

Mr. Panico added that it would be much less imposing too.

The applicant (name not provided) responded that they can if it is a requirement although he has seen it at other locations.

Mr. Schultz commented that this is a PDD so it is the Commission's call.

The applicant commented that all the other storage facilities have the phone numbers on them. He asked if that was the standard.

Mr. Schultz explained to the applicant that this is a Planned Development District location.

Comm. Harger indicated that the street number at the top would be nice.

Mr. Schultz commented that as a condition of approval, the applicant could add the street number to monument sign and eliminate the phone number. Staff recommends approval with those changes.

Comm. Flannery asked how the sign was lit on the building.

Mr. Schultz responded that the sign is internally illuminated.

On a motion made by Virginia Harger seconded by Joan Flannery, it was voted (5-1) to approve the signage for Separate #6097 with the noted conditions. Comm. Kopac voted in opposition.

SEPARATE #6102 PRAMOD KANDEL, 94 RIVER ROAD, BUSINESS & SIGN

Mr. Schultz indicated that this was the old Bella Vista on River Road which was a pizza restaurant. The proposed new restaurant is called Baingan LLC . This is a 2,400 square foot building, 5 employees, hours of operation 10:30 a.m. to 11:30 p.m., 7 days a week and this is for Indian cuisine.

Comm. Harger asked for the spelling of the restaurant name.

Mr. Schultz responded that it was called Baingan. He added that they've also submitted proposed wall signage. He showed the Commissioners a rendering of the signage.

Chair Parkins asked the Applicant, Pramod Kandel if this would just be a restaurant.

Mr. Kandel responded yes a sit down restaurant. The convenience store is on the next block.

Mr. Schultz commented that he just received the sign rendering today and the applicant has asked if the Commission could consider the wall sign also. He noted that the logo shown will not be used.

Chair Parkins asked if the logo was the picture of the eggplant.

Mr. Schultz responded yes, the word "baingan" means eggplant.

Mr. Kandel commented that they have decided that they won't use the logo.

Chair Parkins asked if there were any other Indian cuisine restaurants in Shelton.

Mr. Kandel responded no, but his friend has one in Hamden. He has a couple of Indian cuisine restaurants in Connecticut. It will be very quiet over there.

Chair Parkins commented that there is plenty of parking anyway – parking should not be an issue.

Mr. Schultz added that they've advised the applicant that the previous occupants had a temporary sign out front with flashing lights and other stuff. He commented that obviously, that will not be permitted. He told Mr. Kandel that he would be allowed to have a grand opening banner and they regulate that.

Chair Parkins asked if the sign would be internally illuminated.

Mr. Schultz responded yes, just like the other sign.

Mr. Kandel commented that it is an individual (inaudible)

Comm. Harger asked the applicant if he had any remodeling to do inside.

Mr. Kandel responded yes, but just clean-up. They will be changing the carpet, the bathroom (inaudible).

Mr. Schultz added that this is for the business occupancy and the signage.

On a motion made by Joan Flannery seconded by Thomas McGorty, it was voted (5-1) to approve the business and the signage without the logo for Separate #6102. Comm. Kopac voted in opposition.

Comm. Flannery asked Comm. Kopac what problem he had with the application.

Chair Parkins asked Comm. Kopac if it was anything that he wanted to share with the Commission.

Comm. Kopac responded that it was nothing against Mr. Kandel. He believes in property rights which are basically the essence of liberty at the utmost degree. So essentially he does not believe in dictating what you do with your property.

Mr. Kandel commented that over there wasn't really his property.

Comm. Kopac responded yes, but it is your rental property.

Chair Parkins commented that she was not quite sure (inaudible)...

Comm. Harger stated that he has to conform to some standards.

Comm. Kopac responded that he understands that.

Mr. Panico commented to Comm. Kopac that he doesn't support planning and zoning then.

Comm. Kopac responded that he believes in the free market. He took an oath and he will uphold that oath to the best of his ability.

