

SHELTON PLANNING AND ZONING COMMISSION **Sept. 20, 2011**

The Shelton Planning and Zoning Commission held a special meeting on September 20, 2011 at 7:00 p.m., Shelton City Hall, Room, Room 303, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present:

Chairperson Ruth Parkins
Commissioner Joan Flannery
(arrived 7:05 p.m.)
Commissioner Virginia Harger
Commissioner Thomas McGorty
Commissioner Anthony Pogoda
Commissioner Joe Sedlock
Comm. Ludwig Spinelli (alternate)

Staff Present:

Richard Schultz, Administrator
Anthony Panico, Consultant
Patricia Garguilo, 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 regular meeting to order at 7:03 p.m. with the Pledge of Allegiance and a roll call. She indicated that this meeting was a Special Meeting of the P&Z Commission only because it was rescheduled from the Regular Meeting date of September 13th.

PUBLIC HEARING

Chair Parkins reviewed the procedures of the public hearing for all those in attendance and requested that all cell phones be turned off.

Comm. Flannery arrives at 7:05 p.m.

APPLICATION #11-16: FRANCISCO VERISSIMO FOR TEMPORARY SPECIAL EXCEPTION APPROVAL (FILLING & GRADING), 182 BUDDINGTON ROAD (MAP 62, LOT 43), R-1 DISTRICT

P&Z Secretary, Virginia Harger read the Call of the Hearing for Application #11-16 and one piece of correspondence from City Engineer, Robert Kulacz.

***See attached correspondence dated 9/8/11 to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer.**

Tracy Louis, Licensed Land Surveyor, Office located at 216 Main Street, Monroe, CT addressed the Commission. Mr. Louis indicated that he was representing the Applicant, Frank Verissimo. He submitted the Certificates of Mailing and a photograph of the sign posted on Buddington Road. He stated that the applicant's property is located on Buddington Road and has a long access way in the back. It was part of a prior subdivision of three lots and there is a home on the property. Immediately to the east of the property is the Mobile Home Community on Route 8 across from Crown Point. A large buffer zone separates the mobile homes from the Applicant's site. There is a residential subdivision located to the north and a large piece of land to the south with one

house on it owned by Royal Wells. They say this is an "after-the-fact" because Frank managed this property for the owner, Mario Ferrara. This property was purchased in foreclosure and there was a lot of disrepair. One of the things that he wanted to do was better grade the yard. He knows that the City Engineer mentioned the '88 gravel pit that was there but the land was just a rolling type of hill when he took over. He started filling approximately a foot or so above the grade that was there to level everything off in April and May of this year.

On a displayed site map, Mr. Louis showed where the 500 cubic yards were trucked in and spread down to a point where the contours get steeper showing some additional grading to make the slope more gradual. Mr. Louis indicated that the additional fill that comes in will be about 200 cubic yards. There are some fill piles that are already on the site and they will be distributed. Presently there are a lot of weeds in the backyard going around the stable. He showed the access through the construction area and all the disturbed areas will be loomed and seeded. Most of the work has been done already and he does not see that there will be much more additional work to stabilize the site.

Mr. Louis passed around some additional photographs taken from the front of the house looking back.

Chair Parkins asked what slope he was looking to achieve.

Mr. Louise responded that the slope right now was about 10%. It will be a 2:1 slope where the new grading is going to be at this end. That is the final location. He showed the disturbance limit and indicated that they will put silt fence around it. He showed the photos depicting the actual areas in the backyard that they were discussing. He pointed out the photos of the stabilized areas with the stone wall.

Chair Parkins asked if this is one dwelling unit.

Mr. Louis responded yes, it is one single residence.

Chair Parkins asked if there was any intention to subdivide this after all this is done.

Mr. Louis responded that he did not think that he can do that because it is a rear lot with a 30 foot access way. He would need a variance.

Chair Parkins asked the size of the property.

Mr. Louis responded that it was 2.9 acres with the access way. The actual area is 2.4 where the house is located. He showed a photo of the construction access way.

Chair Parkins asked if there was any documentation as to where this fill came from.

Mr. Louis responded yes, he presented that and he has other copies from Grasso Construction indicating the material – 353 cubic yards of topsoil and 150 cubic yards of (inaudible). The letter was signed by Joe Grasso.

***See attached correspondence from Grasso Construction dated ?**

Comm. Harger asked what the buildings in the back of the photo were.

Mr. Louis responded that there were the residential homes located on that side – Heritage Point.

Mr. Louis indicated that at this point in time, Mr. Verissimo anticipates looming and grassing this site. There is some grass down right now.

Comm. Pogoda asked what the slope was going down toward Heritage Point.

Mr. Louis responded that it was very shallow, it is pretty flat down there – about 4% or 5%.

Comm. Pogoda asked if there was any filling going toward those homes.

Mr. Louis responded no – he showed the location where the fill would end.

Comm. Pogoda asked what the distance was from the stop point to the boundary.

Mr. Louis responded that it was approximately 65 feet.

Comm. Flannery asked what the distance was from the mobile home site.

Mr. Louis responded that it was about 45 feet.

Chair Parkins asked if that area originally had trees or was there any cutting to be done.

Mr. Louis responded no, he thinks that since the '88 gravel pit that was there, he thinks that some filling must have been done between '88 and when the Applicant got it.

Mr. Panico asked what percentage of that 2 ½ acre portion that is being regraded has been disturbed.

Mr. Louis responded about ½.

Mr. Panico asked if he meant ½ the site or ½ an acre.

Mr. Louis responded that the whole site was disturbed in some effect because he just loomed it. But as far as real disturbance goes, just in this area, it's probably about ½ acre.

Mr. Panico asked about the work they are seeking approval for now – how much of the site is it going to impact.

Mr. Louis responded that of what they are doing right now – it's about ¼ of an acre. It is very small. The rest is all stabilized and ready to go. He just has to loom it and seed it.

Mr. Panico asked if he just had to put a little more material in and then grade it out.

Mr. Louis responded yes. They are not asking for any significant grading or construction.

Mr. Panico asked what his timeframe would be to complete the work.

Mr. Louis responded that due to finances after closing, he would like until next year. He has done some seeding already.

Mr. Panico stated that the concern is in getting to the winter months and keeping it stabilized.

Mr. Louis responded that he would put more seed down and it should take right now. In bringing the material in right now, the applicant is a little bit concerned because he is strained financially. He would like to bring the material in next spring.

Mr. Panico commented that if he gets approval tonight, he won't actually be doing any work on the site until the spring. He asked Rick Schultz if there were erosion problems out there now.

Mr. Schultz responded no, not really but he would like to make some comments on this for the record after the Commissioners have made their comments.

Chair Parkins stated that the Applicant has brought in about 500 so far and it is fairly stabilized for the winter and then he will be bring in an additional 300 yards to finish.

