

**SHELTON PLANNING & ZONING COMMISSION JANUARY 10, 2012**

The Shelton Planning and Zoning Commission held a regular meeting on January 10, 2012 at 7:00 p.m., Room 303, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Commissioner Anthony Pogoda (acting Chairman for Comm. Ruth Parkins)  
Commissioner Nancy Dickal (alternate)  
Commissioner Joan Flannery  
Commissioner Virginia Harger (arrived 7:04 p.m.)  
Commissioner Josh Kopac (alternate for Ruth Parkins)  
Commissioner Elaine Matto  
Commissioner Thomas McGorty

Staff Present: Richard Schultz, P&Z Administrator  
Anthony Panico, Consultant  
Karin Tuke, Recording Secretary

Tape (1), 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](http://www.cityofshelton.org)

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL**

Vice Chairman Anthony Pogoda called the meeting to order with the Pledge of Allegiance and a roll call of members. He indicated that Comm. Josh Kopac would be acting on behalf of Chairperson Parkins who is not attendance at tonight's meeting. He stated that all the Commissioners had received copies of the P&Z Staff Approved Standards and Separates. For expediency, anyone with questions regarding the Staff Approved items is asked to contact Rick Schultz after the meeting or tomorrow.

**OLD BUSINESS**

**APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE**

**SEPARATE #6116 – SPLASH, 376 BPT. AVE., TEMPORARY BANNER**

Mr. Schultz stated that there are two applications on the agenda tonight for Splash. One is for the temporary banner on the monument sign facing Bridgeport Avenue. He provided hand-outs of the proposed banner signage to the Commissioners and indicated that the applicant, Jason Frank, District Manager of Splash was available to answer any questions.

Comm. Flannery asked how long this banner would be up.

**Jason Frank, District Manager, 376 Bridgeport Avenue, Shelton, CT addressed the Commission.** He responded that they hoped to have the banner up for two or three months to promote their new, unlimited washing program with a flat, monthly fee to wash your car all year round. He indicated that he would like to advertise this for about three months.

Vice Chairman Pogoda asked Rick to review the regs regarding banners.

Mr. Schultz responded that they like to hold the grand opening banners to about 30 days. Sometimes if it is a work in progress, the Commission will allow it to go a little longer. It is really the Commission's call because it is a temporary banner.

Comm. McGorty asked for clarification of the banner's location.

Mr. Schultz responded that it would be on the ground sign that faces Bridgeport Avenue.

**Comm. Harger arrives at 7:04 p.m.**

Vice Chairman Pogoda asked Mr. Frank how long he would like to have the banner.

Mr. Frank responded for at least two months but if 30 days is all they can do, then that is fine.

Mr. Schultz suggested 30 days because the Zoning Subcommittee is going to be meeting this Thursday on a variety of sign issues and that's the time frame that they've been telling new businesses about. This subject is going to come up and as they know, the Commission can grant extensions on banners. He recommended going with 30 days and then he will work with the Applicant.

Vice Chairman Pogoda responded OK and commented that the consensus was that per the regs, they would recommend the 30 days. Vice Chairman Pogoda indicated that the Applicant can make a request for another 30 days.

**On a motion made by Thomas McGorty seconded by Joan Flannery, it was voted (5-1) to approve Separate #6116. Comm. Josh Kopac voted in opposition.**

**SEPARATE #6117 – SPLASH, 376 BPT. AVE., DOG WASH BUSINESS**

Mr. Schultz stated that the Applicant was present to explain what he found out-of-state and what he visualizes at his location. Staff will go over the permitted uses and the Commission can ask questions.

**Mr. Jason Frank, District Manager, Splash, 376 Bridgeport Avenue, Shelton, CT addressed the Commission.** Mr. Frank indicated that he visited a Pennsylvania Car Wash and they had a few of these dog washing stations where customers can come in to wash their dogs. It is a coin-operated vending machine with a wash tub, hot/cold water, shampoos, skunk/odor removers and dryers to wash and dry the pets. He showed a photo rendering of a basic aluminum type dog washing station. It is manufacturer by a car wash company out of Pennsylvania. He explained that it is almost like a self-service car wash bay would operate. The customer puts the money in and operates the machine. They have a ramp to walk the dog into the tub and a clasp for the dog's collar to hold the dog there for washing. It would be a heated bay with warm/hot water and any chemicals would come out of a shower wand that is attached to the vent. He pointed out the black hose in the photo and explained that it would be a dryer for drying the dog after washing.

Mr. Frank stated that on the site plan provided, it shows that they were planning to put the dog washing stations where the "X's" are located among the five bays along the side of the building. The one with the "X" is all the way in the back. He showed the checkered location near the "X" for the proposed parking.

Mr. Frank showed where they would plan to block off a garage door from traffic flow. There are two windows off of that door there and they would plan to put in two dog washing bays with a wall in between them so that the dogs wouldn't get aggressive toward one another.

Comm. Harger asked for clarification as to how the entrance would be.

Mr. Frank clarified the location of the windows, to be replaced with doors to the proposed car washing station and the location of the exterior car wash. He added that they were looking to do one now and add a second station if it is successful.

Comm. Harger commented that he's taken care of the restraint system and the hot/cold water. She asked what he planned to do about towels.

Mr. Frank responded that there is a blow dryer but they could add a vending machine with towels or people could bring their own towels.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. Harger commented that she used to take her dogs to a Fairfield facility that had a room with a large bathtub and towels were supplied. He asked if they ever ran into a situation there where the heating system fails and they can't get any hot water.

Mr. Frank responded that this unit would have its own dedicated hot water heating unit with it. The hot water plumbing in the building would only be used as a back-up. He believes that these units are regulated by a thermostat and have one set temperature as well so that people can't scald their dogs. It would be a preset temperature. They could also turn a dial to get shampoo, odor remover, or conditioner.

Comm. Harger asked if the units had a maximum height and weight requirement.

Mr. Frank responded that this is the largest one that they make for the large dogs so they say it could hold a couple hundred pounds. It is all made of stainless steel and won't rust.

Comm. Matto asked where the water would drain to because she can't really see from the photo.

Mr. Frank responded that the water would drain right out of the back of the unit. There's a floor drain there that they would just pipe into the existing drainage system for the car wash.

Comm. Harger asked if they plan to have any counters or anything to move the dog on to.

Mr. Frank responded that they didn't plan on that because it is a self-contained unit that does everything. You can walk the dog onto it and walk the dog off of it when dry. There is room to put some counters in there if they needed to. They wouldn't have more than one person in a bay at one time because they wouldn't want the dogs to interact.

Vice Chairman Pogoda asked Rick to review the zone uses.