Mr. Panico commented that he was just wondering what transpired in these two applications that is not consistent with free market.

Comm. Kopac responded that it is nothing personal against the applicants. He believes that there were – Bernard Sagan, for example, studied Houston. If they are familiar with them, Houston does not have any zoning laws. Mr. Sagan

studied Houston and compared Houston to Dallas. He showed that planning and zoning causes a lot of effects on people. For example, it raises property costs and other things of that nature.

Comm. Flannery asked if he thinks that anything could be built anywhere just as long as somebody wants to do it.

Comm. Kopac responded yes, correct, as long as they own the land or are renting it.

Comm. Flannery stated that in that case, she could put a 50 foot high rise right here if she owned it.

Mr. Panico asked Comm. Kopac if that means he could move in next door to him and put in a gas station.

Comm. Kopac responded yes, that is certainly your right. He believes in property rights. If they look at the Constitution, for example...

Mr. Panico commented to Comm. Kopac that he really hasn't studied zoning at all. He suggested that he really spend some time and do some research about the basis of zoning and see if he agrees with it or not.

Comm. Kopac responded that he has been through the books and had his own literature as well.

Mr. Panico commented that he was curious as to what possessed him to take a role on the Planning & Zoning Commission when it delves into the very things that he does not believe in. He finds that very strange.

Comm. Kopac commented that he understands that point.

Comm. Harger commented that in the grand scheme of things, there has to be some regulation; otherwise, it is a hit and miss type of thing. When you talk about property rights, she thinks that one of the property rights that everybody has the right to is property values. One of the things that poor planning will do is bring down a neighborhood's entire property value. It would become a Pandora's Box.

Comm. Dickal added yes, exactly, it would become a hodgepodge of everything.

Comm. Kopac responded that he understands that they have their differences of opinion. He is gladly going to express them but over the course of the next two years, he would like to educate everyone, if they are interested. He would gladly tell them more about it sometime.

Comm. Flannery stated that she thinks that they need to educate him.

Chair Parkins indicated that she would like to move on. This is a conversation for another time and another venue.

SEPARATE #6099 FMA CONSTRUCTION, 330 BRIDGEPORT AVENUE, BUSINESS & WALL SIGN

Mr. Schultz indicated that this is Griffin Hospital Family Healthcare Center. They are bringing in a medical weight loss facility. He received the wall sign proposal that he e-mailed all the Commissioners. It shows all the different options so they are going to consider the wall signage as well. He read the Statement of Use for the business. Overall, the building is 6,000 square feet. It is for a medical

weight loss center that is owned by Naugatuck Valley Weight Loss Center LLC who requests to occupy 2,000 square feet. They will have five full-time employees, hours of operation are Monday through Friday, 9 a.m. to 5 p.m. If they are familiar with this facility, there are many primary doctors in there who will remain there. They discussed the possibility of moving to Ivy Brook, but there is available space here and it is a permitted use. In addition, he showed the proposed renderings of the signage that he e-mailed to everyone. He added that the consensus seemed to be Option #2.

Chair Parkins added that it did seem very unanimous on Option #2.

On a motion made by Joan Flannery seconded by Virginia Harger, it was voted (5-1) to approve Separate #6099 and signage Option #2. Comm. Kopac voted in opposition.

APPLICATION #11-18 PINE ROCK AUTO SALES INC. FOR MODIFICATION OF USED CAR DEALER LICENSE (INCREASE FROM 8 VEHICLES TO 12 VEHICLES), 1 SENECA TRAIL (MAP 5A, Lot 39), CA-2 DISTRICT: REQUEST TO WITHDRAW

Mr. Schultz stated that there are two items about this on the agenda tonight. He will read the first item, the letter requesting withdrawal without prejudice. Under Other Business, they can take up the Cease & Desist Order.