Mr. Louis responded no, he'll bring in an additional 200 yards.

Chair Parkins asked if those 200 yards in that same area would finish it off.

Mr. Louis responded yes and then they will re-grade, get rid of the piles, and it will be added into the material as well.

Chair Parkins asked what the slope there right now was - from the fill that he has brought in to date

Mr. Louis responded that right now, the slope is about 10%.

Comm. McGorty asked if there was silt fencing around everything.

Mr. Louis responded that there is not any silt fencing at this point but there is some by the stone wall.

Mr. Schultz added that they asked the Applicant to put in that silt fencing.

Comm. McGorty asked if it was adequate for the project that is going on right now.

Mr. Schultz responded yes, for the time being and he will comment more on that later.

Chair Parkins asked if there were any other questions or comments from the Commissioners. With no further questions, she asked Rick Schultz for his comments.

Mr. Schultz stated that he wanted to comment for the record that over the last several months, the Planning & Zoning Department cited three property owners in the City of Shelton. This Applicant is one of the three and he would like to thank him for making this Application to the P&Z Commission. At the last meeting, this Commission directed Corporation Counsel to take legal action on the other two for failure to cooperate. He thanked Mr. Verissimo again for his cooperation.

Mr. Schultz indicated that at the time that they went to this site, they saw the need to button this up as soon as possible. Although he wants to do some more work next spring, it is imperative that he at least put down some inexpensive seed mix. He has prepared a draft resolution in the event that the Commission acts on this tonight because timing is important because of the growing season.

He also wants the Commission to think about how much time they would like to give the Applicant. In the past for these smaller types of projects, the Commission has not given more than a year. He asked them to think about the cut-off time on this. Clearly, Staff wants the applicant to stabilize the areas, especially around the perimeter. Staff can work with him and he has shown that he is working with the P&Z Commission.

Mr. Schultz added that there have not been any complaints. This has come from the observations of Staff driving and seeing these truckloads going in on a Monday when they have part time personnel. This is another reason why the Zoning Subcommittee is amending the filling and grading provisions. That is the next issue that they are taking up. They are suggesting, in the R-1 areas, that 200 cubic yards or more will require a public hearing. He would also like the Commission to think about what they would like that threshold to be for triggering a public hearing. This is also about how it impacts the adjacent property owners.

Chair Parkins asked the Applicant if he had a time frame in mind to complete this work next year.

Mr. Louis responded that he would like until next spring to bring the material in; however, seeding is not a problem. He can seed this year.

Chair Parkins asked if this time frame was more than ample to complete the application.

Mr. Louis responded yes, he believes so.

With no more questions or comments from the Commission, Chair Parkins opened up the public hearing for public comment.

John Babina, 9 Freedom Way, Heritage Point, Shelton, addressed the Commission. Mr. Babina wanted to refresh everyone's memory that there is another subdivision on the other side of this that had some issues with water flow. There were several meetings regarding it and after asking the same question about five times, it turned out that they were going to get less water flow over the entire piece over the entire area, and that there was going to be more water flow to Heritage Point than before. That wasn't clear in the application. He is curious with this activity because it was his personal opinion that they were pretty much at maximum. He recalled that he provided photographs of this one little pipe that will carry all the water – and now they have this going on which he just found out about a couple of days ago. Mr. Babina asked if there was any water studies on this property similar to those on the other side which was approved at 117 Buddington Road. He is really concerned about the water flow. He asked to take a better look at the site map. He asked if there were two driveways together there.

Mr. Schultz responded yes, there is a common driveway off of Buddington. It is a single driveway serving access to two homes – actually three homes.

Mr. Babina stated that was his general concern. The other concern is as to what type of material this was and if it has ever been tested or certified to be clean fill. Obviously, the water flow issue is a big concern for them.

Joyce DeLoma, 180 Buddington Road, Shelton addressed the Commission. Ms. DeLoma stated that she was Frank Verissimo's neighbor. She has lived on this property her entire life. As far as the water concerns that the other speaker has, the area that is facing along the stone wall, from her recollection, even though it is labeled as a gravel pit - that area has never

actually been excavated. Ms. DeLoma stated that the area was closer to the home when they were building and digging out the area for the house. The area that falls along Heritage is the stone wall that abuts her property and goes all the way down to her property, the Woodland Mobile Home Park and comes all the way around to Wells' property. All of that area, and it is quite a distance, has never been touched, so water concerns have never been disrupted.

Chair Parkins asked if there were any further questions from the public.

Mr. Babina asked if a water study had ever been done on this project.

Chair Parkins responded that she did not know why a water study would be done on this project.

Mr. Schultz added that the City Engineer, in reviewing this application also reviewed that aspect, and he would have recommended it to the Commission.

With no further questions or comments, Chair Parkins asked for a motion to close this public hearing.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Application 11-16.

Recess 7:26 p.m. – 7:29 p.m.

OLD BUSINESS
APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

Chair Parkins asked if there were any questions regarding the Staff Approved Standards #1-#21 or Staff Approved Standards #1-#7.

Mr. Schultz added that all Standards comply with Shelton Zoning Regulations.

Comm. Harger asked if the re-build of the front porch for Separate #5955, Steven Andrews, 26 Lakeview Drive, had the same footprint.

Mr. Schultz responded yes.

Comm. Harger asked about Standard #150, DWD Partners LLC, 496 River Road for the storage facility.

Mr. Schultz responded that was the automotive storage facility by the old A&P shopping center. The Commission recently approved it – the old bus storage yard.

Comm. McGorty asked about Separate#5949, Anna Reis, 2 Shelter Rock Road for the home office.

Comm. Flannery asked Rick if he could review all of the home offices.

Mr. Schultz indicated that #5999, home office on 1 Cherokee Trail is for a contractor's business with no storage of commercial equipment. He indicated that #5992 on 393 Woodridge was a home office for artwork, a self-employed person, part-time, no customers at the residence. Separate #5994, 152 High Hill, home office for a cabinetry and tilling contractor, self-employed, no commercial equipment. Separate #5949, 2 Shelter Rock Road, lawn care contractor with the same conditions of no commercial equipment storage on property. The home office for Separate #5967 on 14 Surrey Drive,

marketing consultant, 9-5 hours of operation. Separate #5977, office for alarm and home audio business on 112 Big Horn Road. He added that Separate #5897 on 140 Bridgeport Avenue was for the fitness services above Chavez Bakery, already approved by this Commission.

SEPARATE #5920, R.D. SCINTO, 6 CORPORATE DRIVE, BUSINESS
SEPARATE #5921, R.D. SCINTO, 2 CORPORATE DRIVE, BUSINESS
SEPARATE #5985, R.D. SCINTO, 3 CORPORATE DRIVE, BUSINESS

Mr. Schultz stated that #5920 at 6 Corporate Drive is for the new office of the Connecticut State Medical Society. Lease area is 1282 square feet, 3 employees, previous tenant was O.C. Tanner.

Separate #5921, 2 Corporate Drive is a telecommunication facility named Cyber International Tech. They are leasing 1980 square feet, 7 employees, hours of operation 9 a.m. – 5 p.m. Monday through Friday.

Separate #5985, 3 Corporate Drive is a Connecticut Licensed Massage Therapy company named Body Mind Connection leasing 52 square feet with one employee, part time hours. He added that it could be a separate entity which is part of the gym.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5920, Separate #5921 and Separate #5985 for business occupancy.

SEPARATE #5991, JASON TRAN, 837 RIVER ROAD, BUSINESS

Mr. Schultz indicated that this is for a nail salon, 900 square feet. This is an existing facility with a transfer of ownership. This is in the Pine Rock Park Center, up to 5 part time employees, Monday through Saturday.

Comm. Harger asked if they had sufficient parking available.

Mr. Schultz responded yes.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5991.

SEPARATE #5996, JIM BOHDAN, 415 HOWE AVENUE, BUSINESS

Mr. Schultz stated that this is the Conte Building. This is the relocation of the offices for Chromium Processing. As the Commission knows, they do not have a permit to discharge. The area is 2000 square feet, 5 full time employees, one van and the previous tenant was Cal Med Inc.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #5996.

SEPARATE #5980, NICK LAVIN, 18 BREWSTER LANE, BOXING/GYM

Mr. Schultz stated that this is located on Brewster Lane off of Howe Avenue and connects to Riverdale. This is the old Russell Linen, and before that it was Arrow Rubber Company. The applicant is present to answer any questions.

Comm. Harger asked if this is the one that shares the facility with the linen service.

Mr. Schultz responded that they moved out already and it is vacant.

Comm. McGorty asked the name of the business.

Mr. Schultz responded that it is Excalibur School of Prize Fighting. The owner of the gun manufacturing on Canal Street purchased this property, probably with the intention of relocating with the redevelopment taking place. The building overall is 5000 square feet. This is a boxing gym and training facility. Hours of operation are Monday- Friday, 8 a.m. – 12 p.m. and 4 p.m. – 9 p.m. Saturday hours are 8 a.m. – 2 p.m. The parking lot can accommodate up to 20 vehicles. Inside equipment includes mats and a boxing ring.

Comm. Harger asked when they moved out of the Conte Building.

Nick Lavin, 18 Brewster Lane, Shelton addressed the Commission. Mr. Lavin responded that they moved out in March.

Comm. Harger asked if he's been in there for five months already. She commented that he came in before moving into the Conte Building. She asked if he has been operating at this location before coming to P&Z.

Mr. Lavin responded no, because technically, he has been setting it up in there.

Comm. Flannery asked if he would be having a lot of people coming from the public coming to watch boxing in the ring.

Mr. Lavin asked if she meant shows – boxing matches – he responded, no.

Mr. Pogoda commented that it is just for training then.

Mr. Schultz added that it is important that it be a condition that there are no boxing matches.

Comm. Flannery agreed because there are only 20 parking spaces.

Mr. Schultz commented that this is a fitness/training center.

Chair Parkins asked how many employees.

Mr. Lavin responded that he is the only one.

Comm. Pogoda asked if he would be the only trainer.

Mr. Lavin responded that he may pull in another guy but he isn't sure right now.

Comm. Harger asked if he had any one there to answer the phone or anything.

Mr. Lavin responded that he has a messaging machine and he just calls people back.

Chair Parkins asked how many students he typically instructs at one time.

Mr. Lavin responded that the maximum he will have at one time is 15 – 20. Usually it is about 7 to 10 kids.

Chair Parkins asked if he said kids.

Mr. Lavin responded yes, children after school. Their parents bring them in and drop them off.

Mr. Panico asked if he has the entire accessibility to the 20 space lot that Rick makes reference to.

Mr. Lavin responded yes.

Chair Parkins asked if he had exclusive use.

Mr. Lavin responded yes.

Comm. McGorty asked what the hours would be.

Mr. Lavin responded that right now it is 5 p.m. – 9 p.m. but he was going to open it up in the mornings to. He works a daytime job right now at Planet Fitness but he plans on leaving.

Mr. Schultz indicated that the hours of operation would be 8 a.m. to 12 p.m. and 4 p.m. to 9 p.m. Monday through Friday. Saturday hours would be 8 a.m. to 2 p.m.

Comm. McGorty asked if they were going to split that building up.

Mr. Schultz responded yes, it is going to be a multi-tenant facility.

Mr. Panico asked the Applicant how much of that 5,000 square foot building he would be leasing.

Mr. Lavin responded 5,000 square feet – it is walled off. When you walk into the building there is a little office, a double door that is always open – but it all equals 5,000 square feet.

Mr. Panico asked if he was occupying the entire building – or if there was more to the building than the 5,000 square feet.

Mr. Lavin responded no – there is more to the building – it is walled off.

Comm. Harger asked where his entrance was – and if it was on the left side.

Mr. Lavin responded (inaudible).

Chair Parkins asked what the total square footage of the building was.

Mr. Schultz responded that it was in excess of 10,000 square feet.

Chair Parkins commented that it is about 15,000 square feet total and he's taking 5,000 of it, leaving an additional 10,000 for additional occupants. It is going to have to be monitored down there.

Mr. Schultz added that is why they do occupancy applications.

Mr. Panico added that when the next tenant comes in they will see how much of that 20 car parking lot is available.

Mr. Schultz indicated that there is no sign application with this and he asked the Applicant if he needed a sign.

Comm. Harger commented that it is already up.

Chair Parkins informed the Applicant that they require permits for signs as well.

Mr. Lavin responded that he did not know that.

Mr. Schultz indicated that they would have to deal with that at a later date because this application is for the occupancy only.

Comm. Flannery asked what will happen if he takes up all of the 20 parking spaces.

Chair Parkins responded that nothing else gets to go in.

Mr. Schultz added that is why they scrutinize the multi-tenant buildings.

Mr. Panico indicated that it is an industrial building so they wouldn't expect that they would require an awful lot of parking depending upon the tenant.

Chair Parkins stated she thinks that they should have the condition of not allowing public boxing matches to be included in this. She asked for a motion.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5980 with the condition that there are to be no public boxing events.

SEPARATE #6001, KIM BENSON, 911 BRIDGEPORT AVENUE, BUSINESS

Mr. Schultz stated that this is for a weight loss consulting business, Kim Benson Enterprises, Inc. This is the Coco property across from Burger King at 911 Bridgeport Avenue. There are multi-occupants at this location. They rezoned this to a PDD so a lot of things are grandfathered in. There will be 3 full time employees, 2600 square feet leased area, hours of operation are 8:30 a.m. - 5 p.m., Monday through Saturday with 10 parking spaces.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6001.

SEPARATE #5978, NEW YORK SIGN, 514 BRIDGEPORT AVENUE, SIGNS

The applicant, Kathy Ren, representing Wild Konji Restaurant, 514 Bridgeport Avenue, Shelton addressed the Commission. Ms. Ren indicated that this is the old Kobe's Steak House and it is currently under renovation. It will become the Wild Konji Restaurant which will be the same type of food but with a buffet type of thing. Presently they are replacing the old signs with the new ones with internally illuminated signs.

Mr. Schultz added that the Commission recently approved the interior renovations to move the hibachi and bar areas.

Comm. Harger asked if they had better picture of the signage that is a little closer up because this is very small.

Ms. Ren responded that she did not because this is a computerized rendering. It would be red and yellow (inaudible)

Comm. Flannery asked if the sign was 33" high.

Comm. McGorty commented that it is about the same size as Kobe's.

Ms. Ren responded yes, it is the same size.

Chair Parkins commented that she thought it would look nicer with smaller, black lettering.

Ms. Ren added that the yellow sign that says Asian Bistro and Hibachi, they actually narrowed down the size from 22" to 18."

Comm. Harger asked what the sign on that side said before.

Ms. Ren responded that it said "Japanese Steakhouse" in a larger size. It was red for "Kobe's" and black for the "Japanese Steakhouse."

Chair Parkins commented that this rendering actually gives the impression that it is two separate businesses.

Ms. Ren responded yes, that is why she tried to make it smaller.

Chair Parkins added that at first glance, she would think that this was two different businesses. Comm. Flannery, Comm. McGorty and Comm. Pogoda agreed.

Ms. Ren explained that in driving down Bridgeport Avenue, there is a tree blocking all the signs in the front. So that is why they want something out there (inaudible) so that is why they've used the neon lights too.

Chair Parkins asked if the Wild Konjii would be lit up – illuminated.

Ms. Ren responded yes, that's correct.

Comm. Harger asked if Japanese Steakhouse wasn't illuminated before.

Ms. Ren responded that she believes that it was. It wasn't a neon but it kind of glowed.

Comm. Harger asked if the black wasn't working for them the last time.

Ms. Ren responded that it wasn't hers but they have trees blocking the signs so people complained and they wanted something brighter.

Comm. Flannery asked if they were allowing neon lights.

Chair Parkins commented that when she says neon, she is referring to it being internally illuminated. She added that the reason that she brings this up is because, if someone looks up Asian Bistro in Information, they are not going to get your number. She suggested doing black letters that aren't illuminated so that the prominent "Wild Konjii" is what will stand out as being their name. She really thinks that this is going to give the impression that there are two separate businesses going on here.

Ms. Ren agreed that it was a good idea.

Mr. Panico commented that they could do it in black and put AND in front of it. "Wild Konjii AND Asian Bistro & Hibachi."

Chair Parkins reiterated that "Asian Bistro & Hibachi" - if it is not illuminated and it is just capital lettering then...

Comm. Flannery suggested taking "Asian" out and just using "Bistro & Hibachi."

Comm. Sedlock agreed.

Comm. Pogoda commented that he thought that might work – to get the word Asian out of there and just put Bistro & Hibachi. Then they could tell what the main sign was.

Comm. Harger asked if the “Wild Konjii” was going to be 33” and the other one would be 18”.

Ms. Ren responded yes, that is correct.

Chair Parkins indicated that she would not suggest making the Bistro bigger – if anything she would make it smaller to have it look like a continuation of the signage rather than having it overshadow it.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve the signage for Separate #5978 with the noted exceptions.

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

SEPARATE #5989, BOB MUSANTE, 99 BRIDGEPORT AVENUE, AWNINGS

Mr. Schultz indicated that these awnings are for the Luncheonette. They have one for the side entrance door and one for the take-out window. He showed the Commission photos of the proposed awnings. He added that it is a nice color but Staff would recommend that no lettering be allowed.

On a motion made by Anthony Pogoda seconded by Joe Sedlock, it was unanimously voted to approve Separate #5989 for the awnings with no lettering.

SEPARATE #5963, MICHAEL GAMBLE, 334 RIVER ROAD, BLDG ADDITION

Mr. Schultz stated that this is for a small addition, 8' x 12' to accommodate an office and storage. This is the older building over by Riverview Cemetery where the large flagpole is located. They have the old battery store in the front and in the rear the automotive repair and sales. A couple of months ago, the Commission approved the change of ownership. They needed a small addition to create more office space. They are asking the Commission to waive the site plan. This is a traditional wooden frame with a shed roof over it.

Comm. Flannery asked if it would affect the parking or people pulling in and out of there.

Mr. Schultz responded no, not in that area. It is very informal parking there and they don't use it all. This is a request for a waiver of the site plan so it is the Commission's call.

Comm. Pogoda asked if they were going to expand the office or if it was just going to be an office.

Mr. Schultz responded that it is a small area for office and storage.

Mr. Panico commented that it is only 96 square feet.

Mr. Schultz indicated that it is set back very far and they've been very cooperative in cleaning everything up. They had some dumpster issues and they've modified their roof and it's much more attractive.

Comm. Flannery asked if the siding would match the building that is already there.

Mr. Schultz responded yes.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was unanimously voted to approve Separate #5963.

SEPARATE #5993, CAPTAIN'S PIZZA, 515 BRIDGEPORT AVENUE, STORAGE EXPANSION

Mr. Schultz stated that this is the third and last time that Captain's Pizza will be before the Commission. They relocated and have a dumpster in the back on a concrete pad. They need a cooler and the cooler needs to go back there.

Chair Parkins asked if there was any driving access in the back.

Mr. Schultz responded no, this is an old manufacture that was retrofitted and there is no loop around it. He explained that in looking at the rendering of the pad, the cooler is essentially in the middle and the dumpster is to the far right. They would like to put a roof structure over the cooler and the storage area. He explained that if they take $\frac{3}{4}$ of the pad area, they want to enclose the area to the left of the dumpster with a roof and siding. This will enable them to put the cooler outside and to have more storage. He showed more photos of the side view. It is a shed type of roof. The cooler is 6'x12'. The storage area is 14'x6'.

Chair Parkins asked if they were moving the dumpster or if it was staying where it is, enclosed.

Mr. Schultz responded no, the dumpster is open and to the left of it will start the roof all the way to the end.

Mr. Panico commented that it looks like the dumpster is to right of it.

Mr. Schultz responded no, the dumpster is at the end.

Comm. Pogoda asked if it was there already.

Mr. Panico asked if it was behind the building or to the side of the building.

There was some confusion as to the location and the position of the dumpster and the proposed storage shed.

Bobby DeLibro, Captain's Pizza, 515 Bridgeport Avenue addressed the Commission. Mr. DeLibro indicated that he could address some of the Commission's questions.

Chair Parkins asked if the cooler was already there.

Mr. DeLibro responded yes, the cooler is already there but there is division wall in the dumpster enclosure so it can't get pushed up against the cooler. Behind that cooler that they see is the wall of the dumpster enclosure and the proposed storage shed will be on the backside of that.

Comm. Flannery asked if he had a roof on it yet.

Mr. DeLibro responded no, correct. In whatever picture they have, in looking at the dumpster, the cooler is behind it and the proposed shed will be behind that.

Mr. Schultz indicated that the old site plan does not show it but the side view shows it. The dumpster is the first structure.

Chair Parkins asked if he had two exits out the back – one to the cooler and one to the storage.

Mr. DeLibro responded yes, there are no doors, but yes – it is a pass-through so that they can service the cooler.

Comm. Harger asked how they get to the building.

Mr. DeLibro showed the location of the building, a four foot walkway and the exit door.

Mr. Panico asked if this attached to the building.

Mr. DeLibro responded no. Rick Schultz added that it is the concrete pad where the dumpster is located.

Chair Parkins asked if this would be for food storage.

Mr. DeLibro responded no, just pizza boxes, cups and other dry goods.

Chair Parkins asked if there would be any liquor storage.

Mr. DeLibro responded no, that has to be locked up.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to approve Separate #5993.

SEPARATE #5965, STAMFORD TENT, 15 PROGRESS DRIVE, TEMP. TENT

Mr. Schultz indicated that this was for a one day open house with tents on August 13, 2011. The band tent measured 20' x 24.'

On a motion made by Anthony Pogoda seconded by Joe Sedlock, it was unanimously voted to approve Separate #5965.

SEPARATE #5976, TAYLOR RENTAL, 120 BEARDSLEY ROAD, TEMP. TENT

Mr. Schultz stated that this is for the Jones Family Farm public gathering, fund raiser for the Connecticut Food Bank to be held this weekend.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #5976.

SEPARATE #153, SAI COMMUNICATIONS, 17 DAYBREAK LANE, TELECOMMUNICATIONS

Mr. Schultz indicated that at 17 Daybreak Lane, they are adding three power wave antennas and three TMA's to the existing low profile platform and adding an RBS 6000-601 cabinet to the existing shelter. This is the one within the CL&P towers. This has been approved by the Connecticut Siting Council.

Comm. Flannery indicated that she has a lot of questions about this because it is right next to her house. She asked exactly what is going in there.

Mr. Schultz responded that he just said what they were putting in. The Connecticut Siting Council already approved this; it is just a formality because the Commission has no control over it.

Comm. Flannery asked what was going on the power line site.

Mr. Schultz responded that there would be three towers added to the power facility – three power antennas and three TMA's to existing low profile platforms, which are base mounted. They are adding a cabinet to the existing shelter at the base of the telecommunications tower. The Siting Council encourages add-ons and the add-ons have to have the additional cabinets.

Mr. Panico commented that you probably wouldn't even be aware of the cabinets being there.

Comm. Flannery asked if there would be any more radiation or anything like that.

Mr. Schultz responded no, they have stated that it does not exceed the acceptable radiation levels for the State of Connecticut.

Chair Parkins asked if they didn't normally notify people around the immediate vicinity.

Comm. Flannery responded that she was not notified and she lives right next to it.

Mr. Schultz responded no.

Chair Parkins asked if the Siting Council didn't request that of the applicants.

Mr. Schultz indicated that they just notify the towns and that's why he has it on the table here. They have a lot of power, as the Commission knows. Staff recommends approval.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was voted (5-1) to approve Separate #153.

SEPARATE #5975, SAI COMMUNICATIONS, 14 OXFORD DRIVE, TELECOMMUNICATIONS

Mr. Schultz indicated that Oxford Drive is a private drive off of Booth Hill Road. There are several towers there. They are adding three LTE antennas and adding an RBS cabinet. This was also approved by the Connecticut Siting Council.

Comm. Flannery asked if there were any homes around it.

Mr. Schultz responded that are three homes on Oxford Drive and then it turns into a five acre parcel.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was voted (5-1) to approve Separate #5975.

APPLICATION #11-13, DOMINICK THOMAS ON BEHALF OF CONNECTICUT COMMERCIAL INVESTORS, LLC FOR FINAL DETAILED DEVELOPMENT PLANS AND PLANNED DEVELOPMENT DISTRICT ZONE

CHANGE, 811-819 BRIDGEPORT AVENUE (MAP 18, LOT 15), IA-2 DISTRICT (PUBLIC HEARING CLOSED ON 7/13/11).

Mr. Schultz indicated that Atty. Thomas is not present because he is attending a ZBA Meeting tonight. He prepared a draft resolution and displayed the site rendering for the application.

Mr. Panico added that he spent some time on the site plan, pursuant to some of the concerns that had been raised by Comm. Flannery. He indicated that he did a tissue paper overlay of the building and he tried to play around with it but it just doesn't fit anywhere other than where it was shown. He tried moving the building back on the site but unless he moves it all the way back, which would ruin the circulation, they only gain a row of parking and half of an aisle. It just doesn't work.

Comm. Flannery commented that she goes to this parking lot every Sunday and there are "No Loitering" signs posted there. She is concerned that there will be even more loitering going on if they put a building up behind there.

Chair Parkins responded that she has never seen anyone loitering in that parking lot.

Comm. Flannery asked why they would have "No Loitering" signs posted then.

Chair Parkins responded so that if cars do loiter there, the police can arrest them because there is a "No Loitering" sign posted there.

Comm. Flannery commented about an individual who was dragged through the Shop Rite parking lot and she thinks there would be security issues there.

Mr. Panico commented that it would be no different than it is behind any commercial building that is approved. Virtually any commercial building is provided with circulation around the building and invariably there are a few parking spaces behind the building, but usually they are used by the employees. He has asked the Applicant to submit a detailed lighting plan because he feels that the lighting information that they have provided is inadequate. They are going to have to provide an illumination plan with standards and show what the ground level illuminations are going to be. It is to the Applicant's advantage that it is illuminated well. He does not anticipate any issues here that wouldn't be encountered anywhere else.

Comm. Flannery commented that she just does not think that there is enough room there for it.

Mr. Panico responded that he analyzed the parking again and based upon the parking put there in anticipation of this site being built out, they have in excess of 81 parking spaces. This particular building is still going to result in an excess of another 25 parking spaces when they apply the Zoning Standards, and that is without taking into account that they can share parking because retail peak activity is during the day and restaurant peak activity is in the evening.

Comm. Flannery stated that all she knows is that when she goes there, she has trouble parking.

Mr. Panico stated that he has gone there several nights himself and he doesn't see an issue there.

Comm. Flannery stated that she is a repeat customer of both Ruby Tuesday's and Bruegger's Bagels. There have been times when she wanted to get take out

and she can't maneuver in there. She has to go way in the back, but if they put another building there, they won't have that parking lot.

Comm. Pogoda commented that they won't be there at night because it is going to be a daytime operation.

Comm. Flannery reiterated that they are taking away about 20 parking spaces and she does not think that they are going to have enough parking.

Comm. Sedlock asked if they know what will be going in there.

Chair Parkins responded that they do not know.

Mr. Panico stated that she would have to point to a specific use that is going to generate more parking than she feels is available because they have satisfied the zoning requirements.

Comm. Flannery stated that right now, she has difficulty parking there.

Mr. Panico responded that she seems to be the only one that can support that position though.

Comm. Harger indicated that she has never seen that parking lot at capacity.

Comm. Pogoda agreed – maybe, the front portion, but not the back.

Mr. Panico indicated that he did consider those comments and he went back through, tried shifting the building south but they really don't gain anything worthwhile. He read the Draft Resolution for Application #11-13 for a mixed use development at 811- 819 Bridgeport Avenue.

***See attached P&Z Draft Resolution for Application #11-13.**

Chair Parkins asked for a motion to discuss the draft resolution. Comm. McGorty motioned to discuss and Comm. Harger seconded.

Comm. Flannery asked about the increased tax revenue that this would bring and whether or not an office building would have more tax revenue.

Mr. Panico indicated that they have an existing economic site that is under development and this additional development is going to increase the economic benefits. He added that he didn't say it was going to give the maximum.

Comm. Flannery responded OK, because the current zoning would give the maximum.

Mr. Panico stated that anything you could do under the current zoning could be done under this PDD. This is not going to modify it; it is going to accommodate a proposal today that someone wants to proceed with as opposed to waiting around for a proposal that might develop five years from now.

Chair Parkins added that it might never develop. Putting an office building in there would definitely create traffic and parking issues.

Mr. Panico agreed and stated that would have to scale it to be compatible. He thinks that what Comm. Flannery is saying is that an office building of the same size could be accommodated or double the size could be accommodated. But it is surrounded by office. There are offices all over the area. It is a mixed use area – there is a storage facility along side of it, restaurants and commercial

diagonal from it, Mobile Home Park across the street, and the UI facility on the other side of Parrot Drive.

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

On a motion made by Thomas McGorty seconded by Virginia Harger, it was roll call voted (5-1) to approve Application #11-13. Comm. Flannery voted in opposition.

APPLICATION #11-16, FRANCISCO VERISSIMO FOR TEMPORARY SPECIAL EXCEPTION APPROVAL (FILLING AND GRADING), 182 BUDDINGTON ROAD (MAP 62, LOT 43), R-1 DISTRICT

Mr. Schultz stated that he prepared a draft resolution dated today. He read the Draft Resolution.

***See attached P&Z Draft Resolution for Application #11-16.**

Mr. Schultz added that one adjacent property owner asked for clarification of the filling project but indicated that he was not in opposition to it. As to what is going to happen with the drainage, the other adjacent property owner indicated that historically, there have never been any problems. The City Engineer did not recommend a drainage study.

Chair Parkins asked for clarification as to what Inlands/Wetlands commented on it.

Mr. Schultz responded that Wetlands Coordinator determined that no regulated activities are associated with this project. Any activity within 50 feet of a wetlands or water course would trigger that, but it is not the case here. He continued reading the resolution and indicated that they would need a motion, second and roll call vote.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, the Commission discussed the Draft Resolution for Application #11-16.

Chair Parkins asked when the notice of the public hearing was posted on the tree in the photograph.

Mr. Schultz responded that it was posted in the proper time frame.

Chair Parkins asked about the certified mail receipts. She asked if Heritage Point was included because they are abutters and if they were notified.

Mr. Schultz responded yes, the community of Heritage Point was included as well as all other property owners.

Comm. Flannery asked if the soil had been tested. Even though it is top soil, they don't know where the top soil came from and it should be tested.

Mr. Schultz responded that is the Commission's call.

Comm. Flannery added that people in the area could be gardening and they wouldn't want run-off or chemicals in their gardens.

Comm. Pogoda indicated that there is no gardening in his community.

Comm. Flannery asked about the other side with houses and the Mobile Home community.

Chair Parkins responded that there would be no run-off. There is not going to be any effect on that.

Comm. Pogoda commented that there is no one across street. It is all open space, and it is set back several hundred feet from the road.

Comm. Flannery stated that she would still like to have the soil tested.

Chair Parkins asked Rick Schultz if they had the right to ask applicant's to test their own soil.

Mr. Schultz responded yes, absolutely. They did it for other after-the-facts...

Comm. McGorty stated that was because there was rebar, cement, blacktop and wells in the area.

Comm. Pogoda commented that this is all City water. He asked if they received a certified letter about the soil. A letter was presented – he asked who it came from.

Mr. Schultz responded yes, but the letter was not certified. It came from the contractor, Grasso, that hauled it in there.

Chair Parkins asked if it says where it came from.

Mr. Schultz responded no. He indicated that he would read the conditions that Staff recommends and they can add to it because they want to be consistent with this. He added that there are two other after-the-fact situations that they are going to take to court. They are going to have to go through the same process when the judge remands them back to this Commission.

End of Tape 1B, 8:35 p.m.

Mr. Schultz read the following stipulations from the Draft Resolution:

- a. Submission of monitoring program detailing truck traffic control, starting times and sediment erosion control.
- b. Work shall be completed within one year from date of approval. All disturbed areas shall be stabilized before the end of this growing season using appropriate seed mixture.

He added that he brought this up because weeds have overtaken most of this area but there are still areas that need to be seeded. The Commission will probably give him a year, taking him to around June of next year because he really needs to stabilize it. There is some cheaper contractor seed mix.

- c. Submission of a cash sediment erosion control bond.

He added that this is something that they have consistently done.

Site completion bond prior to issuance of permit in amount to be determined by the Commission to insure satisfactory completion of all work including loaming and seeding and the maintenance of sediment erosion control.

He added that the Applicant would very much appreciate if they could come up with a dollar amount now.

Mr. Panico asked if there is loom on site or does he have to bring it in.

Mr. Schultz responded that he has loom on site – he has stockpiles.

Comm. Pogoda asked about the stockpile and if it was 200 cubic feet. He asked if he still had to bring in stuff.

Chair Parkins responded that he still has to bring in stuff.

Comm. Pogoda asked how much the stockpile is.

Mr. Schultz responded that 500 have been brought in and he is going to bring in 200 more. He has a stockpile of loom there.

Chair Parkins stated that the stockpile is part of the 500 that was brought in.

Comm. McGorty commented that if that's part of it then its 700 or so total.

Comm. Pogoda stated that he said that he had to bring in 200 more but there is a stockpile shown here. He doesn't know if that is topsoil or what.

Comm. Sedlock asked if they are going to test the existing fill that has been put in there.

Mr. Schultz responded that the Applicant is not volunteering it but it is a condition that the Commission can impose.

Chair Parkins commented that they could just ask for a certification of where the fill came from.

Comm. Sedlock stated that he is under the assumption that people that are in this business know that they need to get an application before they bring this stuff in like that.

Chair Parkins stated that this is not the first time and it won't be the last.

Comm. Sedlock indicated that he knows that but because this application was not in on time, he doesn't see any reason why they can't ask for confirmation of exactly what is in there.

Chair Parkins stated that they don't know but it would be kind of silly to put contaminated fill in your own backyard.

Comm. Pogoda commented that there have been other ones where they didn't care or know what was going in.

Mr. Schultz asked if they would like to request something from a certified soil scientist.

Comm. Sedlock stated that if were to come before them again, they should want to know what is in there all of the time.

Comm. Flannery agreed.

Mr. Schultz indicated that when they have an after-the-fact, it is a good idea to do this because they have two other sites in town that are substantial with more than 700 cubic yards.

Chair Parkins indicated that it should be – however, they want to certify that it is clean fill. She isn't going to make them go through expensive testing and all that.

Comm. McGorty asked if it would be imposed on a regular filling project when it is submitted up front.

Comm. Pogoda responded no, but that they would ask for a certified letter of where it came from though. They aren't giving us a certified letter.

Chair Parkins stated that they can ask for it now and if the contractor doesn't want to certify that it is clean fill or where it came from, then he has to get it tested. So either way, a certified letter or soil testing.

Comm. McGorty asked if it was stated in the letter from Grasso.

Mr. Schultz responded no, he did not state the origin just the amount. He asked what the Commission wanted to do regarding the dollar amount of the bond.

Chair Parkins asked what they normally request.

Mr. Panico commented that for restoration they use about \$5,000 per acre.

Comm. Pogoda indicated that this is only about $\frac{1}{4}$ of acre or $\frac{1}{2}$ acre.

Mr. Schultz responded that he would bump it down. He is uncomfortable with the \$5,000. He wants to show the spirit of cooperation is here and that has gone a long way. He would recommend \$500 cash bond.

Mr. Panico asked if he was talking about sediment erosion or site restoration.

Mr. Schultz responded for all combined.

Comm. McGorty stated yes, in case he has to re-seed there to fix it up. There is no more grading but it's a $\frac{1}{4}$ acre.

Chair Parkins added that in regard to site restoration – it is already done. He just wants to add some more.

Mr. Schultz commented that he thinks the Commission can see his sincerity and recommended \$500. The Commissioners agreed to \$500 and completion one year from the date of approval.

Chair Parkins asked Rick to continue to monitor it.

Mr. Schultz indicated that the status would be included in his Staff Report under Filling and Grading.

Comm. Sedlock commented about all these after-the-fact applications and asked if there was a fine or extra fee in the regulations.

Chair Parkins responded that they have no authority to levy fines.

Mr. Schultz added that's correct, they can only take them to court and the judge can level fines. As with the other two, the judge can impose fines. Corporation Counsel advises the Commission about the upcoming trial and they can relay their concerns through Staff.

Comm. Sedlock commented that there is really nothing there to deter this then.

Mr. Schultz indicated that they could add after-the-fact application costs. Wetlands does that and it is substantial – thousands of dollars.

Chair Parkins commented that they are redoing the regulations on this.

Comm. Sedlock commented that he thinks there should be some provision added to the regs about the after-the-fact.

Comm. Harger indicated that she has brought this issue up in the past.

The Commissioners continued to discuss the problem of the after-the-fact applications. Chair Parkins added that fines can only be levied if they are going against an ordinance and the ordinances are set by the BOA.

On a motion made by Joan Flannery seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve Application #11-16.

PUBLIC PORTION

Chair Parkins asked if there was anyone in the audience wishing to address the Commission on any item not on the agenda.

Cynthia Kasper, 12 Saginaw Trail, Shelton, addressed the Commission.

Ms. Kasper indicated that she has come down with her boss to discuss an agenda item about 1 Seneca Trail.

Mr. Schultz stated that he would be discussing that in his Staff Report – Item #2.

Chair Parkins stated that she probably doesn't have a copy of the Staff Report. If it is in the Staff Report, it is not really something that the Commission has to take an action on it, but if she would like to comment about, she should feel free to do so.

Ms. Kasper indicated that she really didn't have a comment but wanted to be here for the discussion about it.

Chair Parkins asked her if she was sure that she had no comments or questions because this is the public portion.

Ms. Kasper stated that she just wants to be here for the discussion.

Chair Parkins asked if there anyone else in the audience wishing to address the Commission. With no further comments, she asked for a motion to close the Public Portion of the meeting.

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

OTHER MATTERS

APPROVAL OF THE MINUTES: 7/13/11 AND 8/9/11

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve the minutes of 7/13/11 and 8/9/11.

APPLICATION #06-53, 493 BRIDGEPORT AVENUE: REQUEST FOR EXTENSION ON SITE PLAN APPROVAL

Mr. Schultz indicated that the Commission has received a request for an extension on a site plan approval. Normally, Staff recommends one year. This was the approval for the convenience store renovation work. This is the old

Mobil Station across from the Botti property and next to the Woodland Mobile Home Community. It was approved on March 27, 2007. Mr. Schultz stated that this approval is good for five years which would take it to March of 2012.

Mr. Panico asked if the original approval was to keep the existing building because he thinks that now they've demolished the whole building.

Comm. Sedlock stated yes, there is no building there now.

Comm. McGorty stated that there are some roof trusses and awnings there.

Comm. Pogoda added that they've been there for a couple of years.

Mr. Schultz stated that on May 9, 2011, the State legislators approved the Amendment to Section 8-3 of the Connecticut General Statutes, Subsection M that deals with the length of a site plan approval. It reads as follows:
"Notwithstanding the provisions of this Section, any site plan approval may, under this Section, prior to July 1, 2011, that has not expired prior to the effective date of this Section, except an approval made under Subsection J of this Section, shall expire not less than nine years after the date of such approval and the Commission may grant one or more extensions of time to complete all or part of the work in connection with the site plan providing no approval including rural extensions shall be valid for no more than 14 years from the date the site plan was approved."

Mr. Schultz stated that projects approved prior to July 1st of this year, automatic nine year period of time of which the Commission can grant extensions not to exceed 14 years. He added that Corporation Counsel has asked the Subcommittee to meet.

Comm. Pogoda asked if it is a site similar to this one where they have weeds growing all of the place, garbage there – he asked if they have any recourse against the owner of the site.

Mr. Schultz responded yes, that is an anti-blight. They have in the past but the anti-blight ordinance deals with those issues. The site was cleaned up a while back.

Chair Parkins asked what their bottom line was on this.

Mr. Schultz stated that they have a request for a one year extension and Corporation Counsel is advising that the request is a moot point as far as the new legislation automatically gives site plans four additional years.

Chair Parkins asked if the additional four years was from the date of the original application.

Mr. Schultz responded that when they sign off on site plans with signatures "to be completed in five years," well, that five years now goes to nine years. He added that one year extensions can be granted from that nine years, however, not to exceed 14 years total.

Chair Parkins commented that extensions can be granted but don't have to be but right now, the Commission is mandated to give them nine years from March...

Mr. Schultz responded yes, from March 27, 2007. It will take them to 2016.

Comm. Sedlock asked what was is going in there.

Mr. Schultz stated that the Commission approved a convenience store. If they deviate from that, it has to be approved again.

Comm. Pogoda indicated that they approved the convenience store there at the time that they vacated – the gas station was being eliminated.

Comm. Sedlock asked if that meant that anyone wanting to build there could only build a convenience store.

Chair Parkins commented yes, that is what they have approval for.

Mr. Schultz added yes, it is the conversion of an existing gasoline/automotive repair station to a convenience store.

Mr. Panico asked what the zone was.

Mr. Schultz responded CA-2.

Mr. Panico stated that it doesn't have to be a convenience store, it could be any retail activity.

Comm. Sedlock commented that at the moment it is nothing.

Chair Parkins indicated that it is a moot point and they don't have to act on it.

Mr. Schultz responded yes, it is just important that they get it into the record as to what is going on. Furthermore, Corporation Counsel has asked the Zoning Subcommittee to discuss this issue and a lot of other amendments involving bonding. This was approved on May 9th and then the Act concerning bonds and surety which is a very important provision. He added that the Zoning Subcommittee is going to be very busy.

Atty. Carmine Perri, Bishop, Jackson & Kelly LLC, 472 Wheeler's Farm Road, Milford, CT asked to address the Commission. Atty. Perri stated that he is representing the property owner, PC International. He inquired to Mr. Schultz if he would be drafting a letter to him regarding the fact that this approval for an extension is a moot point.

Mr. Schultz responded yes.

Atty. Perri added that it is Public Act 11-5, 8-3M not 8-23M. He commented that he was only present tonight to ensure that they will receive something on the record regarding the approval.

Chair Parkins asked if he was planning on putting something there fairly soon because it looks terrible.

Atty. Perri responded that he understood.

Mr. Panico stated that they were making compromises because they felt that they were preserving the existing building and now the existing building is gone. His recollection was that that was a difficult site plan to work out the issues on because of the configuration.

Mr. Schultz added that there was a subsequent meeting where the architect, Joe Mingolello, indicated that the walls could not be preserved. It was a partial demolition that came back to the Commission. There was a lot of discussion on this pre-existing, non-conforming site.

Chair Parkins commented that there could be some contamination on that site too.

Comm. Pogoda agreed, definitely from the gasoline.

Mr. Schultz stated that no vote is in order on this item.

Atty. Perri thanked the Commission.

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.

STAFF REPORT

Mr. Schultz reviewed the Planning & Zoning Staff Report dated September 11, 2011.

***See attached P&Z Staff Report 9/11/11.**

Chair Parkins asked Mr. Schultz to begin with the item regarding Seneca Road for the audience member who spoke at the public portion.

1 Seneca Road – Junk yard conditions (business owner contacted to remove junk vehicles and motor vehicle parts). Notice of Violation issued, Cease & Desist Order will be issued if no response this week.

Mr. Schultz stated that he is anticipating no response. A letter was sent out by Certified Mail, and it has been received. They are taking it to the next level which is the Cease and Desist Order. It is interesting to note that they have been working with the property owner to resolve anti-blight issues. The issues were not totally resolved but resolved to the point that there was a spirit of cooperation.

Mr. Schultz stated that a Zoning Enforcement Issue came in and they went down to inform the owner that Shelton P&Z felt as though these were junk yard conditions and would take him to court, if needed. In talking to the DMV, he received a copy of the license. Back in the 80's, the ZBA was the agency that dealt with motor vehicle licenses. They had a public hearing and they imposed all of the conditions that they would want in a transitional area – commercial to residential. The conditions included “no more than 8 vehicles to be parked inside and outside of the building.” He has over 20 vehicles. He added that the conditions also included that no motor vehicle parts be stored on the premises. There are parts scattered all over the place here. Additionally, no commercial equipment should be parked or stored on the public road system. He commented that although he did not see any, the police department has been notified.

Mr. Schultz stated that, unfortunately, they have a business owner that has a valid license that has been in violation for a long time and has failed to acknowledge what his own license is. It is spelled out very clearly. He does not want to acknowledge it.

Chair Parkins asked if it was shown to him.

Mr. Schultz responded that he sent it to him with the letter and made a call to him. He has not responded so they are taking this to the next level.

Mr. Panico asked if this was the one next to AJ's.

Comm. Harger responded yes, right in the back.

Mr. Schultz commented that this is high priority as indicated in the Staff Report.

Mr. Panico asked if there was any procedure by which his motor vehicle license could be revoked for failure to comply with the conditions.

Mr. Schultz responded yes, absolutely and the Motor Vehicle Department has received a copy of the letter. They will be working very closely with the City of Shelton.

Chair Parkins asked if he is actually running a junk yard out of there.

Mr. Panico commented that it is inoperable motor vehicles there that look like they haven't been moved for years.

Mr. Schultz indicated that he can maintain 8 vehicles that he takes parts from. It is not a junk yard permit. He has to be able to take parts from them and use them in conjunction with his business. He can't grab parts from outside the location. They have to be from those cars and of course, those cars are unregistered. But many of the cars are junk yard conditions. Obviously, that is a very general statement and the State of Connecticut assisted him but clearly he is in violation of the more fundamental issue which is "no more than 8 vehicles," and "no storage of motor vehicle parts."

Chair Parkins asked what Staff plans to do next.

Mr. Schultz responded that Staff is going to be issuing the Cease & Desist and taking it to the next level of recommending that this Commission initiate legal action.

Chair Parkins asked if Cease & Desist means that he has to get rid of all of the vehicles, except for 8 and get rid of the parts.

Mr. Schultz responded, yes within 10 days. He has to go by the steps because that is what the courts like to see. They need to give the owner time to realize and acknowledge it. They are on the right road and they are going to get this site cleaned up.

Mr. Schultz continued to review other items from the P&Z Staff Report including ZBA issues, Zoning Subcommittee and DSC Reports as well as other properties with Zoning Enforcement issues and Filling & Grading projects.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn at 9:15 p.m.

Respectfully submitted,

Karin Tuke
Planning & Zoning Commission, Recording Secretary