Mr. Schultz commented that, for the benefit of the newer members, the subject property is located within PDD #53. The Commission is bound by the permitted uses that were adopted. This is not a use that was contemplated. This use is governed by the State of Connecticut Department of Agriculture, just like dog grooming. The use line that this could fall under, and this Commission has to make that determination because this facility was approved for a commercial car wash – the use line would be "E"- accessory uses customary with and incidental to any aforesaid permitted uses. He added that would include things like vacuum cleaners and detailing – subordinate activities. This Commission has to determine if they feel comfortable that it falls under that use. If they think that it is a principle use, then it is not permitted because it is not included and the Commission would have to have a public hearing on it.

Comm. Matto asked about it being a part of the same water system and water filtration system that has to be used by the car wash.

Mr. Frank responded that the car wash water goes through an oil-grid separator that separates any sediment. This would go through the same system before it goes out to the sewers. The system is designed to remove any oils or heavy sediments from the water before it goes out to the sanitary sewers.

Comm. Matto asked if there were any other waste, dog waste concerns or issues.

Comm. Harger asked about what happens with the dog hair.

Mr. Frank stated that they have attendants in the car wash that would check the bays regularly and clean them out.

Vice Chairman Pogoda stated that he is concerned about excrement.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Mr. Schultz stated that is regulated but what Staff did not do is to check with Department of Agriculture. He wanted to first determine how the Commission wanted to handle this fundamentally. If the Commission would like to look upon this favorably, he would like to direct Staff on a couple things.

Comm. Harger stated that she would be concerned about sanitation.

Vice Chairman Pogoda commented that he thinks that the station should be checked after each dog is in there.

Comm. McGorty agreed that an attendant should inspect it after each use.

Vice Chairman Pogoda added that he doesn't know how much usage it would have, but he would question about the parking. It is something that they've never seen in this area, although Ginny mentioned seeing one in Fairfield.

Mr. Frank responded that he has heard of something similar in the Norwalk area but he didn't go down to look at it. There is space for one car to park in front of each bay and there is also space for parking along the curb. He added that there is also more parking in the front along Platt Road.

Comm. Harger asked if they would have a designated dog walking area because whenever she brings her dog anywhere, as soon as he's out of the car, he wants to relieve himself.

Mr. Frank stated that there is a grassy area and a couple of trees right there. They could put up a sign to let people know that they can walk their dogs there. It is a fairly large area which is contained and easy to clean up. If they would need any specific receptacles to dispose of pet waste, they would do that.

Comm. McGorty commented to Rick that he thinks that the next step should be what requirements that would have to meet after each use for sanitation, etc.

Vice Chairman Pogoda asked the Applicant if he had any information regarding this from the State.

Mr. Frank responded that he did not.

Vice Chairman Pogoda stated that he would like to see some information regarding the State's requirements before moving forward.

Mr. Schultz asked if it was the Commission's consensus that this is an accessory use and doesn't require a public hearing.

Vice Chairman Pogoda asked the other Commissioners and the consensus among them was that it did not require a public hearing. He asked for a motion to table this and direct Staff to obtain further information regarding State requirements.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to table Separate #6117 and to direct Staff to obtain more information regarding State requirements. Comm. Josh Kopac voted in opposition.**

Mr. Frank asked the Commission about the area at the Splash Car Wash where the self-service vacuum cleaners are located. He explained that it is home-made thing that they made out of PVC and they found a nice expansion to keep the hoses off of the ground. They didn't want to change the area. They just want to take out the PVC ones and replace them with these.

Vice Chairman Pogoda asked if they were individual.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Mr. Frank responded that they are each individual and would go in between parking spaces. They weren't going to add any or take any away or change the layout in any way.

Comm. McGorty commented that it looks like it would probably be better than the existing configuration.

Mr. Frank agreed because it would get the hoses off of the ground and neaten things up. He wasn't certain if this was something that they could just go ahead and do.

Mr. Schultz commented that Staff wanted Mr. Frank to show the Commission instead of just doing it after the fact. It is a positive thing.

Comm. McGorty agreed about seeing things after the fact and commented that he thinks that it would be easier to use than what is existing now.

Vice Chairman Pogoda asked if the yellow garbage cans would be gone.

Mr. Frank responded yes the yellow garbage cans would be gone because these have trash receptacles. They have a couple of additional garbage cans where they dry off the cars as well.

Comm. Harger asked what the height would be.

Mr. Frank responded that they were about 8 feet tall.

**SEPARATE #6112 – ARTEFX SIGNS, 830 BPT. AVE., SIGN**

Mr. Schultz indicated that the Hotel Sierra is changing its name to the Hyatt House. He passed around a rendering of the proposed signage changes. The signs are internally illuminated. This includes all the wall signage and the monument sign.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to approve Separate #6112. Comm. Josh Kopac voted in opposition.**

**SEPARATE #5935 – ALL SERVICES, 875 BPT. AVE., BUSINESS**

Mr. Schultz stated that this involves the Shop-Rite Supermarket. As the Commission is aware, most supermarkets have a Dunkin Donuts, a satellite bank or other feature. Shop-Rite is proposing to have a salon for manicures, waxing, pedicures and facials. He believes that this may be the first one of this nature. The space has been designated before in this particular grocery store. He showed a floor plan with the area for the salon highlighted, to the right of the main entrance. The former grocery store had a jewelry store there. Unfortunately, a lot of these retail shops come and go, but this is unique insofar as it is a salon.

Comm. Matto asked if this space was owned by the grocery store.

Mr. Schultz responded that Shop-Rite owns the facility so this would be a leased area. There is usually some type of retailer or bank in these spaces.

Vice Chairman Pogoda added that Stop & Shop has Dunkin Donuts and People's Bank. They did have a couple of other things there when it was Shaw's – a phone store, and a jewelry store.

Mr. Schultz stated that this use is permitted insofar as it is retail. The store is trying to capture the customers for one-stop shopping. There is no signage proposed. Staff recommends approval.

Joan Flannery made a motion to approve Separate #5935. It was seconded by Thomas McGorty.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. Harger asked how this would be sectioned off or partitioned off from the grocery store. She asked what it would look like. She indicated that her other concern would be about the odors from the nail salon.

Comm. McGorty commented that he thought it was like the recycling area that had its own (inaudible)...

Comm. Harger responded no, this is right inside the grocery store.

Vice Chairman Pogoda commented that when you go into Shop-Rite, it is right there where the potato chips and (inaudible...) - that's a good point though about the odor, its right.

Comm. Harger added it's from those acrylics and (inaudible...)

Comm. Matto asked if that wasn't their problem though – if they are doing that type of a thing there (inaudible...)

Comm. McGorty commented that it would certainly affect their business.

Vice Chairman Pogoda responded no; well it is but once it is in there (inaudible...) well, they could complain to the manager.

Comm. Matto added that she is just asking because – if it is going to hurt their business then they are going to be...

Mr. Schultz showed Comm. Harger the part of the floor plan showing the partition off with a solid wall and the location of the stations where customers sit down for the manicures and pedicures.