***See attached correspondence dated December 7, 2011 to P&Z Administrator, Richard Schultz from Attorney John Sponheimer representing Michael Sinsky, owner of Pine Rock Auto Sales, Inc.**

December 7, 2011

To: Richard Schultz, P&Z Administrator

Please be advised that I am now representing Michael Sinsky and Pine Rock Auto Sales, Inc. regarding his proposed modification to his existing permit from eight vehicles to twelve. His application to you is dated September 22, 2011.

On behalf of Mr. Sinsky and Pine Rock Auto Sales, Inc., I am hereby requesting that this application be withdrawn without prejudice. It is Mr. Sinsky's intention on behalf of Pine Rock Auto Sales, Inc. to resubmit an application with much more detail than the September 22nd request. Hopefully, this new application will be submitted for your January meeting.

Very truly yours,

Atty. John Sponheimer

Mr. Schultz commented that there would be a motion in order to accept this request for withdrawal.

On a motion made by Joan Flannery seconded by Virginia Harger, it was unanimously voted to accept the request for withdrawal for Application #11-18.

Mr. Panico asked if he expects to resubmit something in January.

Mr. Schultz commented that he really doesn't think that they know exactly what they are going to do timing-wise. But clearly now, the focus is on the Cease & Desist Order which he will report on later.

PUBLIC PORTION

Chair Parkins asked if there was anyone in the audience wishing to address an item not on the agenda. There was no one wishing to address the Commission.

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

OTHER MATTERS

APPROVAL OF THE MINUTES: 1/11/11

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table the approval of the minutes from 1/11/11.

CEASE AND DESIST ORDERS FOR 1 SENECA TRAIL: STAFF AND CORPORATION COUNSEL REPORTS AND AUTHORIZATION TO INITIATE LEGAL ACTION.

Mr. Schultz stated that he spoke with Corporation Counsel today; unfortunately, he did not prepare a written report but they had a detailed conversation. Essentially, Atty. Welch has read all the material to date and believes that the Cease & Desist Order that he authored covers both the violation of the existing license which regulates a maximum of eight vehicles and no outside storage of junk material. This is stated in the Cease & Desist Order.

Mr. Schultz stated that Corporation Counsel believes that the Cease & Desist Order covers both of those issues – outside junk material and the storage of more than 8 vehicles. Having said that, he read his status report dated December 13th indicating that owner of Pine Rock Auto Sales Inc. has not complied with the Cease & Desist Order issued on 9/21/11 and they requesting authorization to take legal action.

***See attached P&Z Status Report addressed to the Shelton P&Z Commission, from Richard Schultz, P&Z Administrator, dated 12/13/11.**

The attorney representing the owner requested that he read a letter to the Commission dated 12/7/11 requesting a continuance of the matter until the January 10, 2012 P&Z Meeting.

***See attached correspondence dated December 12, 2011 to P&Z Administrator, Richard Schultz from Attorney John Sponheimer representing Michael Sinsky, owner of Pine Rock Auto Sales, Inc.**

Mr. Schultz stated that Corporation Counsel is aware of the request to continue this to the January 10, 2012 meeting. He is, however, in sync with Staff who is recommending to the Commission at this time to have Corporation Counsel initiate legal action. Corporation Counsel is of the opinion that he would not be served until the middle of January and if he is going to remove some of the cars, which he indicated today, he will have sufficient time to do it.

Mr. Schultz stated that Mr. Sinsky indicated to him today on the phone that four additional cars are going to be removed by the 1st of the year. However, the fact remains that the Cease & Desist Order has not been complied with including the vehicles and the junkyard conditions. Corporation Counsel does not have a problem with Staff recommending to the full Commission tonight to initiate legal action. There are checks and balances between their vote tonight and when legal action is taken.

Chair Parkins added that she feels that he has also had ample warning.

Comm. Harger agreed.

Mr. Schultz commented that he realizes that the Commission doesn't like to see this topic coming up every month.

Chair Parkins commented that in all fairness, she asked for an extension and she gave him an extension last time because he claimed that he was unaware of the meeting. He has had ample time to get things in order down there and time has run out.

Mr. Schultz stated that their motion, if they proceed, will handle both the junkyard conditions and the keeping of more than eight motor vehicles. A separate complaint was made about the anti-blight conditions and they removed the vegetation around the fence – which actually made it worse because now you can see everything. Also, the building is another issue, for another day, with the Anti-Blight Ordinance. Presently, it is just the zoning issue and the license that was issued and the conditions that went along with it.

Comm. Harger commented that this is an obvious example of why zoning is needed. Here is someone that is just running amuck and doesn't care about their neighbors, the property values or any rules.

Comm. Flannery added that this is also dangerous for neighborhood kids who may start roaming on this property and get stuck in a junk car or something falls on them. It is dangerous.

Comm. Harger agreed and added that there are health and safety issues.

Mr. Schultz commented that it is about public health, safety and welfare.

Comm. Harger commented that it is sad that they have to take it to this extent, but they are trying to make this a nice area, and someone does not comply and it is sad that they need to go to this extent.

Comm. McGorty added that he is in violation on every level. It is not just about children playing in the area. He is violating everything.

Mr. Panico stated that the fact of the matter is that it is more than just the extra four motor vehicles. They really don't even know if it is just four. It is something more than eight. Even if they were removed tomorrow, there are still all of the other issues.

Chair Parkins commented that she senses the majority of the Commissioners are in favor of moving ahead with this.

Mr. Schultz stated that it was nice to see that ZBA, who processed these types of applications in the 1980's, listed all the necessary restrictions. It is something that this Board has to do now and it is important for everyone because you never know what is going to happen down the road.

Prior to taking a vote, Chair Parkins asked Atty. Volo if there was anything that he would care to add that would persuade them not to go ahead.

Atty. Richard Volo, 435 New Haven Avenue, Derby, CT addressed the Commission. Atty. Volo stated that in fairness to Mr. Schultz's time, energy and effort, he should be aware that Mr. Sinsky is sneaking vehicles back into the his lot at nighttime. Now there are six or seven cars that are unregistered cars,

which are junk cars as reported. Atty. Volo indicated that Mr. Sinsky is in repugnance and hostility to this Board.

Chair Parkins asked if he was basically in agreement with the Commission then.

Atty. Volo responded yes, and added that it is unfair that these laws can be blatantly violated. This Commission donates their time and effort to make sure that everyone complies with the law and this man applies to enlarge his permit that he is violating not just in terms of the used car dealer and repairs permit but also junkyard violations. To do this last evening is horrible. It is an insult to the integrity of this Commission. He thinks that this Commission should respect the opinion of Atty. Welch.

Comm. McGorty stated that he thinks that they are all on board with this.

Atty. Volo stated that he should be fined retroactive from the date that Rick gave the official order. He needs to respond in court, told that he is going to be fined and possibly punished further. This is horrible and he is just saying to this Commission "I don't care." Atty. Volo commented that he thinks that it is time that this Commission put their foot down.

Atty. Volo asked neighbor, Cynthia Kasper to date, document and send those photographs she took to Rick Schultz. He told her to include who took the photos and the time that they were taken.

On a motion made by Virginia Harger seconded by Nancy Dickal, it was voted (5-1) to approve the authorization of legal action for the Cease & Desist Order at 1 Seneca Trail. Comm. Josh Kopac voted in opposition.

CRANBERRY ESTATES: REQUEST TO RELEASE OF SEDIMENT AND EROSION CONTROL BOND (PHASE 1), PERFORMANCE BOND (PHASE 1) AND TREE RESTORATION BOND

Comm. Flannery indicated that she and Comm. Dickal took a walk through this area on December 3rd at 8:45 a.m. for about one hour. They took a look and went near the driveway where the illegal clear cutting had taken place. They saw that there were six pines and two magnolias in the area compared to all the trees that were taken down. She stated that she knows that there are 40 nice pine trees around the houses, but that is not what those woods looked like before he illegally clear cut it.

Comm. McGorty stated that is a misstatement and she needs to be careful with that.

Chair Parkins agreed that was clearly a misstatement because there was never any proof that the developer cut those trees down.

Comm. McGorty added that he went above and beyond what needed to be done. It was investigated and he had nothing to do with it.

Comm. Flannery stated that she still has a lot of questions about this property. She asked how much work had been done. She counted about twenty houses but they have mailboxes for forty. She asked what percentage of the work had been done.

Comm. Flannery also asked who requested that this bonding be released. It says Phase 1. She asked how many phases there were.

Mr. Schultz responded that there would be two phases.

Chair Parkins added that there are 20 of the 40 houses which would be 50%.

Comm. Flannery responded OK. She stated that they saw piles and piles of dirt and downed wires.

Comm. McGorty commented that the project is in process and it's not completed. He doesn't think that they are looking to release the entire bond.

Mr. Schultz responded that no they were not – they will get new bonds for Phase 2. They are requesting release of the Phase 1 but the full tree restoration has been over a year.

Comm. McGorty stated that the intent – he knows that Joan wanted to go out and see this – but Staff had gone out and done a review.

Mr. Schultz responded yes, he's been out numerous times and so has Inland Wetlands.

Comm. McGorty stated that it has been a 1 ¼ years or more to go out and look at it. He doesn't believe in holding someone's bond hostage, which costs them money to maintain. The work has been done and Staff has gone out there. He has done what he was told that he had to do. He doesn't believe in stringing this along.

Comm. Flannery commented that she is saying that it does not look as though he has done what he is supposed to do. There are piles and piles of dirt all over the place.

Comm. McGorty indicated that he defers to the Staff who was assured that (inaudible)...

Chair Parkins asked if that is the second phase, because obviously, the piles of dirt are located in the area that is not developed yet.

Comm. Flannery stated that it was at the bottom of the hill that (inaudible)...

Mr. Schultz responded that no, that is going to be replaced before the Phase 1 is released.

Mr. Panico stated that if it is released, than that ought to be the condition.

Mr. Schultz responded yes, absolutely.

Comm. Flannery asked for clarification from Mr. Panico.

Mr. Panico stated that if the Phase 2 bond has not yet been placed, than it should be placed before Phase 1 is released.

Mr. Schultz stated that they do that all of the time – it is the policy.

Chair Parkins asked if the whole bond was placed up front.

Mr. Schultz responded no, they phased it. They do that all the time with subdivisions.

Mr. Panico added that sometimes what they do is take the Phase 1 bond and roll it over and it becomes the Phase 2 bond.

Chair Parkins asked why he wouldn't just do that then – why does the Commission have to approve the release.

Mr. Schultz responded that it is because the Commission has to do it. It is an official document – Phase 1.

Chair Parkins commented that if they did it, it would be the condition that he meets the bond for Phase 2.

Mr. Schultz responded yes, rolling it over is an administrative thing. He encouraged all the Commissioners to go there because he really did a nice job. They put more trees than they ever wished for considering the history of the clear cutting. They turned it around and the neighbors that abut had issues but they are being addressed.

Comm. Dickal indicated that she was under the impression that there was supposed to be some sort of a walkway through there.

Mr. Schultz responded no, the Board of Alderman rejected the conveyance of land as public open space – so it will be private open space. Right now, the BOA is going to put on their agenda whether or not to accept a public pedestrian.

Chair Parkins asked if they would create the trail then, but it would be public.

Mr. Schultz added, yes, right. As they are going to see on this Board, the BOA is the legislative body and has the final say on the conveyance of open space, development rights and pedestrian easements. It is a document between the City, who is the legislative body, and the owner.

Chair Parkins stated that the thought was that public open space really doesn't connect to anything else. So really the people that are going to use it (inaudible)

Comm. Flannery commented no, they were going to connect Daybreak Lane to Armstrong – no, it's connecting. The purpose of the walkway (inaudible)...

Chair Parkins stated that it is connecting one neighborhood to another. It is not connected to any other open space.

Comm. Flannery indicated that what she is saying is that the purpose of it was to have a walkway from Daybreak Lane to Armstrong – to have a place to walk and continue from that dead end to the other main road – that was the purpose of it.

Chair Parkins added that Conservation Commission didn't recommend acquiring that as Open Space.

Mr. Schultz commented that the Aldermen rejected it and now they are going to take up the pedestrian. If they reject that then it is over and they then file the map that shows it as private open space.

Chair Parkins asked if they made payment in lieu of or did they just keep it for private open space.

Mr. Schultz responded yes, it is private open space. There are all different types of open space.

Mr. Panico added that it has been committed as open space, whether it be private or public open space.

Mr. Schultz stated that he just learned from the Mayor's Office today that it will be discussed at the next BOA meeting – December 22nd.

Comm. Flannery asked about the fire hydrant that was supposed to be put at the end of Daybreak. There was supposed to be a fire hydrant there.

Mr. Schultz responded that is up to Fire Marshal and the Mayor's Office.
Comm. Flannery asked how they can get the fire hydrant put there.

Mr. Schultz responded that they don't – they have no jurisdiction over it.

Comm. Flannery asked if that is the case even if it was part of the approval.

Mr. Schultz responded that the approval was subject to the final placement by the Fire Marshal and the Mayor's Office.

Comm. Flannery asked how they could get them to recognize that a fire hydrant is needed there.

Mr. Schultz responded that he could send a letter to the Mayor's Office tomorrow.

Comm. Flannery commented OK, because she was very concerned about that – that was another condition.

Chair Parkins asked if there was a cut-through there.

Mr. Schultz responded no.

Chair Parkins asked why that developer would be required to put a fire hydrant there.

Mr. Schultz stated that the homeowner's stated that they needed fire protection there because the water is being extended to the site. The developer wanted a fire hydrant so it was easy to put one so that both neighborhoods could use it.

Chair Parkins asked if she meant the developer of that property.

Mr. Schultz indicated that he will get an explanation of what is going on with that.

Chair Parkins asked if they had run a line there.

Mr. Schultz responded that they've run a line through the whole development.

Comm. Flannery added that it is because they don't have City water but the new development does. Daybreak is a dead end with no City Water but the new development has City water.

Mr. Schultz stated that this Commission has historically promoted the extension of public water for hydrants for the pockets in Shelton that do not have it. Obviously, this Commission doesn't have the final say on it.

Chair Parkins asked if that new development would be able to use that hydrant for fires.

Comm. Flannery responded yes, they extended one of the roads all the way up to Daybreak so it would be very easy.

Chair Parkins commented, OK, then the Fire Department wouldn't have to go down Daybreak.

Comm. Flannery responded yes, it would be a 50 foot path or less to walk from Daybreak to the new road. The path is still there.

Chair Parkins asked if there was a fire on one of the new streets would they have to go down Daybreak to put it out.

Comm. Flannery responded no, the fire hydrant would be accessible from both of those streets.

Mr. Schultz added that he would get a status report on that.

Chair Parkins commented that this has nothing to do with the bond that is being held on this property.

Mr. Schultz responded right, they have no control over that.

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was voted (5-1) to approve the request to release the Sediment and Erosion Control Bond (Phase 1), Performance Bond (Phase 1) and Tree Restoration Bond (Phase 1) with the condition that the Phase 2 bond be posted before the Phase 1 bond is released. Comm. Kopac voted in opposition.

PAYMENT OF BILLS

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

STAFF REPORT

Mr. Schultz responded that he would defer that to the January meeting. However he did want to advise them that he received word that UI is moving ahead with their facility (substation) on Old Stratford Road, Exit 12. It is adjacent to the Far Mill River and there were some environmental issues and it has to go to Inland Wetlands.

Chair Parkins asked if they could provide comments to the Citing Council.

Mr. Schultz responded yes just like they would for any telecommunications.

The next P&Z Regular Meeting will be held on January 10, 2012.

ADJOURNMENT

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn the meeting at 7:45 p.m.

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary