clearly state what percent flows in each of the two directions currently and after the project is completed.

The report speculates that the water flow will not increase, we cannot tell if more of the total Meadow View volume will be sent south in direction of Heritage Point. The vast majority of Heritage Point's water flow passes through Heritage Point's retention area located on the low end of Freedom Way on the west side of the road. This water must pass through a man-made structure under the elevated portion of Freedom Way.

Mr. Babina added that is the 2nd photo in the group shown with the orange trash rack at the bottom.

The report does not state if the previous Heritage Point water flow engineering was researched to determine how much reserve capacity exists in this Heritage Point pipe located under Freedom Way. They know from previous severe storms that this pipe is taxed as shown in the 2007 video previously submitted to P&Z.

Mr. Babina added that since that time, he found another video he took in 2009 when they had the heavy rains, and their retention area up above went over the top into the ? which was designed as a maximum catch all – so it was a significant storm also.

Since the Meadow View project is upstream from Heritage Point, significant Meadow View run-off water will now defacto share the Heritage Point water retention area off the west side of Freedom Way.

They did not know if the Town Staff responsible for ? (inaudible) the P&Z Commission pursued these issues since our pipe is a man-made structure constricting water flow. There is no alternate path for high water to get around the road. Also, a pond appears to straddle the water of Heritage Point and the land identified as 122 Buddington Road.

This pond appears to be man-made but they are uncertain of its history and how it got approved. There seems to be considerable new stonework around the pond and its outflow. In addition, they note that this pond has the majority of surface area on the Heritage Point side. Since the pond is shared by both parties, they want to know what, if anything, will be done to this pond as part of any Meadow View retention plan and, if not, what will be done to protect Heritage Point's interest in that pond. As a professional courtesy they would like specific statements included to cover this joint ownership situation and who is taking responsibility for any remediation if it ever becomes necessary.

Water table activity appears to be high in the entire region and the flat land portion of the proposed Meadow View project seems to be very active. During the severe storm of 2007 water it was coming over the top of the Meadow View dirt road near where it empties into the Heritage Point retention area.

We also note that there appears to be ongoing work on the property with some large new green pipes lying on the ground. In this Storm Water Management Plan section called Best Management Practices (BMP's), they note that there are long term requirements being imposed on future owners but they are not sure what type of future residential association, if any, will take place.

Mr. Babina asked the Commission if it had been stated yet whether this was going to be condo or design development with private lots because they said it would not be public.

Chair Parkins responded that it would be an Association – yes, (inaudible)

Mr. Babina commented OK, but not condo – it would be like Heritage Point – a planned development.

When these long term requirements become a part of any association, rules and regulations are recorded in the deeds or both. We note that if this subdivision does not end up with a public road with privately owned lots then required maintenance of this road and water containment system requirements would be shared by a total of only six homes.

The Storm Water Management Plan also mentions that the Contractor must submit a detailed construction schedule. Will this schedule be available to the public? Which agency or departments are responsible for field monitoring? If different, which agency or department is responsible for enforcement and which agency or department is for review and validation of the technical specs and verifying the engineering calculations.

Mr. Babina added that they aren't saying that all of this wasn't done. They just want to know who did those and if they have issues they'll know who to go to.

Who is going to be the Site Inspector for the town, and if different, who is going to be the Enforcement Officer. I request that the City of Shelton review any of these issues that are not clear in the plan and check to see how much, if any, reserve capacity exists in the original Heritage Point engineering to handle this new discharge from this proposed upstream project. I would like to know which City Staff members will field inspect the project, check the engineering calculations and act as an enforcement officer over the projects. Also, as a condition of approval, I request that the Storm Management Plan and its best management practices become a formal part of any future residential association rules, regulations, and the deed or deeds, as such.

Respectively submitted,

John Babina Jr.
9 Freedom Way
Shelton, CT 06484

Mr. Babina added that they are interested in knowing what is going to be happening at their point. As he mentioned in 2007, and as they are apparently and currently seeing, there is more and more heat being put into the atmosphere and as he said, they could expect more storms. For example in January, when they had record snowfalls never measured before, news reporters indicated as well that there was more heat in the atmosphere. They should expect more and more water flow. They can see from his videos that the one drain focal point is being taxed already. They want to make sure that everyone has dotted the I's and crossed the T's because they are going to be sharing some of this stuff – the retention pond and the other pond, so they want to know what is going on. As a courtesy, they want to know what they are going on, this is what they are responsible for and this is what they are not going to touch.

Chair Parkins asked if there was anyone else from the audience wishing to speak for or against this proposal. There was no one. She asked the Applicant if he wanted to address any of these concerns.

Atty. Thomas stated that given the nature of this and the expectation that Buddington Park would still be pursuing its objection, he would ask that the hearing be kept open until the next meeting when he will address with more specificity the questions raised by Atty. Lee. Just from his own memory, he would tell them that with respect with Section 34 and the POCD, Atty. Lee has cherry-picked certain phrases in it. The bottom line is that this is clearly a transitional zone that was established and that's why he gave it to him.

Atty. Thomas commented that it is very interesting that a clustered housing project is saying that their less-than-cluster-housing project is not an appropriate buffer in a transitional zone. They are clearly in a transitional zone. The whole point of that language is not to create a buffer between residential. What is in Section 34 and what is in the POCD was to prevent, (as it clearly states from his memory – and that's why he wants the hearing kept open), the use of the PDD in an area surrounded by R-1, rural and suburban, not an area that is a blend of light industrial. One of the interesting things is when they drew the LIP lines they didn't pay much attention to property. The fact of the LIP line is substantially in the back of Heritage Point property and in the back of their property is relatively meaningless, because if they read all the regulations, they will know that you cannot access an industrial zone through a residential zone. Atty. Thomas indicated that even the argument when Heritage Point was made, someone could put a factory back there, it's not really the case unless someone wanted to put a public road through their property to access it. That is the only way you could do it. So this is a transitional zone and he wants to keep it open.

Atty. Thomas indicated that with respect to the blasting question, they will respond to that. However, there is no truth to the rumor that they are going to blast the lot and send the fly rock northward.

Atty. Thomas commented in regard to issues with respect to the drainage and the storm thing, he thinks that Mr. Rotondo can address some of them now and some at the continuation. He added that their whole point is that anything that Mr. Babina is proposing is in any of the approvals for Buddington Park, Heritage Point, or anywhere else. He stressed again and Mr. Rotondo can address it again, they are reducing the flow on the site – not increase it. As far as the Engineering Department, one of the things that is different between 2007-2008 and now is that they have the Storm Water Management Ordinance and they had to address it. Their engineer, Jim Rotondo has addressed it and it has been reviewed. He knows that Mr. Babina presented some pictures from April 15th 2007. Depending upon where you were living, it was anywhere from a 25-year to a 50-year storm. Personally, he was in his own house in Woodbridge watching the water creep up through the cracks in his basement because the

hydrostatic pressure was so great during that storm; they got 7 inches in a few hours – it was a terrific storm. He assumes that Heritage Point it was capable of handling it although it may have been difficult. Back then, they may have seen water flowing over the dirt road. The whole point of their detention is to address that specific issue. They will try to address these things in detail. He asked Jim Rotondo if there were any points that he would like to address now about Mr. Babina's comments.

Jim Rotondo, Rotondo Engineering LLC addressed the Commission. He addressed a comment from the 4th paragraph of Mr. Babina's memo where it states that "water does flow in an east and south direction..." Mr. Rotondo used the site plan to show and explain that the existing condition drainage area comes through the center of the site and down to an existing watercourse draining a portion of the existing site in a southerly direction. In their developed condition and with the construction of their roadway, they are taking a portion of that drainage area that now drains in a southerly direction and collecting it with the construction of their roadway which goes into their detention pond. So, the area previously took up a large portion of the central area of the site has now been decreased to a smaller corridor adjacent to the property line. He added that it is all overland flow; it flows in that direction now as overland flow and it will continue to flow in that direction as overland flow in the developed condition, but less of an area thus creating less runoff. Mr. Rotondo indicated that he makes that statement but in the Storm Water Management Plan in the calculations that is reflected as what portion of that flow does drain in this direction in the existing and developed condition.

Mr. Rotondo stated that the water that drains to the south drains into the watercourse and goes into the wetland area adjacent to Freedom Way. In the picture, they can see what the outlet structure looks like there. All the water in the existing condition goes in that direction and is stored in that wetland. That is a control structure and when flows increase, water will build up in that area. Mr. Rotondo explained that the water that they are contributing to that outlet structure is being collected by their detention basin on their own site prior to getting there. Based upon their calculations, that water, when it is entering that channel to enter those wetlands, is less than what is there today because of the detention system that they are proposing.

Mr. Rotondo commented that in the next paragraph, Mr. Babina's memo talks about the water flow will not increase and they can't tell if more of the Meadow View volume will be sent in the direction of Heritage Point. He responded that at the bottom of this detention basin there is a volume which is below the invert of the outlet and that volume is just for that reason – to store increase in volume of run-off in their detention basin. So, not only are they decreasing the rate of flow off of their site but they are decreasing the volume also to the existing condition.

Mr. Rotondo indicated that in regard to "the report does not state whether the previous Heritage Point water flow engineering was researched to determine how much reserve capacity exists in the Heritage Point pipe located under Freedom Way," - he responded that he did not look at the calculations for the sizing of that pipe. If he were the engineer - and he knows the engineer who did this work and he is very capable – in determining the size of that culvert under Freedom Way, the flow from the upper drainage area would be considered in sizing that. In putting their drainage through this detention system, at their analysis point (which is the channel as it leaves their property prior to entering that retention area), they are reducing their flow at that point. So, again, based on calculations, they are not increasing anything going to that area that goes there today.

Mr. Rotondo commented on the pond mentioned that straddles the property line. He indicated that it was not part of their retention area and they are not discharging any drainage into there. As a matter of fact, this whole slope area will be vegetated so it will be protected from any type of sedimentation into that pond. There is less area going to it and the area around that pond is protected.

Mr. Rotondo indicated that in regard to the BMP's, there is a document for the Association. The maintenance schedule will become a part of that document. They will be responsible for maintaining BMP's.

Comm. Flannery asked Mr. Rotondo if he could address the need for a silt fence and if there was going to be a lot of erosion.

Mr. Rotondo responded that as part of the Department of Environmental Protection (DEP) Connecticut Guidelines for Soil Erosion and Sedimentation Control, downstream areas have to be protected from any potential types of pollution from any areas that may be disturbed. A silt fence is a line of defense; if any silt makes it to there, it is a barrier to stop it. It is a common construction practice and there is protocol that one must be maintained.

Comm. Flannery commented that she understood – she thought it was going to be permanent.

Atty. Thomas added that Mr. Schultz or one of his Staff and Mr. Cook will have to come out to the site to inspect the soil erosion and sediment control measures to be installed before disturbing the area so that there is no break away. It is only during construction. Once the property is stabilized, it is removed. He added that this property, in a prior application, was approved by Wetlands prior to them coming in with the PDD. Once they came in with the PDD, they had to go back to Wetlands because they were adjusting the private road. In 2008, the Wetlands Commission approved this and that Wetlands permit is still in effect for this plan. It is still in effect and was not appealed. He thanked the Commission.

Chair Parkins asked if there were any other questions or comments from the audience or the Commission. There were none. She asked for a motion to continue this public hearing until April 12th.

On a motion made by seconded by Patrick Lopera seconded by Thomas McGorty, it was unanimously voted to continue the public hearing for Application #11-04 until the next regular P&Z Meeting on April 12, 2011.

APPLICATION #11-05, PRAMOD KANDEL FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CONVENIENCE SOTRE RELOCATION), 556 HOWE AVENUE *MAP 129B, LOT 11), CA-3

Secretary Harger reads the Call of the Hearing and four pieces of correspondence.

***See attached correspondence to the Shelton P&Z Commission from the Citizen's Advisory Board, Chairperson, James Oram, dated March 2, 2011.**

***See attached correspondence to Zoning Board of Appeals from James Alsten, 19 Bond Road, Woodbridge, CT dated 2/25/11.**

***See attached correspondence to P&Z Administrator, Richard Schultz from City Engineer, Robert Kulacz, dated March 17, 2011.**

***See attached correspondence to P&Z Administrator, Richard Schultz from Fire Marshal, James Tortora dated March 17, 2011.**

Atty. Dominick Thomas Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission representing the Applicant, Mr. Pramod Kandel. He submitted the Certificates of mailing and photographs of the posted property. Atty. Thomas recalled growing up in downtown Derby and walking to the market (they weren't called convenience stores then) where people lived above the stores. There was no real issue with parking back then but when he read the report – his answer is very simple. This is a permitted use in the zone and he thinks that Mr. Kandel should be able to move his business and there is no need to have on the street parking.

Atty. Thomas stated that he understands what Mr. Oram says about the Citizen's Advisory Board but if they are going to have pedestrian centered mix use in downtown areas – he showed some photographs taken in the area north of his client's property. He referenced a photo of a residential property with parking on the street; a U-Haul business on Wooster Street and a property next to that. He mentioned that other nearby properties include the Siding King, Pastafina, and a convenience store. There is a parking lot in the back there but it isn't the kind that he would expect to have used much in the back. He explained that is what they have down there.

Atty. Thomas referenced the City Engineer's letter and the Fire Marshal's letter. He stated that if they are going to be concerned about getting emergency apparatus to the rear of these buildings – forget it. They can't get it there now. They can't get behind the houses there which have more serious emergency issues. If they have driveways at all, they are very narrow driveways. The concept of the urban downtown and requiring for the same parking that's required on Bridgeport Avenue then they might as well kiss it goodbye. It is a permitted use. There is no need to have parking on the site. There is no need to take down the fence and there is no need at all to do a cut. This is a downtown area. People that want to come there are going to either walk or park on the street. If they are in a car and the street parking is filled, then they aren't going to go into his client's business.

Atty. Thomas indicated that across the street from this where his client is right now, he is being evicted. Even though there is a parking lot there, one of his problems has been that the parking lot is always full with the tenants' cars. The Mill is over-tenanted. There are many times when his customers have to park on the street. He is having issues with the landlord but he wants to stay in business. He lives across the street. The property was for years a two-family and he has used it as a one-family. There are parking regulations in the area so the plan that he submitted to the Commission was done by Alan Shepard, P.E. It shows that they could, if they wanted, put parking spaces. One thing that is very important when they talk about the downtown area is the definition of a parking space. He added that because this is a downtown parking situation, they have the right to say "no," they don't really need it.

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

He commented that if you can't get an emergency vehicle behind the site at night when people are sleeping, what is the necessity of getting people in there in during the day. Atty. Thomas commented on the Citizen's Advisory Committee letter which addressed the loss of on-street parking. This is a business that is across the street with a photography studio, a tattoo parlor, a pawn shop and some other businesses in the Mill. It is a commercial area with a lot of pedestrian traffic. They are talking about a convenience store. He commented about one of the letters discussing the subject of loitering. He responded that he

doesn't think that moving this convenience store across the street is going to increase any loitering or anything of that nature. It is a downtown area – there is more pedestrian traffic than vehicle traffic. People near there will walk there if they need milk, bread or cigarettes. The emphasis should not be on parking; the emphasis should be on this individual who has improved the property, upgraded it and takes care of it. He referenced the photos of the store that he provided to the Commission. He reiterated that the Applicant has worked to improve the property. He is a businessman who needs to go across the street.

Atty. Thomas indicated that if they are going to say that he needs 24 foot lengths because they have to get the fire apparatus to the rear – then they should go up and down the street because most of the properties, many residential, there is no way to get a fire apparatus to the rear. There is just no way. He submitted some more detailed photographs to the Commission that Mr. Kandel just provided to him.

Atty. Thomas indicated that his client is willing to sit down and address the issues of lighting because he does not intend to have anything except the street lighting. In regard to noise, he stated that Mr. Kandel is only moving across the street. There's a pizza place and a tattoo parlor in the neighborhood. In his proposal for his Statement of Use, he does not plan to be open 24 hours like a CVS. He doesn't think that there is an issue with noise now or before.

Atty. Thomas stated that in regard to the loss of on-street parking and the curb cut, they are saying that they can provide off-street parking but they don't think there is a need to do that in a downtown area. He asked if there is a need when people want to do a mixed use. He asked if the Commission would be saying to people that they want them to rip up their grass and put down pavement – in the downtown area. This is certainly not a parking-intensive area. This is the type of business that tends to serve some people who drive up but a lot of people who walk by.

Atty. Thomas addressed traffic safety concerns such as cars turning left from the driveway. Again, if they don't have to have parking on the site, then they don't have to worry about that issue.

Atty. Thomas referenced a comment about "all asphalt, minimal grass, no green space or space for accumulated snow," and responded that, again, if they don't have to have parking on the site, then they don't have to do that.

Atty. Thomas responded about the storefront and signage design standards. He indicated that he told his client from the beginning that he can't have any flashing signs. Atty. Thomas stated that his client will deal with the fact that he won't have anywhere near the signage that he has across the street. He referenced a comment about "appearance of parking, what was front lawn now," and responded that there are houses down there with no front yard. The two residences there have parking in the front – and they look to be relatively new.

Atty. Thomas stated that they have to propose this to comply. They would rather keep it nice-looking and not have to have the off-street parking. They would rather let people rely on the street parking and let him have his business there.

With respect to the Fire Marshal's comment about the fire lanes, none of these properties are going to be able to have a 26 foot fire lane. Most of them are 50 feet wide. His point is that they are making this application because they have to make it like this. They have shown that they can provide off-street parking. He is saying to this Commission that there is no need to provide off-street parking. In the guise of what Mr. Oram said, they can address almost all of

these issues being raised, when they eliminate the parking. They can keep it as a green space, maybe do a little more landscaping and have a small convenience store in the bottom. It won't be like Kappy's (free shots of whiskey when you buy bread) but it is the new urbanism. He added that when looking at the permitted uses, his client is in an appropriate zone to do this. He thinks that there is sufficient parking for this type of business with a lot of pedestrian traffic. He just wants to be able to operate and live on the second floor. He'll address any concerns that they have.

Comm. Harger asked if there were any provisions for a dumpster or how would rubbish be handled.

Atty. Thomas responded that he doesn't generate much but if they felt it was needed - but there is no provision. He would have regular garbage pick-up – City pick-up.

Chair Parkins commented that he certainly has to have trash generated from his store. Everything comes in boxes.

Comm. McGorty asked if there was a deli in there at all.

Atty. Thomas asked his client, Mr. Kandel to address some of the Commission's questions.

Mr. Pramod Kandel, 556 Howe Avenue, Shelton, CT addressed the Commission. Mr. Kandel stated that his business is at 549 Howe Avenue. His lease is expiring and he was expecting that he could keep the same business, same name and same customers. He added that he had a deli but no longer has it. He'd like to do it again, but only if the City allows him to.

Atty. Thomas asked Mr. Kandel to address how he handles his trash.

Mr. Kandel responded that since he started running this business about 15 years ago, he has two big plastic covered containers because of cockroaches. He breaks down and folds the boxes and they are taken by the Recycling Company once a week. He keeps it inside the store in the corridor until pick-up. They are a small convenience store and they have never had a problem with trash. They never needed a dumpster. They never fill the trash container that they have.

Chair Parkins asked if he had any seating available inside for people to eat.

Mr. Kandel responded no, no seating.

Comm. McGorty asked if he had hot sandwiches.

Mr. Kandel responded no, he used to do bacon, eggs, etc. but the odor bothered the next door neighbor. So he doesn't do anything now.

Chair Parkins asked if that means he doesn't have a grill.

Mr. Kandel responded that he doesn't have a grill. He had someone doing it but he walked out on his job. With the lease expiring, he doesn't have it.

Comm. Harger commented that was his current set-up, but what does he propose to have.

Mr. Kandel responded that he would propose a deli if they will allow it but if not, he'll just keep it as a convenience store without a deli. It is up to them.

Comm. Flannery asked what hours he operates.

Mr. Kandel responded 7 a.m. to 9 p.m. every day. Closed on Sundays.

Comm. Flannery asked if he had anyone loitering outside in front of his business right now.

Mr. Kandel's responded that with his business, all the time, customers double park. It is a mess over there at the Mill – there are 32 people over there – apartments and businesses and they only have 12 parking spaces. If a customer wants to buy a gallon of milk, they have to double park right now.

Comm. Flannery asked if he means that he does need the on-site parking then.

Mr. Kandel responded no, if he moves into #556, he'll have a 6 car parking. It is a small convenience store, he would not have a problem because he wouldn't have more than 2 or 3 customers at a time. That would be enough for him.

Comm. Flannery commented that from growing up in Stamford, there was a convenience store within walking distance but as soon as she turned 16, she was driving her car there. She added that she thinks he needs the on-site parking.

Atty. Thomas asked Mr. Kandel if right now, he had people loitering in front of his store.

Mr. Kandel responded no. He added that every year, there are 5 or 6 accidents in the Mill Building parking lot because of cars parked on the street. Other comments (inaudible). Mr. Kandel mentioned his neighbor and a fence (inaudible). He stated that if the City allows it, he would put up a fence on both sides of his property to prevent any problems.

Chair Parkins asked how much square footage he had in his present business occupy.

Mr. Kandel responded 1000 square feet.

Chair Parkins asked how much square footage on the proposed facility.

Mr. Kandel responded 800 (inaudible).

Atty. Thomas commented that it is on the Statement of Uses, it's 813 square feet.

Chair Parkins stated that she was just curious if he was downsizing or upsizing.

Comm. Flannery asked about the concerns the neighbor's had regarding lowered property values for their houses. The area looks residential from the pictures that they showed.

Chair Parkins responded that it is obviously a mixed use but this is a little different than what is currently down there in this mixed use area.

Atty. Thomas indicated that on that side of the street there are about 6 or 7 residential lots going down and then there's a body shop; across the street they have the ? building on the corner, 5 or 6 residential again, then the Mill. The next block has 2 or 3 residential, Valley Printing and the bank.

Chair Parkins commented that typically they are commercial-type structures then houses, more commercial-type structures and then houses – there is no combo like what it is being proposed here.

Atty. Thomas responded that the pictures that he showed them – they are in the vicinity. He showed some photos of buildings with a business and an apartment up top and another business with two apartments up top. He is using it as a one family for his family. He showed what was across the street.

Chair Parkins commented that this was more an adaptation than a design.

Comm. Flannery asked why he was not renewing his lease - is it because of the deli or the grill.

Chair Parkins responded that it really wasn't their business.

Atty. Thomas responded that the landlord has some issues and he believes that he has a new tenant.

Chair Parkins asked if there was anyone in the audience wishing to speak for or against this proposal.

James Alsten addressed the Commission. Mr. Alsten indicated that he owns the property to the right of the proposed site. He has a few issues that he doesn't think have been covered. The parking is already horrendous and anything else is going to make it worse in his opinion.

Mr. Alsten stated that if the Applicant put chairs out in front of his store he would be encouraging loitering, so with the way that his property is, there is already a retaining wall just about comfortable for sitting. It's about 3 feet tall. He is concerned about that.

Mr. Alsten is concerned about rodents and roaches. He used to have a store and he knows it is a tough business. When you have a store, there is always a problem with bugs and rodents.

Mr. Alsten stated that he was concerned that if this is allowed to happen, others on his right or left, might want to do the same thing. He indicated that he already had issues about the madness with the parking. People living there now are always trying to find a place to park.

Chair Parkins asked Mr. Alsten what his property address was.

Mr. Alsten responded that it was #160 to the right of this. He added that when he first opened up his store, some of the kids in the neighborhood kept jumping over his fence and even destroyed it in order to get to the store. He is concerned about having a store there with candy, lottery and beer. Without parking, people are always parking in his yard to go into get beer or whatever. Mr. Alsten stated that he was concerned about his property values too. He asked what would happen if he wanted to put in a package store or a nail salon – the parking is horrendous. He said that was all he wanted to say.

Chair Parkins asked if there was anyone else wishing to speak for or against this proposal.

Dan Scranton, 6 Cook Street, Ansonia, CT addressed the Commission.

Mr. Scranton stated that until two weeks ago, he lived at 3 Beard Street which is directly left to the subject property. He stated that the applicant, Mr. Kandel has actually lost business from what he has seen over the last two years of living

there due to the traffic situation down there. Nobody can find a parking spot. The Karate Studio right above him used to take up the parking on Beard Street so he had no place to park either. If he has a parking lot it would actually reduce a lot of the traffic flow because they won't have people double parking. Mr. Scranton stated that in the 1000 square foot store that Mr. Kandel has now, there is a lot of wasted space. He added that even if he goes down to 800 square foot space, he'll still have extra space.

Mr. Scranton commented that he does not see kids loitering there. Occasionally, there will be a couple of kids hanging around but you have that in front of City Hall too.

Mr. Scranton stated that he does not see any change having Mr. Kandel move across the street except for bettering the traffic flow on Howe Avenue. Because heading from Downtown toward Monroe is the worst direction for traveling. Unfortunately, everybody has to park on that side versus the other side; there are more parking spots on his side than the storefront. He sees it as a positive change for downtown, not as a negative.

Mr. Scranton stated that he has been there for two years and has seen Mr. Kandel's business broken into twice and watched him being robbed for at least 8 minutes until the cops finally got there. It's a bad location, they can't hear the glass break or anything. It is costing Mr. Kandel more to be where he is because he is being robbed and then there is the parking problem. Mr. Scranton stated that he just moved out of Shelton because he got sick of it - paying parking tickets and dealing with the parking. Unfortunately, it is going to draw all the small businesses out if they can't handle it economically.

Chair Parkins asked if there were any other comments.

Mr. Alsten addressed the Commission again. He asked about the square footage requirements for a store downtown and if this complies.

Chair Parkins responded that they don't have any minimum size requirements for a store.

Chair Parkins asked if the Applicant sells alcohol.

Atty. Thomas responded yes, it's in the Statement of Use. He added that these businesses are permitted uses in this zone. It isn't like they are trying to move him to a residential zone. He indicated that he spoke to his client and he would like to have the off the street parking but he can live without it. He wants to survive in his business. Then they would have to address some issues raised by the Citizen's Advisory Board.

In addition, if they are going to say that the off-street parking has to comply with all the standards and fire lanes, then say that it is good with off-street parking and do it as quickly as possible. Atty. Thomas commented that his client would like to move on this as soon as possible. This is a public hearing that is required because this is a convenience store. If they feel that they need to get more input or discuss it with Staff, they cannot have any exparte communication after the public hearing closes. It would be the Commission's choice as to whether they would like to keep it open for communication purposes.

Kathy Daneluk addressed the Commission. Ms. Daneluk asked if there was anyplace else in Shelton that he could look into.

Chair Parkins responded that they have an application before them and that is what they have to consider. She added that she really can't answer her question. She asked if there were any comments from the Commission or Staff.

Comm. McGorty commented that he thinks the parking would be a bonus. He is not comfortable with the garbage situation being curbside. The deli aspect of it and that type of waste would require more than a couple of pails outside. His concern is proper handling of the garbage. In regard to the rodents, he thinks it is important that is done properly.

Comm. Flannery commented that her first apartment was above a deli and she had lots of roaches and rats. That is her concern also. Just bringing it to that side of the street, there has to be some kind of control.

Chair Parkins indicated that there would have to be some sort of dumpster enclosure or something for the cans in the back, but that is going to take away from the parking being proposed.

Mr. Schultz stated that he and Tony Panico have had a lot of discussions on this. They are struggling with this because they have been directed to prepare the Village ? District for Downtown for the whole downtown area to deal with standards for issues like this. This came before they've been able to formulate it, so it is a real dilemma. Formulating new regulations will have a public hearing and they would be able to invite all the residents in the neighborhood. They want their input. This is difficult because it is happening before they do their planning. They have a very active Downtown Subcommittee and they wanted to take up that issue but couldn't because of the lease issue. Staff wants to continue to work with the applicant. He sees a benefit in keeping it open but it is the Commission's call if they want to close it.

Chair Parkins noted that they are filling up for April 12th.

Mr. Schultz added that this is an important issue because they want to share some standards with them. There are instances where they don't want to have a sea of asphalt – they don't want that down there. This is a pocket on Howe Avenue that just has residential from Beard Street to a couple homes before J&B, it is residential.

Comm. McGorty indicated that he thinks it needs more discussion relative to that and other things.

On a motion made by Thomas McGorty seconded by Joan Flannery, it was unanimously voted to keep the public hearing open until the April 12th P&Z Meeting.

OLD BUSINESS

APPLICATION #10-27, HONG FU INC., dba HUNAN PAN FOR SPECIAL EXCEPTION SITE PLAN APPROVAL (HIBACHI SERVICE AND SERVICE BAR), 303 BRIDGEPORT AVENUE (MAP 303, LOT 16), RB DISTRICT (PUBLIC HARING CLOSED ON 3/8/11)

Mr. Schultz stated that the Commission directed Staff to prepare a favorable resolution with the conditions regarding the parking. He read the resolution for Application #10-27.

***See attached Resolution for Application #10-27 Hong Fu Inc., dba Hunan Pan for Special Exception Site Plan Approval dated March 23, 2011.**

Comm. Flannery asked if the parking would be revisited in one year.

Mr. Schultz responded that it would be revisited sooner. If there is any parking on Sunwood Drive and they get a complaint, Staff will advise the Commission and the Applicant immediately to work out a correction plan.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously roll call voted (5-0) to approve Application #10-27. Comm. Lopera abstained from voting because he was not present for the public hearing.

ADJOURNMENT

On a motion made by seconded by Joan Flannery seconded by Patrick Lopera, it was unanimously voted to adjourn at 9:23 p.m.

Respectfully submitted,

Karin Tuke
Recording Secretary, Planning & Zoning Commission