Multiple conversations (inaudible)...

Comm. Harger asked what type of ventilation they would have.

Mr. Schultz responded that they didn't indicate what type of ventilation they'd have.

Comm. McGorty asked if there was a State requirement for that type of stuff.

Mr. Schultz responded that there are codes that have to be met.

Comm. McGorty commented that he'd assume they've complied with that. He asked Rick if they do their diligence on that.

Mr. Schultz responded that they are supposed to and he knows that the Health Department oversees this too.

Vice Chairman Pogoda stated that he would like to see something from the Health Department. He would like to see what they propose, if anything, for venting. It is going to be hard to vent because it is in an open area; it is not enclosed. He'd like to know that before they go and do anything.

Comm. Harger asked for a rear façade elevation. She indicated that she can see where they have the storefront partition, standard (inaudible), tempered glass (inaudible)...

Vice Chairman Pogoda asked if it was enclosed though.

Mr. Schultz responded no, there are partition walls so shoppers don't go walking through there with their carts.

Comm. Matto indicated that there was no woman in the world who would go and have her hair done in an open setting like that – or a man.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. McGorty stated that there are nail places like that in Milford though, in Wal-Mart or someplace, that have a similar open thing like that (inaudible)...

Vice Chairman Pogoda stated that he's seen electronics, IPODs and (inaudible).

Mr. Schultz stated that Staff can get more details on this because it sounds like the Commission wants to table this.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was voted (4-2) to table Separate #5935 for more information from the Health Department. Comm. Kopac and Comm. Flannery (?) voted in opposition.**

**SEPARATE #6126 – H3 PET SUPPLY, 350 BPT. AVE., CAT ADOPTION**

Mr. Schultz stated that this is the second request at this particular location. He reiterated for the newer members that this is a PDD so any unique operations or special events require Commission approval.

Mr. Schultz read a letter he received a letter dated January 3, 2012 indicating that the Stratford Cat Project wishes to hold a public adoption at the H-3 Pet Supply at 350 Bpt Avenue in Shelton from 11 a.m. to 3 p.m. on Saturday, Feb. 4<sup>th</sup> 2012. They anticipate having approximately 20 cats and kittens available for adoption. They have permission to be on the property to hold such adoption events. Stratford Cat Project is a volunteer, registered 501C Rescue Group based in Stratford. Their main objective is to rescue homeless cats and kittens in and around the Stratford area. They do not take in animals from out of the state.

Mr. Schultz stated that he tried to get additional dates and they indicated that they are trying to find another location.

Comm. Flannery asked if they didn't just do an adoption a month ago.

Comm. Harger asked if there was a van or something that they have parked outside.

Mr. Schultz responded that he believes that they do have a van.

Vice Chairman Pogoda stated that something was going on this past Saturday.

Mr. Schultz indicated that a permit was previously granted for them for November. He is trying to get additional dates so that the Commission doesn't have to keep doing this every other month, but they don't know what the dates are.

Comm. Harger stated that she would like some input from the other tenants.

Mr. Schultz asked if she meant insofar these events going on.

Comm. Harger responded yes.

Vice Chairman Pogoda asked if this wasn't something specifically from Shelton because this is Stratford coming down here.

Mr. Schultz responded no, it has always been the Stratford Cat Project. He did find out that they are trying to find a more permanent location, and they may end up being in Stratford. Obviously, having it at a pet supply store is a good marriage and there is adequate parking there. It is difficult because there are a lot of small pet supply stores with inadequate parking. It has to be safe so that people can walk around. He asked if the Commission wanted to table this until he gets more information.

Comm. McGorty asked what the date and hours would be again.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Mr. Schultz responded that it would be Saturday, 2/4/12 from 11 a.m. to 3 p.m.

Comm. Matto stated that she'd like to see them be able to do it without much hassle.

Mr. Schultz indicated that they can approve it. Staff can still solicit the rest of the tenants.

Comm. Harger stated that she thinks that they have some obligation to some of the other tenants. She would like to give them the courtesy to make some type of comment about it.

Comm. McGorty asked Rick Schultz if he had received any negative feedback about it at all.

Mr. Schultz responded no.

Comm. Harger stated that she would like to at least be able to say that they checked with the other tenants.

Comm. Kopac stated that the bank probably closes early on Saturdays as well.

Vice Chairman Pogoda indicated that parking is not an issue – they do have enough parking.

Comm. Matto commented that it is a very low-key event.

Comm. McGorty indicated that he didn't have a problem with it. Just follow up with having someone take a ride by and talk to the other tenants. He's sure Rick would have heard something if there had been a problem.

Mr. Schultz responded OK, if the Commission wants to act on it, they can direct Staff to talk to the other tenants.

Comm. Harger stated that this is the type of thing that was brought up once before about tenants who have signed a lease and didn't expect these things to be taking place.

**On a motion made by Elaine Matto seconded by Thomas McGorty, it was voted (5-1) to approve Separate #6126 and direct Staff to speak to the other tenants. Comm. Josh Kopac voted in opposition.**

**SEPARATE #6119 – HUNTINGTON FIREARMS, 192 RIPTON ROAD, HOME OFFICE**

Mr. Schultz stated that to benefit the newer Commissioners, he would explain that this is the second such application that this Commission has received regarding the use of a single family home for a firearms and a supply sales office out of it.

He indicated that like the first application, Staff directed the Applicant to get letters from the abutting neighbors and he has those letters available. He passed around the location map for this home on 192 Ripton Road. The company name is Huntington Firearms and the owner is Drago Perini. The office area is 150 square feet with one employee, hours of operation 3 p.m. – 7 p.m. Monday through Friday and 11 a.m. – 5 p.m. on Saturday and Sunday. No company vehicles and no signage. Inside equipment includes a gun safe and a PC computer. Most of the sales are through the Internet but some arrivals are taking it but there is no ammunition.

Mr. Schultz indicated that about a year or two ago, the Commission spent a lot of time on this issue because Shelton is not used to having this type of home office. But so far, they haven't had any problems. It is heavily regulated by the Alcohol, Tobacco and Firearms Department. He has letters from the three neighbors that abut this property indicating that they are aware of this request.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Vice Chairman Pogoda asked if they had any letter from the Department of Alcohol, Tobacco and Firearms. He can't recall if they requested one the last time.

Mr. Schultz responded that they wait for the local jurisdiction and what he'll do is request the confirmation that an application has been received and is being processed.

Vice Chairman Pogoda stated that he would want to make sure that is on file for down the road. He recalls that they requested something from the other gentleman with this type of business.

Mr. Schultz stated that some towns don't regulate this and the Department of Alcohol, Tobacco and Firearms just processes it. They do know that Shelton does regulate now because of the first application; so they are awaiting local jurisdiction approval.

Comm. Harger asked about most of it being Internet sales and if it would be direct shipments.

Mr. Schultz responded yes, direct shipments, yes that is what most of it is.

Comm. Harger asked if he would just be planning to receive some at that location.

Mr. Schultz responded yes, correct.

Comm. Harger asked if the applicant was present. Mr. Schultz responded yes.

Comm. Flannery asked the applicant if he would be demonstrating how to use the guns and giving people training on the use of the guns.

**Drago Perini, 192 Ripton Road, Shelton, CT addressed the Commission.** Mr. Perini responded that he would not be giving any safety type of course. Presently in Connecticut, all sales of handguns require that a person have a pistol permit. To get the pistol permit, they would have to have taken a gun safety course. So in order to buy a gun, a person would have to know how to handle it.

Comm. Flannery asked about rifles.

Mr. Perini stated that for longer guns, you would need a hunting license or a pistol license or there is a two week waiting period for a background check.

**End of Tape 1, 7:47 p.m.**

Comm. Flannery asked if he would be demonstrating the rifles though.

Mr. Perini responded no, not shooting them, that's for sure. He would just take it out of the box and show the features and explain any quirks it may have or specific ways to load it, where the magazine goes, and stuff like that. Every gun that comes through goes out with a lock on it. When they get home, obviously, it is up to them to read through the entire owner's manual.

Comm. Harger asked the applicant how he would be securing these guns at his house.

Mr. Perini responded that he has a gun safe that is made of steel with a combination lock on it.

Comm. Matto asked how the Internet sales work. She asked if he abides by Connecticut State law or no State laws or ...

Mr. Perini responded that it is regulated by the Department of Alcohol, Tobacco, and Firearms. Basically, any out-of-state sales have to go through a gun dealer. He would

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

basically ship the item to a local gun dealer. Wherever the person lives, they would go to that gun dealer and provide all of their information and purchase the gun. It's the same thing if somebody wanted to buy a gun here. Everything goes through the gun dealers. You cannot directly ship to a person in another state.

Vice Chairman Pogoda asked if there were any other questions before putting a motion on the table.

Comm. McGorty made a motion and Comm. Harger seconded. Vice Chairman asked for a vote. Comm. Harger, Comm. McGorty and the Chair voted in favor. Comm. Flannery, Comm. Kopac and Comm. Matto voted in opposition.

Comm. Kopac informed the applicant, Mr. Perini, that it was nothing personal against him. His decision to vote no – well, he is a small business owner himself and he thinks it is great thing and that he has a great thing going, exercising his 2<sup>nd</sup> amendment rights. He realizes that the Government hinders businesses to grow (inaudible)...He believes in property rights.

Mr. Schultz stated that a vote of 3-3 is a tie and that's a denial. He asked if there is any information that Staff can get.

Comm. Matto stated that this is just not a good issue for her – gun sales and all of that. Maybe she should just abstain from voting because it is not something that she can cotton up to.

Mr. Schultz indicated that if she abstains, then the motion will go through as approved.

Comm. Matto asked if that would be an appropriate thing for her to do.

Mr. Schultz responded that would be her call.

Comm. Matto stated that she feels as though she would really just be voting emotionally and not...

Comm. Flannery pointed to alternate Comm. Dickal and stated that she would vote for her then.

Vice Chairman Pogoda responded no, she wouldn't because she is not a sitting member.

Mr. Schultz stated that the vote would be 3-2 to 1 abstention, and that would go through.

Vice Chairman Pogoda asked Comm. Matto if she would like to abstain from voting. Comm. Matto responded yes.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (3-2 with 1 abstention) to approve Separate #6119. Comm. Matto abstained from voting. Comm. Kopac and Comm. Flannery voted in opposition.**

**SEPARATE #6127 – PETER VOURAS, 90 HUNTINGTON STREET, BUSINESS**

**Peter Vouras, owner of the Huntington Street Café, 90 Huntington Street, Shelton, CT addressed the Commission.** Mr. Vouras stated that he is proposing to convert his café into a moderate to high end wine shop with 75% wine and 25% high-end spirits. The reason for this is that the Café, as it exists at the moment is sustainable but not necessarily profitable given the recent (inaudible).

Mr. Vouras indicated that he has the turned the Café around from what it was three years ago but he thinks that this is something that this area of town would need. He did an informal survey with some of his customers without giving them any inkling as to his plans. People have told him that they've had to go out to Amity Wines in Woodbridge

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

and all the way to Fairfield, so he thought this would be a nice area for a high-end wine shop.

Vice Chairman Pogoda asked if this was strictly wines or did he also say spirits – hard liquor.

Mr. Vouras responded that it would be more of the high-end liquors such as cognacs and champagne. If you want vodka or gin, it is not going to be the 175 or Popovs and they won't be selling pints or airplane bottles.

Comm. McGorty asked Rick Schultz if there was space for another liquor store. He thought they were close or one away from (inaudible)...

Comm. Harger stated that she was wondering that too and asked what number they were on.

Mr. Vouras stated that there is parking for all of the employees in that building in the lower parking lot. In fact, it would be less parking because they would just come in to buy something and leave instead of coming in and staying for hours.

Vice Chairman Pogoda asked Rick Schultz if he had some history about this.

Mr. Schultz responded yes, that he was here when the whole complex was approved. This is in a commercial zone that allows the sale of alcoholic beverages. They do not have an ordinance nor do they have any separation distance. Initially, it was agreed upon that the coffee shop would not have any alcohol, and then over time the Commission allowed it. They felt very uncomfortable in the very beginning because most of the parking was off the site – the overflow parking. It has been there for many years. The required on-site parking is 7 spaces. This is an area of 1,100 square feet and overall the building is 7,000 square feet. The number of employees will be two and standard hours of operation 10 a.m. – 8 p.m. Parking requirements are separate. The whole evolution has changed because the first owner agreed not to have any alcohol even though the zoning does allow it. It has evolved into what the Commission is hearing tonight. The use is a permitted use.

Comm. McGorty commented that he thought they were closed to being maxed out as to the number of liquor stores they could have.

Mr. Schultz responded that this would be it – based upon the population. It is permitted. They've all been to this shopping center. They do a good job overall.

Comm. Flannery asked if they were going to have the Saturday night bands (inaudible multiple conversations).

Mr. Vouras stated no, but that they've done very well. They've won awards with the Fairfield Weekly (inaudible)...

Comm. Flannery asked why he was doing this.

Mr. Vouras responded that he has a 2 ½ year old daughter and the business model as it exists now is not grow able then he can't live on what he is making right now.

**On a motion made by Thomas McGorty seconded by Elaine Matto, it was voted (5-1) to approve Separate #6127. Comm. Josh Kopac voted in opposition.**

Mr. Schultz indicated that the signage must be in consistent. He asked the applicant if he wanted to come back for the signage.

Mr. Vouras responded that the signage is in compliance with the (inaudible)...

Mr. Schultz commented that it needs to be black and white.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Vice Chairman Pogoda asked if he had a copy of the signage that he was going to put up.

Mr. Vouras responded that he did not.

Vice Chairman Pogoda indicated that they'd like to see something before he puts it up.

Mr. Vouras responded that he understands that they have standards for it and will come back to the Commission.

**SEPARATE #6123 – OAKDALE SELF STORAGE, 472-488 RIVER ROAD, FILLING AND GRADING**

Mr. Schultz stated that the developers of the car storage facility next to the old A&P have excess fill. At the end of the property closest to Cumberland Farms, they have an area that can take the fill and level it off for the future expansion of parking. This is a very controlled area and it is fairly level as it is now. The Commission will be updating their Filling & Grading Regs but this is under the 200 cubic yards too.

Mr. Schultz showed a map of the area for the filling and grading. He indicated that Staff will watch it and make sure that they put up the sediment and erosion control.

Comm. Harger asked what the rear property line would be abutting.

Mr. Schultz responded by showing the location of Cumberland Farms, Danny O's and where it goes into residential.

Comm. Harger asked if they decide to build toward the back, will it create a high area that is going to be up here.

Mr. Schultz responded no. This is a good area and he suggested they take a look at it on River Road.

Comm. McGorty commented that it isn't really a lot of fill.

Vice Chairman Pogoda asked what their intentions were going forward and if it would be for parking.

Mr. Schultz responded that they want to expand the parking. The restaurant there is doing very well and they have an overall need for more parking. When you go into the parking lot, it is on the left side near the restaurant and it won't exceed 200 cubic yards.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was voted (5-1) to approve Separate #6123. Comm. Josh Kopac voted in opposition.**

**SEPARATE #6122 – CYNTHIA FINO, 11 FOREST PARKWAY, BUSINESS**

Mr. Schultz stated that this is a multi-tenant building on 11 Forest Parkway. The building overall is 60,000 square feet. The new tenant is leasing 20,000 square feet. It is a distribution center for luxury tableware. They have 15 employees and the hours of operation are Monday through Friday, 7:30 a.m. to 4 p.m. They have 15 parking spaces allotted to them based upon their lease.

Vice Chairman Pogoda asked if there was sufficient parking.

Mr. Schultz responded yes.

Comm. Flannery asked for clarification as to the location.

Mr. Schultz responded that it was parallel to Long Hill Avenue, where the Post Office is located and goes out to Long Hill Crossroad.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. Harger asked if they had a separate area outside dock for truck deliveries,

Mr. Schultz responded yes and no signage is being requested at this time.

**On a motion made by Joan Flannery seconded by Thomas McGorty, it was voted (5-1) to approve Separate #6122. Comm. Josh Kopac voted in opposition.**

**SEPARATE #6115 – DEVAIR HEADLEY, 465 BPT. AVE., TEMP. STORE HOURS**

Mr. Schultz indicated that this is for Wal-Mart. He e-mailed all of the Commissioners about this. Corporate Wal-Mart out of Arkansas directed the Shelton Wal-Mart Manager to have a temporary opening at 5 a.m. on December 26<sup>th</sup> day after Christmas. This came out of corporate or else the manager would have requested it sooner.

Comm. Flannery asked if this was for last year.

Comm. Matto asked how much advance notice they normally get.

Mr. Schultz responded yes, the day after Christmas. They requested to open at 5:30 a.m. instead of their normal hours of 8 a.m.

Vice Chairman Pogoda stated that they have to direct something right now – that maybe three months in advance. The local manager has to get together with Corporate. They have been pulling this over the years since he's been on this Commission – they come in after the fact and the store hours or special event is going on or it's already over by the time they get it. They have to stop this.

Comm. McGorty stated that they always back in with these things.

Comm. Flannery stated that she thought maybe they were talking about doing it in 2012.

Mr. Schultz indicated that as soon as the Wal-Mart manager e-mailed him, he sent a note to all the Commissioners. He was told to put it on the agenda and to tell him not to do it again.

Comm. Harger commented that Wal-Mart, being the corporation that they are, doesn't do anything last minute. They have everything planned out so they are no excuses.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to approve Separate #6115. Comm. Josh Kopac voted in opposition.**

**PUBLIC PORTION:**

Vice Chairman Pogoda asked if there was anyone wishing to address the Commission on any issue not on the agenda.

**Richard Widomski, 49 Christine Drive, Shelton, addressed the Commission.**

Mr. Widomski stated that he wanted to address the Downtown Subcommittee Meetings that are being held at the Economic Development Corporation. He didn't know how to handle this so he addressed this to Comm. Harger. He asked if he should read it.

Mr. Schultz responded that he should just go ahead and read the letter.

Mr. Widomski read the following letter into the record:

49 Christine Drive  
Shelton, CT 06484  
January 9, 2012

Virginia Harger  
Downtown Subcommittee Chairperson

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Shelton Planning and Zoning Commission  
54 Hill Street  
Shelton, Connecticut 06484

Dear Chairperson Harger,

The Planning and Zoning Downtown Subcommittee meetings are held off site at the Corporate Headquarters of the Shelton Economic Development Corporation. These meetings are held in early morning and are difficult for most people to attend. Why are the meetings held off site at a private not-for-profit corporate office?

At first glance it may appear that it is a good fit for the Planning and Zoning Commission Subcommittee to meet at the private corporate meeting room due to the fact that the private corporation is located in the midst of downtown. The private corporation location also makes it more convenient for the president of the corporation and perhaps also for those board members who wish to attend. That convenience for a private corporation president and its members could be looked upon as a slight to the citizens of the City of Shelton, especially when there are a number of non-residents in a leadership role of the private corporation. Perhaps the corporation president should make the trip to City Hall if he or any member of the private corporation board of directors is genuinely interested in attending the meetings.

Land use boards and commissions have a responsibility not only to the corporate community but also to the citizens and those that are directly and indirectly affected by those land use decisions. To sit in the living room of a private corporation discussing land use options long before the item reaches land use boards or commissions is concerning. To have land use boards and commissions reach agreements and compromises with a private corporation *before* the issue is open to the public at a public hearing breaches the openness and transparency that we all expect from our public officials. It gives the appearance of a joint meeting with a private corporation long before the issues and plans are released to the public. The advance information could possibly taint the decision making process of those land use decision makers who, because of these meetings, may already have had their mind made up long before the public hearing.

Are the land use boards ready and willing to meet with neighborhood groups and those that have an interest in the planning of the city on the same terms afforded to the private Shelton Economic Development Corporation? Will the same opportunity made available to a private corporation to meet in advance of a public hearing or public meeting be given to the citizens of Shelton? Are the land use boards willing to meet in the living room of those Shelton residents who may seek the same courtesy given to a private corporation that have non-residents on their board or serving in a leadership role?

Public meetings held at private corporate offices should raise questions in the minds of those members of land use boards and commissions. Is it a practice of these individuals to hold meetings at private corporate offices before meetings are held in public offices or buildings? Why meet at private corporate headquarters to review zoning matters? Why not initiate the beginnings of true openness and transparency by properly meeting Shelton City Hall where the meetings belong? Otherwise, it sure raises eyebrows!

Very truly yours,

Richard Widomski

Comm. Harger indicated that she would like to respond to some of the comments made by Mr. Widomski. First, she thinks there are a lot of misrepresentations in this letter. She stated that the meetings are held offsite. She came into the already existing Board and, not to excuse it, but the early hours are due to the fact that everyone on it is tied up during the day. She doesn't think that there's anyone on the Board that is able to stay home and not have to go to work. She certainly works and this time is when she can fit it into her workday. And from talking to others that attend the meetings – the area businessmen – this is more convenient for them as well. So they continued with that. It was questioned even as much as a month ago.

Comm. Harger commented that she thinks Mr. Widomski has characterized this as being private with no transparency. She indicated that they have never not allowed anyone to attend their meetings. She stated that Mr. Widomski knows this because he has attended several of them. She indicated that she really challenges his way of representing this. Any group or person that has any concerns about anything about Downtown is welcome to come. They have had people on their agenda that are not businessmen but town residents. Most recently, in the summer or spring, a resident by AJ's Auto Body came with concerns about the neighbors and the other tenants.

Comm. Harger indicated that she thinks Mr. Widomski should think twice about some of the statements that he's put in this letter because she takes exception to them.

Mr. Widomski commented that he agrees with what she first said about it being for the convenience of the businessmen – imagine the slight to the citizens of Shelton (inaudible)...

Comm. Harger asked when he would suggest that it be held.

Mr. Widomski continued to say that it was an inconvenience to the people, the working force, and the citizens of Shelton that can't get there at that hour. Fortunately for the businessperson, he is able to get away and make his own hours and make his own meetings. He added that it is a private corporation – whether they like it or not – they are a not-for-profit corporation and that is what they are proud of saying. They have information relating to that subject – saying that they are a private corporation. Do you meet at any other company? Do you go to AVCO or to Sikorsky?

Comm. Harger responded that while that is a private corporation, he affords the DSC the ability to work there.

Comm. McGorty added that these are all volunteers – they work for a living too.

Vice Chairman Pogoda stated that their members are volunteers and their hours are just as important as anybody else's hours. They do not work for any pay. Their members are making themselves available to whoever can be there at that time. He asked Mr. Widomski if he was suggesting 5 o'clock in the evening.

Mr. Widomski responded that he suggested to Vice Chairman Pogoda that if he didn't like the hours, then he should run for some other office or don't run at all or don't get on a subcommittee.

Vice Chairman Pogoda indicated that they set the hours, not the public. They set the hours.

Mr. Widomski responded that they're there for the convenience of the public - he's missing the point – they are there for the convenience of the public

Vice Chairman Pogoda commented that they are volunteers and this is when they are available to make the meetings. Without them being at the meetings, the public has no meetings to go to.

Comm. McGorty added that it is generally easier to get there in the morning than it is to leave work in the middle of the day to get there (inaudible).

Mr. Widomski asked Comm. McGorty how he got here tonight.

Comm. McGorty responded that he got here by car.

Mr. Widomski indicated that Comm. McGorty knows what he means and he doesn't have to be a wise ass.

Vice Chairman Pogoda told Mr. Widomski to stop - that was it – he's done and he is finished with this – Good Night. He indicated that he does not expect to have vulgarity at their meetings. He reiterated to Rick Schultz that he doesn't expect to have this type of vulgarity at his meetings.

Mr. Widomski apologized and indicated that he didn't have to get in that tone.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Vice Chairman Pogoda indicated that he didn't care about that – he just doesn't need vulgarity at a meeting. This is ending. He asked if there was anyone else in the audience that has any comments about anything not on the agenda.

**Irving Steiner, addressed the Commission.** Mr. Steiner stated that there are minutes that have been released – from December 13<sup>th</sup> and they aren't approved. There are mistakes in the minutes and he was curious about the legitimacy of those minutes and why they were released. He asked if they didn't have to be approved first.

Vice Chairman Pogoda responded no. They are released and they have it on the agenda to be approved. If there are any questions by the members – the members generally read the minutes from the previous meeting – so they would be approving them today.

Mr. Steiner stated that he didn't see that on the agenda.

Comm. Flannery indicated that the November 1<sup>st</sup> minutes are on tonight's agenda.

Vice Chairman Pogoda indicated that they haven't been approved yet.

Mr. Schultz stated that they haven't been - they haven't been approved yet because the Commission tabled the November minutes.

Mr. Steiner asked if the Board was allowed to release minutes without approval.

Mr. Schultz responded yes, State Statutes require that they be posted. They aren't approved until this Commission approves them though.

Mr. Steiner asked if there was any possibility that a note could be put on the minutes indicating that they are not approved.

Mr. Schultz indicated that Karin would take his request at this time.

Mr. Steiner stated that it would be nice for the public to know that the minutes are not approved or he wouldn't have gotten so upset about it. He added that he thinks it is a legitimate request.

Mr. Schultz asked if there were any errors in the text itself or did he just want to know that they aren't approved.

Mr. Steiner indicated that there are errors in the text.

Mr. Schultz responded that he needs to relay those to the Commission.

Mr. Steiner stated that he would prefer to leave that to the Board to review rather than he get involved as an outsider. He was just questioning if the minutes should have been released and if they are released without approval that a note be put on them.

Comm. Flannery asked which minutes were going to be approved tonight.

Mr. Schultz responded that it would be the November 1<sup>st</sup> minutes because the Commission tabled them on December 13<sup>th</sup>.

Vice Chairman Pogoda asked if there was anyone else from the public wishing to address the Commission. With no further comments, he asked for a motion to close the Public portion of the meeting.

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

**NEW BUSINESS**

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

**APPLICATION #12-01 PETITION OF STEVEN BELLIS ON BEHALF OF SHELPET, LLC FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS AND BASIC DEVELOPMENT PLANS FOR PDD #2 (SHELTON SQUARE SHOPPING CENTER: FREESTANDING AUTOMOBILE FUELING FACILITY WITH CANOPY), 900 BRIDGEPORT AVENUE, (MAP 9, LOT 15) – ACCEPT AND SCHEDULE PUBLIC HEARING.**

Mr. Schultz stated that based upon the regular members schedules, Staff is suggesting a public hearing date for March 13, 2012. He added that, for the benefit of the new members, the Commission must schedule a public hearing within 65 days before getting any extensions. March 13<sup>th</sup>, the second Tuesday of the month, is the first regular P&Z Meeting for March and it is within those 65 days.

**Steven Bellis, representing Shelpet, LLC addressed the Commission.** Atty. Bellis stated that he has no objection to that date.

Comm. Matto asked how that works and how a public hearing is posted.

Mr. Schultz responded that there would be two notices that go in the Connecticut Post. Normally, the Commission tries to have them on the fourth Wednesday of the month, but because of scheduling of the regular members, six members wouldn't be available until March 13<sup>th</sup>.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to accept Application #12-01 and schedule a public hearing for March 13, 2012. Comm. Josh Kopac voted in opposition.**

**PROPOSALS OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND THE SUBDIVISION/ZONING REGULATIONS PERTAINING TO OPEN SPACE SET-ASIDE AND THE REWRITE OF SECTION 32: EXCAVATION, FILLING, GRADING AND/OR REMOVAL OF EARTH MATERIALS: SCHEDULE PUBLIC HEARING**

Mr. Schultz stated that again, Staff is recommending the date of March 13<sup>th</sup>. Before all the members leave tonight, he has copies to distribute for all the commissioners to read. The members of the subcommittee that drafted them are, of course, already aware of them. He wanted to let them know that all the referrals have been made to the Council of Governments in their region. The Open Space Set Aside which is being increased from 10% to 15% was done in cooperation with the Conservation Commission. Tomorrow he will be sending them the public hearing date because he knows that representatives will want to attend to share their comments.

Mr. Schultz stated that he's not anticipating too large of a crowd. Obviously, the Open Space Set Aside will have some interest. They will be having it in the Auditorium.

**On a motion made by Elaine Matto seconded by Thomas McGorty, it was voted (5-1) to schedule a public hearing on March 13, 2012 for Proposals of the Shelton P&Z to amend Subdivision/Zoning Regulations & Re-Write Section 32. Comm. Josh Kopac voted in opposition.**

**OTHER MATTERS**  
**APPROVAL OF THE MINUTES: 11/1/11**

Vice Chairman Pogoda asked if everyone had a chance to look at the November 11, 2011 minutes. He asked for a motion if there are no questions, additions or omissions.

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

Comm. Flannery asked if she could discuss the December 13<sup>th</sup> minutes because she has something that she needs to say about them. She indicated that in the minutes she talked

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

about the illegal tree cutting on Armstrong Road and Cranberry Hill Estates. Comm. McGorty told her that didn't exist and she is stating tonight that she recalls meeting back in 2009 where they proved that the tree cutting was illegal. She submitted copies of a signed affidavit stating that the tree cutting was illegal.

Comm. Flannery indicated that she wanted to make sure that this gets into the record tonight. She doesn't know why it wasn't in the record but she remembers the specific meeting where this was read three years ago.

She read the attached affidavit signed by Vladimir Orduz dated June 8, 2009.

**\*See attached copy of AFFIDAVIT, State of Connecticut, County of New Haven Superior Court dated June 8, 2009 signed by the Commissioner of the Superior Court.**

Comm. Flannery added that there is no question about it. This affidavit proves that there was illegal clear-cutting on Cranberry Hill Estates.

Comm. McGorty responded that he doesn't think that was the question. Everybody knew that there had been illegal tree-cutting.

Vice Chairman Pogoda added that it was never an issue.

Comm. McGorty indicated that Comm. Flannery stated that it was done by John Guedes and he doesn't believe that he was ever prosecuted for that. He believes that there was something that came up that he wasn't privy to. He's never seen this document nor does it change anything. No one came to them and said that he was found guilty of clear-cutting his property. He added that for the record, that is not what he said. She misunderstood what he said.

Vice Chairman Pogoda commented that it was obvious that there was tree-cutting but nobody was ever prosecuted for that. They did see people and they were aware of somebody seeing people cutting trees on that land, but nobody has ever been brought forward and prosecuted as being the people that cut these trees. Whether Mr. Guedes was there or not, he was never prosecuted.

Comm. McGorty indicated that was his point. He added that was why all the work was done. His point was that he wanted his bond to be released and she had over a year and a quarter to go out and review it; they're holding somebody hostage from receiving his bond back and he's already done what he's supposed to do. Comm. McGorty stated that just because Comm. Flannery hadn't gotten out there to inspect it – he didn't know what was supposed to come of that but it just wasn't right.

Comm. Flannery responded that was the meeting before.

Comm. McGorty stated that she had plenty of time to check it out and the work had already been done.

Comm. Flannery commented that he made that point that he just stated now, but it was made after she had been there. She went there with Nancy.

Comm. McGorty stated that he made a motion to release the bond that night and it went by the wayside and then another motion came in to table it so you could go look at it.

Comm. Flannery indicated that he was getting it all wrong.

Comm. McGorty stated that he thinks that they are just going to agree to disagree and he's OK.

Comm. Flannery stated that she's talking about the minutes of December 13<sup>th</sup> and that was after she made the visit.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. McGorty responded that he was good - OK.

Mr. Schultz indicated that they would include her hand out in the minutes for tonight's meeting.

**8-24 REFERRAL: PROPOSED LEASE AREA FOR ECHO HOSE AMBULANCE CORPS ON PORTION OF PROPERTY AT 100 MEADOW STREET**

Mr. Schultz read an 8-24 Request from the Mayor dated December 29, 2011 which reads that he was requesting an 8-24 Referral from the Planning & Zoning Commission for the purpose of leasing the building and a portion of the property at 100 Meadow Street. The legal description of the property is provided in Enclosure 1.

**\*See attached correspondence from Mayor Mark Laretti to the Planning and Zoning Commission dated 12/29/11.**

Mr. Schultz passed around the Enclosure 1 map. Essentially, as the Commission is aware the EMS Building was built on the Shelton High School property. They now want to define it and lease it from the BOE. It was never done formally. It is a 50 acre Shelton High School property controlled by the Board of Education.

Comm. Matto asked for clarification as to what an 8-24 Referral was.

Mr. Schultz responded that it was a reference to a Connecticut State Statute that requires this Commission to make a recommendation to the legislative body, which is the Board of Alderman before the City can purchase, sell, lease or improve.

He also read a letter of recommendation from the City Engineer dated January 4, 2012.

**\*See attached correspondence to P&Z Administrator, Richard Schultz, from City Engineer, Robert Kulacz, dated 1/4/12.**

**On a motion made by Thomas McGorty seconded by Elaine Matto, it was voted (5-1) to report favorably on the 8-24 Referral for the proposed lease area for Echo Hose Ambulance Corps on a portion of property at 100 Meadow Street. Comm. Josh Kopac voted in opposition.**

**SCENIC GROVE SUBDIVISION: REQUEST FOR REDUCTION OF PERFORMANCE BOND**

**Atty. Steven Bellis, representing Scenic Grove Estates, addressed the Commission.**

Atty. Bellis stated that there were a couple of things that he wanted to bring to the Commission's attention. He indicated that back on October 1, 2011, their legislature changed the subdivision statute. They may have been briefed about this by Corporation Counsel, but by and large, what they said that when a member makes a request, they have 65 days to act to give back their bond. The second big portion of it is that they did away with maintenance bonds. Therefore, they can't have a maintenance bond anymore, once the City accepts the road. He doesn't know how the Commission will plan to handle that in the future, he isn't sure.

Atty. Bellis stated that for this particular application, they did put up a bond of \$390,000 and that was at the recommendation of the City Engineer who provided a breakdown on Page 2 of how he came up with that \$390K figure. He stated that all the work that is listed on Page 2 has been completed. On the front page, there is a list of items that are not done. If they would look it they will see it lists "planting trees" which can't be done during this time of the year, and putting some vegetation in the detention pond area. Also to install a monument. The work left to be completed would cost \$17,200. Atty. Bellis suggested that the bond be reduced from \$290,000 to \$17,200.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Mr. Schultz stated that the City Engineer is recommending a higher amount based upon his protocol and he would read that letter. He added that the Commission has the final say; the State Legislator really threw them a curve ball. Now when a request for a bond release is made, the City now has to determine that it's not ready and punch list has to be prepared quantifying the dollar amount or they vote to release it and send their recommendations to the BOA, because they have the final say. This all has to be completed within 65 days which is absurd. They are trying to work on getting that 65 days extended to 90 days. It is difficult to get things done within 65 days when they require two actions because there are so many variables.

**\*See attached correspondence dated 1/5/12 to P&Z Administrator, Richard Schultz from the City Engineer, Robert Kulacz.**

He read the City Engineer's letter dated January 5, 2012 recommending that the bond be reduced 25% to \$97,500. Mr. Schultz stated that 25% is consistent with the old way of which would have been maintenance bond. However, the Applicant is saying that they have finished everything and broken it down and the value in their opinion is \$17,511. Mr. Schultz commented that usually this Commission will rely on the City Engineer's recommendations to determine the dollar amount.

Atty. Bellis stated that he did the 25% and he understands where is coming from – that was the old maintenance bond. They used to just reduce it down to 25% and hold it even after the City accepted it for one year. But that is illegal now and they can't do it. Atty. Bellis indicated that technically, because he didn't itemize what needs to be done, they could release the whole bond; however, he is not asking for that.

Mr. Schultz responded that, on that note, he would recommend that they not do that.

Atty. Bellis indicated that he was saying that this is what is left to do and there's a new procedure now. He is giving him the benefit of the doubt. Hopefully, Rick can talk to him later and have him put the dollar amounts and itemize it. But they can't do 25% for a maintenance bond anymore.

Vice Chairman Pogoda asked Rick Schultz if they had the ability to modify it.

Mr. Schultz responded yes, absolutely, it is the Commission's call.

Comm. McGorty agreed that it isn't because he doesn't trust Steve's numbers but he'd like something from their people. He suggested \$25,000.

Atty. Bellis responded that \$25,000 would be fine.

Comm. Flannery commented that she would like to make it a little bit higher in case the trees die.

Atty. Bellis responded that if the trees die – well, he doesn't really know how that works. He's sure that they would have to replace them but \$25,000 should cover it.

Comm. McGorty stated that he wanted to make a motion for \$25,000.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted to approve the request for a reduction in the Performance Bond to \$25,000 at Scenic Grove Subdivision. Comm. Josh Kopac voted in opposition.**

Mr. Schultz stated that as a side note, the Zoning Subcommittee is going to be getting a letter from Corporation Counsel for its Thursday meeting on this very issue. There is a lot happening on the sidelines to extend that 65 days to 90 days.

Vice Chairman Pogoda asked if that was being worked on right now.

Atty. Bellis responded that it is already a law and they are stuck with it.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Mr. Schultz stated that there is movement on his professional organization, American Planning Associates, Connecticut Chapter.

Atty. Bellis added that it is a very complicated issue for both sides.

### **PAYMENT OF BILLS**

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (5-1) to approve the payment of bills, if funds are available. Comm. Josh Kopac voted in opposition.**

### **STAFF REPORT**

**\*See attached P&Z Report dated 1/10/12 from Richard Schultz, P&Z Administrator.**

Mr. Schultz reviewed the P&Z Staff Report which included ZBA Agenda items, Subcommittee updates, ZEO Enforcement Program items, filling and grading projects, planning matters such as updating the local zoning regs and subdivision regs. and the upcoming meeting schedule.

#### Cranberry Estates

Comm. Flannery stated that she and Nancy Dickal went to Cranberry Estates to look for the fire hydrants. They found three fire hydrants. One was about 200 feet from Daybreak Lane. They spoke to the developer who was there. He reassured them that the hydrant closest to Daybreak could be used by the people on Daybreak if the Fire Dept. wants to. They would have to go 200 feet to the fire hydrant to hook up to it. The developer indicated that no fencing would be allowed so that there would always be a clear path to get to that fire hydrant.

Mr. Schultz stated that he would send a letter to the Fire Chief and Fire Marshal acknowledging the use of that fire hydrant. It is important that they get the communication. He doesn't want this project to be done and then there is a fire at the end. They need to put a line down, and the association needs to know about it if a line needs to be put down. They may need an agreement or something so he would like to send them a letter acknowledging that. He added that there is no right-of-way.

Comm. Flannery indicated that they also spoke to the owner on Armstrong Road about the path and how deep it was. They said that they would be willing to put stairs so that it isn't so hard to come down.

Mr. Schultz stated that the BOA is going to be taking it up whether or not they are going to approve or deny a pedestrian easement.

Comm. Flannery commented that they said that they are going to make it so that pedestrians can walk it.

Mr. Schultz stated that if the BOA doesn't accept that public pedestrian easement, then it is private property.

Comm. Flannery indicated that it is still public.

Mr. Schultz responded no.

Comm. Flannery indicated that it would still be open space though.

Mr. Schultz responded no, it is private open space so; Joe Public can't walk on it. The Association can and anyone that they invite.

All P&Z Meeting Minutes are in DRAFT version until final approval by the P&Z Commission.

Comm. Flannery asked if the Aldermen can be aware that he volunteered to put a path there.

Mr. Schultz responded that the request is to allow the pedestrian easement so the public can walk on it but it is now in the Board of Aldermen's hands. If they reject it and the developer still wants to do it – they can do whatever they want.

Comm. Flannery asked if the Aldermen will be made aware that the developer has stated that he'll make this a safe path for people to walk on. He is willing to go the extra mile to make this safe and to add stairs.

Mr. Schultz responded yes, he'll make sure that is conveyed to them. He added that it is important to understand that the BOA has the final say on the acceptance of roads, public property and whether they want to accept public open space. They can accept or deny it for a variety of reasons.

### **ADJOURNMENT**

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn at 8:45 p.m.**

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary