

SHELTON PLANNING & ZONING COMMISSION March 13, 2012

The Shelton Planning and Zoning Commission held a regular meeting on March 13, 2012 at 7:00 p.m., Auditorium, 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present: Chairperson Ruth Parkins
Commissioner Nancy Dickal (alternate for
Comm. J. Flannery)
Commissioner Joan Flannery
Arrived 7:10 p.m./Departed 10:08 p.m.)
Commissioner Virginia Harger
Commissioner Josh Kopac (alternate)
Commissioner Elaine Matto
Commissioner Thomas McGorty
Commissioner Anthony Pogoda

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

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

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

Chairperson Ruth Parkins called the public hearing to order at 7:00 p.m. with the Pledge of Allegiance, a roll call of members present, and a review of the procedures for a public hearing.

PUBLIC HEARING

APPLICATION #12-01 PETITION OF STEPHEN 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: FREE-STANDING AUTOMOBILE FUELING FACILITY WITH CANOPY), BRIDGEPORT AVENUE (MAP 9, LOT 15)

Secretary Virginia Harger read the call of the hearing and five pieces of correspondence.

1. ***See attached correspondence addressed to P&Z Chairperson Ruth Parkins dated March 13, 2012 from John Troutman, Ecological Consultant (credentials included).**
2. ***See attached correspondence addressed to Richard Schultz, P&Z Administrator dated March 8, 2012 from James Tortora, Fire Marshal.**
3. ***See attached correspondence addressed to Richard Schultz, P&Z Administrator dated March 8, 2012 from Chief Joel Hurliman, Shelton Police Department.**
4. ***See attached correspondence addressed to Richard Schultz, P&Z Administrator dated March 6, 2012 from Robert Kulacz, City Engineer.**
5. ***See attached correspondence addressed to Richard Schultz, P&Z Administrator dated February 3, 2012.**

Commissioner Flannery arrived 7:10 p.m.

Atty. Stephen Bellis, on behalf of the Applicant, Shelpet, LLC addressed the Commission. Atty. Bellis submitted preliminary information including the certified

mailing receipts from property owners within 200 feet, photos of two posted public hearing notices and a list of property owners.

Atty. Bellis stated that this is an existing, obviously old PDD – Number 2, it is one of the older ones that they have. He indicated that he was present under Section 34.14 which is a modification of the PDD, which is allowed under PDD's by having a public hearing.

Atty. Bellis indicated that the reason that they were asking for the modification is to change the Statement of Uses and Standards to allow a refueling station. He is not here tonight with the detailed development drawings; that would require a second public hearing. He is not combining the two hearings tonight. This is only the initial concept plan that he'll be showing. If there are some deficiencies that are referred to in some of the correspondence, he thinks that they will probably more appropriately be shown under the second phase which would be the detailed development drawings. He'll address them; however, a lot of times they will combine the hearings and the Commission will hear the initial concept and the detailed development plan but he is not doing that tonight.

Chair Parkins thanked him for the clarification.

Atty. Bellis stated that as mentioned by Comm. Harger, the Commission had asked him to rewrite PDD #2 because it was old and it didn't conform to the more recent PDD's as far as Statement of Uses and Standards. The significant change that he was present for is only for one thing and that is to add a refueling station. That is found in "H" under Permitted Uses.

Atty. Bellis read "automobile refueling station with not less than one on-site employee excluding commercial tractor trailer trucks." He stated that was the primary reason and the modification that he is seeking here. He did clean it up and put the whole PDD into a format that they are more familiar with now. He stated that he could work with Staff to make any corrections, additions or deletions on the other items in the Statement of Uses.

Atty. Bellis stated that he wanted to introduce Paul Dumont, representative of the Applicant and Timothy Onderko, PE from Langan Engineering. Atty. Bellis stated that before the engineer discusses the drawings he wanted to point out that they did receive the initial letter from the City Engineer. In light of that letter, they took some of those recommendations to heart and changed their plans, specifically some of the traffic flows. There might have been some confusion as to what set of plans the engineer was referring to. There was an initial set of plans submitted and plans submitted after reviewing his letter and suggestions. He asked Mr. Onderko to begin his presentation.

Timothy Onderko, PE, Langan Engineering and Environmental Services addressed the Commission.

Comm. Flannery asked if the City Engineer looked at these plans since they were revised.

Mr. Onderko responded yes, that is what he commented on in his second letter. Mr. Onderko commented that he'll be discussing the revised plans.

Mr. Onderko explained the existing conditions of the shopping plaza and showed an aerial photo of the entire plaza and indicated their focus location on the south and west side. He showed the location of the existing Stop & Shop and the existing bank building which they are proposing to demolish. He showed the location of the signalized driveway to Bridgeport Avenue and the existing Burger King.

Mr. Onderko pointed out the location of the existing circulating drive going from the entrance off of Bridgeport Avenue to the front of Stop & Shop and the truck access drive around the back of Stop & Shop. He indicated that all of their work is focused on the area of the existing bank and occurs within the curb lines that create that parcel for the bank. They aren't proposing any work to the circulating drive that goes to the front of Stop & Shop or to the truck access drive going to the Stop & Shop loading dock.

Mr. Onderko showed a different color-blocked rendering of the proposed condition and showed the existing curb line that creates the bank parcel. He indicated that the existing bank is approximately 9,900 square feet, a two-story building with three drive-thru lanes underneath the second story. They are proposing to take the building down and replace it with a five pump fueling facility. The pumps are double-sided allowing up to 10 cars to fuel at one time.

Mr. Onderko stated that on the side of the canopy and pumps would be the location of the underground fuel storage. It would only be unleaded fuel, no diesel. This is purely for passenger cars and small trucks; it is not a contractor refueling area with diesel pumps. Based on the first comments from the City Engineer, they closed off the existing drive allowing the present entrance to the bank parcel to create a long, closed off throat.

Mr. Onderko stated that the City Engineer's concerns were that people would actually weave across the intersection to enter the fueling facility. They found that to be a reasonable request and they closed that part off. Now, they have one driveway into the fueling facility and one driveway out for one-way circulation. They anticipate that most users would be in the shopping center already. He showed where cars would enter the fueling facility and line up into and behind one of the pumps and how they would exit to the signalized drive on Bridgeport Avenue.

Mr. Onderko indicated that the fueling facility would not have a convenience store. It doesn't do any auto repairs. The kiosk itself is only about 115 square feet. The front half is for the attendant with the cash register and controls for the fuel system. The back portion is a handicapped bathroom for their use only and not for public use. The kiosk is a self-contained unit. There are no gallons of milk or anything like that. They may have a rack at the end of one of the pump islands for windshield washer fluid or engine oil.

Mr. Onderko stated that with these site improvements, they are proposing a significant upgrade to the existing landscaping. Presently, there are only a couple of shade trees and some shrubbery. They are proposing 25 new shade trees, 219 shrubs and 1200 perennial and grass plantings. There will be a significant upgrade to the landscaping which will be defined as they get into the detailed site design. Additionally, they'll propose new site lighting to serve the area. The new facility is state-of-the art and uses flush-mount LED lights under the canopy to keep the lighting focused to the fueling facility area and not to the surrounding areas of the shopping center.

Mr. Onderko stated that in regard to site circulation, they envision the refueling truck to come once every two or three days. The truck would spend only about 20 or 30 minutes on site so its interaction with the fueling facility is fairly minimal. They envision the refueling truck to follow the same route as the users of the gas station entering from Bridgeport Avenue. They have designed the layout of the tanks and canopy so that the refueling operation doesn't hinder a vehicle getting into or out of the pumps. They have the room and have placed the tanks and pumps in such a way so that the truck can pull to the side of the canopy, allowing users to enter and exit. The truck would go out the same exit as the users. Trucks could also go to the back of Stop & Shop and turn in the loading dock area to get back out to Bridgeport Avenue or continue across the back of the Shopping Center to Armstrong Road. They anticipate that they will spin just like every other truck at Stop & Shop does but also have provisions for them to exit onto Armstrong. The loading wouldn't be any different from what the Center sees today.

Mr. Onderko stated that the development looks to reduce the existing impervious area that currently exists through the parking and the bank building and the drive thru lanes by about 5000 square feet. They are moving in the right direction with reducing run-off. In regard to the comments about water quality, they propose to use underground infiltration systems, where possible, to help reduce the flows that leave the site. Currently, they flow to the wetland area along Bridgeport Avenue. They would use a hydrodynamic separator to treat any of the run-offs from the paved areas before it is discharged off of their site. Those would also be incorporated into their detailed design plans.

Mr. Onderko indicated that they submitted a revised traffic generation summary to the City Engineer for his review. They found from using the ITE (Institute of Traffic

Engineers) rates that the existing bank with the drive thru and office actually generates more traffic on a Friday than the proposed fueling facility would generate. On a Saturday, they are about 15 cars more because they are assuming that the office would be closed with only bank use on that day. On a Saturday, the bank would generate about 80 cars in the peak hour; the fueling facility would generate about 94. The 94 cars are based upon the reductions that the CT DOT allows them to take. They only allow them to assume that 20% of the users to a gas station are already on the roadway network. The State has them assume that 80% of the people using this gas station drove from somewhere else to get to the station as opposed to people going to Stop & Shop. The fueling facility generation numbers are conservative from his point of view because the State really restricts the amount of credit that they are allowed to take for cars that would already be on the roadway network and have them define the gas station as a destination, although most people would agree that it is not. Mr. Onderko indicated that he'd be happy to answer any questions on their operations or components of the station.

Chair Parkins asked if there was an air pump proposed at all.

Mr. Onderko responded yes, air pumps are required by the State of Connecticut at all gas stations. They can't open until they have one and it has to be free.

Chair Parkins asked where they were proposing to put that.

Mr. Onderko responded by showing three parking spaces proposed internal to the fueling facility lot and two pads. One pad would be the electrical meter and the concrete pad next to it would be for the air pump and a vending machine, if permitted.

Mr. Panico asked how many cars he could stack on site, off of the access driveway. He added that it is a very important access driveway; it is the only driveway for the customers of the shopping center that interconnects the two entrances.

Mr. Onderko responded yes and they can stack 10 cars at the pumps before they get into queuing behind them. He could lay it out and provide measurements, but he thinks that they'd be able to fit safely another 10 cars behind the 10 cars already there.

Mr. Panico stated no, to get the 10 pumps, they are tandem (2-2, 2-2, 2-2) except for the center aisle. So, if there are two, the most they can do is put one car waiting behind the other two cars. He indicated that he frequents the gas station at Stop & Shop in the Amity Shopping Center frequently and they operate off of one of the secondary aisle. It doesn't take long before you can't get through that aisle. He indicated that it has happened to him many times. He asked how this was different.

Mr. Onderko agreed and stated that this is different because they have a significant area of asphalt behind their pumps compared to Amity. The Seymour fueling facility also has a long loop to come around. He showed a dimension site plan and explained that it is a 30 foot dimension behind the attendant kiosk which makes this dimension from the curb to the back of the canopy on the order of 43 feet. A car parked at this pump has his back bumper at the pump so they would have on the order of 55 feet, almost 3 car lengths behind.

Mr. Panico asked how long the pump island was – the double pump island.

Mr. Onderko responded that it was 49 feet. It would be a little short.

Mr. Panico commented that it's (inaudible) bumper to bumper. At one time, early on, they saw a preliminary plan that reversed the circulation. It exited to that driveway which has considerably less potential for causing congestion on that driveway. He asked what happened to that plan.

Mr. Onderko responded that with their first submission the City Engineer had some concerns with; it was actually rotated 90°. He showed how they would load from the side pointing toward the supermarket. He stated that once they were asked to close that driveway nearest to the four way intersection, it made sense to either enter from here

(rotating the station and come in the back) or enter from the other side. They chose to have this as the entrance and they anticipate that the majority of vehicles using the station would be coming from the front of the supermarket.

Mr. Panico indicated that is usually not true.

Mr. Onderko responded that it is for Stop & Shop gas stations just because of ...

Mr. Panico stated that he buys their gas all the time because his wife shops there all the time, but the shopping and the gas don't occur on the same day.

Mr. Onderko responded yes, but they do for many customers – maybe not all.

Mr. Panico commented that he should stop and watch the operation sometime to see where the cars are coming from because not many come from the parking lot.

Mr. Onderko responded that they have done counts in their centers to help narrow in their pass by numbers and the shared trip use could be on the order of 50% of users from the gas station come from the store. He stated that was their logic but they can certainly discuss it. Their logic for entering here as opposed to having them drive by the station to come around to the back. They thought it was more appropriate to have them enter on a shorter run. He doesn't think that spinning the station changes their operation other than it makes the entrance a little bit more difficult to get to for a customer.

Chair Parkins commented that they will have to revisit that.

Comm. Flannery asked if the hoses are going to be able to reach to the opposite side of the car. She added that she knows that a lot of the gas stations have shortened them lately and it adds to the congestion at the gas station.

Mr. Onderko responded yes, they reach both sides. Some people don't like pulling it to the other side but it is capable of doing it. He knows that in Seymour when the line goes out to the ATM, it really moves the line along.

Comm. Harger commented that the majority of people coming in that intersection are taking a right going to Burger King or taking a left they are going to Stop & Shop. The only traffic going down that long driveway would be the tractor trailers making deliveries. She asked if the station could be pushed up with the entrance down the back.

Mr. Onderko responded yes, it could and they looked at that but their logic was whether a car enters from Bridgeport Avenue or from the front of the store, this seemed like the ideal place to have it.

Comm. Kopac asked the average amount of time it takes a car to fuel up.

Mr. Onderko responded five to six minutes.

Mr. Panico stated that obviously, if they reverse the flow, they have some issues with handling the refueling truck. He asked if the City Engineer had expressed concern about the curb cut on the access drive closest to the intersection.

Mr. Onderko responded yes, and showed that on the original plan they had an entrance in this area.

Mr. Panico asked if he had the same degree of concern if that was an exit.

Mr. Onderko responded that they didn't discuss it.

Mr. Panico stated that they almost have to have an exit there to handle the fuel truck.

Mr. Onderko responded yes, right or they would have exclusion to the one way circulation for the truck to allow it to pull on the side. Stop & Shop operates a fueling

facility in Berlin and there they don't even bring the truck into the fueling facility area and created a small pull off on the main circulating drive so that the truck doesn't have to weave in and around the pump. They certainly have options to deal with the trucks if it becomes their biggest obstacle.

Chair Parkins asked what the hours would be – would it be 24/7 like Stop & Shop is.

Mr. Onderko responded no, the hours of operation for the fueling facility are typically 6 a.m. to 11 p.m. Monday through Saturday and 7 a.m. to 10 p.m. on Sunday.

Chair Parkins asked if this would be open to the public or would you need to have a Stop & Shop card.

Mr. Onderko responded that it is open to the public. It's the same price whether you have a Stop & Shop card or you do not. Historically, it was two price points. They've eliminated that and now the only benefit is to use your Gas Points to bring the price down.

Mr. Panico asked if Stop & Shop had the ability to deal with the entire area from the end of their store to the driveway.

Mr. Onderko responded that from here to the end of the wall, he'd have to defer to Steve or call...

Mr. Panico asked if they can't go beyond that line or whether (inaudible)...

Chair Parkins responded that it was probably for parking not what's proposed for the PDD to meet the requirements.

Mr. Panico commented that he didn't mean that he wanted to eliminate parking or (inaudible)...

Mr. Onderko stated that it isn't obvious from the site plan, but this parking sits several feet higher than the bank pad. They thought it made sense to hold the existing curb line there because that is where the slope starts to drop down and they start to deal with topography. They weren't proposing any changes to these parking spaces but he doesn't think it would be an issue if there was some better plan.

Comm. Flannery asked if it was a State law that the bathroom be open to the public.

Mr. Onderko responded no, and actually, they will have to work with the Building Official, but they aren't even required to have a bathroom if the one in the supermarket is within 500 feet of the gas station. Right now, they are proposing to have a bathroom in the back but they may be able to remove that and have it be just an attendant kiosk.

Comm. Harger asked how many other Stop & Shop's have gas pumps.

Mr. Onderko responded that they operate 75 gas stations under their name in New York, Connecticut, Rhode Island, Massachusetts, and New Hampshire. There are another 25 under the giant brand in Maryland and Virginia so it is almost 100 stations.

Comm. Harger asked how many would have a handicapped toilet.

Mr. Onderko responded that it's probably only about 25% or so. Most of the original versions of gas stations were done in the shopping center and they didn't have a bathroom. He added that the two in Milford, Seymour, and Ansonia don't have the bathroom but just the attendant kiosk.

Comm. Harger asked if there was some special reason why they were choosing to do that.

Mr. Onderko responded yes, because the parcels are two independent tax parcels so they would have to get a determination if it falls under the 500 foot rule or not.

Chair Parkins asked if it would be posted that the restroom was not available to the public.

Mr. Onderko responded yes, but it wouldn't be visible because the access is internal to the kiosk.

Chair Parkins asked if the kiosk was open to the public.

Mr. Onderko responded no, it is not.

Mr. Panico asked about external sales. There are always racks where you can buy anti-freeze, windshield washing fluid or oil.

Mr. Onderko responded that they would propose to have that here unless they imposed a restriction.

Mr. Panico asked if they would be positioned at the end of the pump island or in the kiosk.

Mr. Onderko responded that it would be positioned at the end of one of the pumps. Typically, it is on the front or side on the exiting traffic side. They would be adjacent to the bollards that protect the pump islands and the canopy columns.

Chair Parkins asked if they would be placed inside the kiosk for storage during the night.

Mr. Onderko responded they would be on a rack that locks. They can certainly discuss placement and design of those when appropriate.

Atty. Bellis stated that currently at the site right now the entrance is closer to the bank and he showed how everything is pushed over – that is what Tim explained had been done in response to the City Engineer's suggestion that they move the current entrance. That is why it has been put over to that side.

Mr. Panico commented that his concern was that conflict with the intersection activity with the main intersection.

Atty. Bellis stated that this is the initial concept stage. They usually have tech sessions if there are concerns about the flow and the Commission wants Staff to discuss that. He stated that they aren't bound by this tonight. He wants to make that clear.

Chair Parkins stated that she was surprised that he changed it just on the Engineer's recommendation for the hearing.

Mr. Panico stated that he can understand the Engineer's concern with respect to some of that activity, especially the entering activity because one extra would bottle up that driveway and the main intersection itself. If the flow is reversed, all they would be doing is releasing cars.

Atty. Bellis responded that they can go over that. Maybe they could get a consensus to let them know how the Commission feels.

Mr. Panico stated that he wasn't advocating it. He was just recognizing that it is probably likelihood for the easiest way to accommodate the tanker but there may be another solution.

Atty. Bellis stated that he has no problem discussing those issues. This is the initial development concept plan so they are trying to look at whether it is something that would fit in as a modification to this PDD. He asked the Commission to focus on that. He knows that they went a little bit above and beyond and it will bring up a lot more questions with the detailed development drawings, architecture and placement. He isn't saying that those things aren't important but they don't need to define those right now.

Atty. Bellis commented that basically, if they've looked at 34.8 for some guidance, he asked if they meet the qualifying standards. Yes, obviously this PDD has more than 60,000 square feet. In regard to the site design, safety of the intended user, he explained why they moved the opening over for a better flow of traffic. They discussed sanitary sewers and those are already there because of the shopping center so nothing has to be done.

Atty. Bellis stated that one of the things that towns like to look at with these PDD's is the taxes. He took a look at the taxes that are currently being generated for the City of Shelton with this as a bank versus what it would generate as a gas station. He stated that the City of Shelton would get more. They currently get about \$16,000 and it would go up to about \$23,000, \$24,000 or maybe \$25,000.

Comm. Flannery asked why that would happen.

Atty. Bellis responded that the equipment is more valuable.

Comm. Flannery asked if it was more valuable compared to computers and offices.

Atty. Bellis responded yes. There would be a net increase in taxes for the City. As far as the ecological and environmental concerns, he thinks that the engineer explained that he'll get more detailed in the detailed development drawings. He'll have all the appropriate underground facilities to catch any pollutants. He indicated that he didn't have any of the letters that were read by Comm. Harger ahead of time. Atty. Bellis commented that the Commission is being asked if this use within PDD #2. He asked if it is something that would be a modification that is acceptable to them. If it is, then they will come back at another time with more detailed drawings to determine if they want to approve them. He offered to answer any questions the Commission had.

Comm. Flannery asked if they did any marketing research about the need for this gas station because there are others – BP, Exxon, Mobil went bankrupt...

Atty. Bellis responded that there is no gas station at Exit 11 coming off Route 8 on Bridgeport Avenue. The nearest gas station would be on Exit 12 Old Stratford Road.

Comm. Flannery commented that is just right around the corner.

Atty. Bellis stated that it is not uncommon and it's seen in other towns where they'll put two gas stations on the same corner. He added that they must have some understanding of marketing and what would generate the cars. There is no other gas station in the Exit 11 corridor.

Comm. Flannery stated that she wanted to make a correction about fuel up time. It takes her at least 10 minutes to fill up her gas tank.

Atty. Bellis responded yes, he didn't say it, but well, it depends upon the size of the car.

Comm. Flannery asked how much the tanks were worth. She asked how much one of the gas pump machines cost because he mentioned that they were worth more than computers.

Atty. Bellis responded that he only has a ballpark figure and all the equipment would be worth about \$1.5 million.

Comm. Flannery stated that's for the equipment but then it depreciates.

Atty. Bellis responded that she's asking accounting questions and he's a lawyer. He added that he couldn't answer that.

Comm. Flannery stated that with office buildings they have computers but they always get newer and newer computers and it goes up while this would be depreciating and it will be worth nothing over the years.

Atty. Bellis responded that he doesn't know about that but he's sure that they have to upgrade their equipment and keep up with technology. He added that he really didn't know how to answer that.

Chair Parkins asked Atty. Bellis if their engineer could address the statement by the City Engineer that "the site is insufficient for a fueling station of this magnitude."

Atty. Bellis responded that he will certainly try. He added that he did not agree with that.
End of Tape 1A - 7:50 p.m.

Mr. Timothy Onderko, P.E. stated that they hadn't heard that comment until tonight. Mr. Onderko indicated that he would respectfully disagree. He thinks that compared to just about every other gas station that he's been to – and he was at the BP Station this afternoon – they think that they've provided adequate vehicle queuing as well as exiting room. Also, they've accommodated a tractor trailer truck with a wheel base of 50 feet without any conflict to the uses.

Mr. Onderko indicated that this site was significantly roomier than many of the other fueling facilities that Stop & Shop operates and that they may have visited. He stated that he designed both the fueling facilities in Milford and there are no 30 foot drive aisles anywhere and they function quite well. He stated that he wouldn't agree that this site is inadequate or undersized. This is an appropriate size and they can certainly look at circulation in and out and rotate it. They are providing a significant increase in the landscape area. If there is a cry for additional queuing space or additional parking space or wider circulating drives, they have the room to accommodate that.

Mr. Panico commented that he suspects that his comment is related to the ability to accommodate the necessary on site waiting without impacting the circulation opposite the shopping center.

Mr. Onderko indicated that he would argue that the current configuration or rotated 180° they would be able to accommodate that vehicle queuing on their site without any impact to the circulating drives.

With no further questions from the Commission, Chair Parkins opened the public hearing for comments from the public.

Robert Zuraw, 143 Rocky Rest Road, Shelton addressed the Commission. Mr. Zuraw stated that he had a couple of things he wanted to discuss. He indicated that first; he thinks that their numbers are a little underestimated. If they are talking about lines, the gentleman said that they'd be doing probably a load every day or two. If that is the case, they are going to be doing over 4000 gallons of gas a day. A truckload delivers 8500 gallons.

Mr. Zuraw stated that secondly, he thinks that the traffic is going to queue no matter how they rearrange the driveways, entrances and exits. He added that the City Engineer is quite correct. It is never going to work no matter how they do it.

Mr. Zuraw addressed Comm. Flannery's comments about equipment depreciation. A pump is going to cost them about \$15,000, a tank would be about \$150,000 and maybe some other equipment but he doesn't think it's \$1.5M unless they're talking about the installation costs built in to doing it. He added that he thinks that they are wrong with their depreciation numbers also. He has been in this business for 39 years.

Chair Parkins commented that she didn't hear \$1.5 million.

Comm. Flannery responded that she heard \$1.5 million, that's what he said.

Mr. Zuraw stated that he was involved with the construction of the station at 484 Bridgeport Avenue and at that time, Joe Pagliaro said they would never need another gas station on Bridgeport Avenue. He added that he thinks Mr. Panico can attest to that. He

concluded his comments and indicated that he would answer any questions they had after the meeting.

Charlie Smith, 671 Aspen Lane, Orange, CT addressed the Commission. Mr. Smith indicated that he is a CPA working at 680 Bridgeport Avenue. Mr. Smith disclosed that he was the CPA for a gas station owner in Shelton.

Mr. Smith stated that the City Engineer for the City of Shelton has a letter that is written rather strongly from his viewpoint. He commented that when they talk about taxes, he's a CPA so that is what he does for a living, he fills out many tax assessment reports that come to the Assessor's Office here in Shelton. He knows what Atty. Bellis said about \$1.5M and he doesn't know if there's excavation, ground work and stuff, but basically, if there's a million dollars worth of equipment it will depreciate every year and the town will recognize less and less tax revenue from it.

Mr. Smith commented that they currently have an office building but he's not quite sure what the assessed value would be. He knows that it was being marketed at \$3M prior to this. He continued to say that they have the office building which appreciates, it doesn't depreciate – that value, as they know, real estate values go up over time. Also, there's a certain amount of office equipment but he thinks that it's a decrease to the City of Shelton in tax revenue. He thinks that they need to look at that, not over one year, but what the effect is for 10 years or 15 years – and ask what the impact is to the town. Mr. Smith concluded that was the tax aspect of it.

Mr. Smith stated that he thinks the traffic aspect is the most egregious matter pertaining to this application. He indicated that he shops there, goes to the fitness center, Edge, six days a week, and he used to bank at Wachovia/Wells Fargo when it was still a bank. He was disappointed when they took it out of there. He stated that he takes issue with that comment that they were doing 80 cars an hour because than they would still be there and not closed up.

Mr. Smith indicated that if you go there – there are no parking spaces inside that shopping center – none because of all the stores, especially Stop & Shop because it does a great business. He thinks that it is going to back out on to Bridgeport Avenue. He thinks that they'll have a problem with queuing. Delivery trucks are not going to be able to go around the back of the store. He added that sometimes he jogs back there and there are cars, trucks and all kinds of vehicles parked behind there. There is no place where a tanker truck is going maneuver behind the store.

Mr. Smith stated that in regard to jobs – when he came before the Commission he had talked about the number of dental, dentists and dentist hygienist's jobs that were going to be created at 680 Bridgeport Avenue. Here they are going to take office personnel, professional jobs away – 25 jobs or whatever – and employ between two and five slightly above minimum wage kiosk jobs. He commented that he did not know if that was in the best interests for the City of Shelton.

Mr. Smith indicated that one of the concerns is future plans. In looking at that end of Bridgeport Avenue, and he's sure that the Commission is more familiar with this than him because they have applications coming before them. The Commission knows what developments may be on the planning board and what may be happening for development projects. He asked about the traffic from this, if they shoehorn this Stop & Shop gas station application into this location, and what impact it would have on the folks across the street – medical buildings, apartment towers, retail sites, etc. Additionally, the area where he works down at #680 Bpt. Ave., they have the Wells Family that still owns tracks of property there which are, again, still in the planning stages. He asked what impact it would have on that part of Bridgeport Avenue. He added that he just thinks that it should be considered.

Mr. Smith commented that this is a PDD and he thinks it is a major change. He thinks that it requires a zone text change. He doesn't think that it is a simple modification. He thinks that it is major change because that current PDD does not allow a fueling station – so he doesn't think it is a light matter but a significant matter.

Mr. Smith concluded and thanked the Commission.

Ron Pavlucik, 287 Eagles Landing, Aspetuck Village, Shelton addressed the Commission. Mr. Pavlucik stated that he was a happy, content and proud resident of Shelton. After living here 12 years ago and in looking back, he sees plenty of successful development and balanced growth that this group and its predecessors have accomplished. In general, he is a supporter of development and he loves to watch new buildings going up such as the Radcliffe which will be arising like a Phoenix out of the ashes and pollution of the site on Canal Street. He already approved of the 6-7 medical office building that the Commission approved for going up at the Sports Center, and the development of the Crabtree property and other things still in the pipeline. What attracts him about that development is the revenue positive nature of them generating taxes without generating expenses to the town.

Mr. Pavlucik stated that they may know that he probably comes here once or twice a year when he feels strongly enough about an application to speak for or against it. Mr. Pavlucik stated that he was against this application for about 5 or 6 relatively minor, circumstantial reasons but when considered as whole, they constitute a conclusion worthy of the Commission's consideration for rejection.

He asked the Commission how many gas stations are in Shelton right now that are operating. He provided the answer which is 12 gas stations – on River Road, Bridgeport Avenue, and other ones around town. There is one right now out of business – the Mobil Station across from Wendy's. In addition to that there are 12 more gas stations within about ½ mile of Shelton's borders in Stratford – Don's Sunoco and a gas station that is currently closed across from Sikorsky's North Gate which the Stratford P&Z recently approved for reconstruction and renovation into another gasoline plaza within an adjoining restaurant/drive-through facility. They are going to tear down the red two-story house immediately north of it before Oronoque Shopping Center.

Mr. Pavlucik continued that in other parts of Shelton, the northwest corner down Mohegan Road turning into Monroe Turnpike (Rt. #111), there are 4 or 5 more gas stations. In the northeast quadrant over the bridge into Derby, go a few more blocks and there are 5 more gas stations (Gulf, Mobil, Stop & Shop Derby, BJ's, Shell). He asked how many more gas stations they needed to serve the City of Shelton. There are 24 – whether they are in Shelton right now or right outside Shelton's borders for residents that are coming and going. He asked what the count was for those residents and their cars to begin with. He understands that there are 38,000 cars on the tax roll in Shelton right now and that number has been pretty stable for a long time. There are no major housing developments planned in Shelton so that number will probably stay pretty constant.

Mr. Pavlucik commented that they have a lot of people, thankfully, that work in Shelton. He welcomes them to come in to make and spend money here. He indicated that the overall trend for gasoline consumption is certainly down though. People are spending less on gas because of the price of gas, the recession continues, cars are becoming more fuel efficient and they have mandatory federal government mileage standards going into effect every few years. He continued that they have electric cars, natural gas with propane tanks for cars and trucks currently being further developed. The trend for the next 5 or 10 years is lower gas requirements and gas needs in Shelton. They should not be building more gasoline stations.

Mr. Pavlucik stated that one could say that they have 25 pizza restaurants in Shelton (including grocery stores), 20 nail salons, but there is a consequence when they have too many gas stations in Shelton. When a pizza place or a nail salon goes out of business there is an empty storefront but when a gas station goes out of business, it sits there as an eyesore – like the one opposite Wendy's on Bpt. Avenue. He asked how many more gas stations might go out of business if this monstrosity of a gasoline complex is built as proposed. Most of the owners and operators of the gas stations in Shelton are private individuals like Shelton residents and they aren't corporations. They have the Cumberland Farms organizations and a couple of others but they are talking about local people that have built this place that are at risk if they build more gas stations.

Mr. Pavlucik commented about the competition with food sales. He mentioned that when Shaw's went out of business a few years ago, he experienced Stop & Shop raising their prices because they had no competition. He asked what would happen – if Shop Rite is going to struggle because everybody is going to go to Stop & Shop for groceries because they can use their card to buy cheaper gasoline. This would result in a competitive advantage for Stop & Shop which might put Shop Rite out of business – and then the prices at Stop & Shop would start increasing again.

Mr. Pavlucik stated that he thinks that there is an aesthetics issue too. In getting off of Exit 11, it's kind of a showplace entrance to Shelton coming from lower Fairfield County. In coming down Bridgeport Avenue, there are a lot of attractive office and medical buildings – thanks to the P&Z Commission and its predecessors – set back from the road with greenways and buffer areas, foliage and reasonable entrances/exits. He commented that the office building that is presently there may be a little dated in design, but the view from Bridgeport Avenue, regardless of the two foot flowers they put around this new gas station, is going to be a monstrosity gasoline filling complex with high and tall posts and poles, the overhang and the little 10' x 10' kiosk. He added that he would rather see that existing office building if he is driving into Shelton and getting the first impression.

Mr. Pavlucik commented that there is a risk of pollution to the brook with a gasoline station that close to it. There is always the possibility of a leak or spillage. It happens all the time under the best of circumstances.

He commented about the loss of jobs – there might have been about 50 jobs in that office building and they are going to go down to two kids making minimum wage to sit there all day. He asked why they wanted to remove 50 jobs from Shelton. The last time they did something like this was when they knocked down the Mudge (?) Building (the former Ragu Building) on Bridgeport Avenue. It was a cinder block manufacturing building. There was a lot of outcry about knocking down a perfectly good manufacturing building. They replaced it with a Chili's restaurant and a Long Horn Steakhouse where you can't find a parking space or table almost every night of the week. He added that even Ruby Tuesday's is still hanging in despite the competition. The TD Bank and hotel look great. But now they aren't knocking down a cinder block building and putting up a series of attractive, tax producing, popular, successful businesses. If the Commission follows their proposal, they would be knocking down a still functional, not-that-old office building set back behind the trees that can still be used in order to put up a noisier, congested, unsightly gasoline station.

Mr. Pavlucik agreed with the previous speaker and questioned the tax revenue calculations. He can't believe that the former building wouldn't generate more income but if these people are so sure that they should put it in writing. He suggested making that a condition of approval – if the current building generates \$16,000 (which could easily be confirmed), then the condition will be that the new facility will guarantee generating \$20,000 for the City of Shelton for the next 15 years. If some companies get tax breaks for moving into a community then why can't the community ask for guarantee of a certain amount of tax revenue – if they are so sure and the pumps are going to be remodeled every couple of years like they said.

Mr. Pavlucik concluded that those were his reasons for objecting to this application. He's not sure that any of them violate the rules and regulations of the Commission's functions but he thinks that they are common sense objections. He thinks that the majority of residents would probably agree with that decision to reject it. He seeks their agreement on this issue and he thanked the Commission for their time.

Irving Steiner, 23 Partridge Lane, Shelton, addressed the Commission. Mr. Steiner stated that all of the discussions up to this point have not mentioned anything about the water and the fact that there is a potable water stream very close to where this gas station is going to be put in. That stream comes from our lakes down through Avalon 2 and crosses Bridgeport Avenue to the easterly side of Bridgeport Avenue which is approx. 200-300 feet from this installation. It crosses under Bridgeport Avenue and enters into

Beaver Dam Lake which a potable water and drinkable lake. The stream is quite small and one of a number, but the area from where it exits Bridgeport Avenue (which is on the same side as the gas station) is about 300 feet away. There is a ditch between there and it continues in front of the pumps. It is water fill and there are several minor interruptions for pathways crossing it. But other than that, it would very easy for gasoline spillage to enter that stream and pollute that quite large lake. It happens to be in Stratford but they are still our neighbor. He thinks that they would want their lake, if they had a potable water lake, to be preserved. Mr. Steiner stated that he sees no reason for putting this gasoline station in just on that basis alone. The risk is too great. They have to depend on humans not to make mistakes; a total gas spillage in that area would destroy that lake. He thanked the Commission.

Chair Parkins asked if there was anyone else in the audience who wanted to speak for or against this application.

Mr. Charlie Smith, 671 Aspen Lane, Orange, CT addressed the Commission. Mr. Smith stated that in looking at his notes, there were two comments that he failed to make that he'd like to add. Mr. Smith commented that if anyone has ever been to BJ's, Costco, or other Stop & Shop stores, and if they haven't, they may want to visit one to see how the traffic backs out onto the main roads and gets congested. In light of that, Mr. Smith respectfully asked that the Commission consider keeping the public hearing open for a period of 30 days and allow him to have an independent traffic study done. He thanked the Commission.

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

Atty. Stephen Bellis, attorney for Shelpet LLC stated that he wasn't going to respond to all the comments that were made and he respects that some people are going to disagree with an application. They have a right to disagree and make their opinions known but he had to object to keeping the public hearing open. Atty. Bellis stated that the application was pending before the P&Z Commission and this hearing was noticed. There was plenty of opportunity for someone to put out their opposition if they wanted to this evening. He stated that would be his only objection. He would ask the Commission to close the hearing.

Chair Parkins asked if there were any other questions or comments from the Commissioners.

Comm. Flannery stated that she thinks that after listening to everyone speak; she thought about the air pollution also with cars, up to 10 cars sitting there, which is a lot of air pollution. She added that she would never buy Stop & Shop gas because they have a tendency to have water in the gasoline. She wanted to know if they have cleaned that up.

Chair Parkins commented that she has never heard that before but...

Comm. Flannery indicated that many people have said that there has been water in their gasoline and they won't buy Stop & Shop gasoline.

Comm. Harger responded that she thinks Comm. Flannery needs to present some documentation.

Mr. Panico added that (inaudible)...

After some discussion (inaudible) amongst the Commissioners, Chair Parkins stated that there seemed to be some consensus that the public hearing be kept open until March 28th. They have a public hearing scheduled on Wednesday, the 28th of this month. She asked the audience member if it would be possible for him to get any information in by that time.

Mr. Smith responded yes, he'd do his best. His only concern would be that it might be under the wire and the Commission might not get it in time but he'll do his best to accomplish and make that happen.

Chair Parkins asked for a motion.

Comm. Pogoda made a motion to keep the public hearing open.

Atty. Bellis pointed out again that, when they get to the detailed development drawings, there would be detailed traffic study and trip generation report compiled.

Mr. Panico responded that in all fairness though, this is the point in time at which the Commission needs to make a zoning determination about whether or not that is an appropriate use to accommodate this aside from the specifics of how it would happen.

Atty. Bellis commented OK.

Mr. Panico added that it is a major concern.

Atty. Bellis stated yes, he knows where they are coming from.

Chair Parkins indicated that the Commissioners needed a couple more weeks to digest the information too. She cautioned all the Commissioners that the public hearing would remain open, so they do not discuss this with the public. She added that it would be exparte – so please; do not have discussion with members of the public or anyone else regarding this matter.

Atty. Bellis thanked the Chair and added that he appreciated that.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to keep the public hearing open for Application #12-01 until March 28, 2012.

Mr. Onderko left a portion of his presentation materials (renderings shown) for inclusion into the public record.

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.

P&Z Secretary Virginia Harger read the call of the hearing and five pieces of correspondence

1. ***See attached memorandum from the Regional Planning Commission and the Valley Council of Governments dated January 17, 2012 to Richard Schultz, P&Z Administrator from David Elder, Senior Regional Planner.**
2. ***See attached letter dated January 25, 2012 to Richard Schultz, P&Z Administrator from David Elder, Senior Regional Planner.**
3. ***See attached correspondence dated January 25, 2012 to Richard Schultz, P&Z Administrator from the Connecticut Department of Energy and Environmental Protection, Kristal Kallenberg-Dorismond, Environmental Analyst to Office of Long Island Sound Programs.**
4. ***See attached letter dated January 20, 2012 to P&Z Chairperson Ruth Parkins from the Greater Bridgeport Regional Planning Council, Brian Gadelli, Executive Director.**

5. See attached letter dated January 13, 2012 to Richard Schultz, P&Z Administrator from the South Central Regional Planning Commission, Committee Chairperson, Peggy Rubens-Duhl.

Before beginning the discussion, Mr. Schultz asked the Commissioners and members of the public that are interested in the Zoning and Subdivision Regulations to obtain a copy at the front table. He indicated that he would be referring to the Sections, Subsections and Paragraphs. In addressing the Commission, he indicated that it would be beneficial to refer to it as well so that the Commission and Staff can take notes.

Mr. Schultz indicated that as stated by the Legal Notice, this is Section 32: Excavation, Filling, Grading and/or Removal Earth Materials, it is a 17-page document. Before starting the discussion, he wanted to provide a little bit of background. He stated that currently the Shelton Zoning Regulations give the P&Z Department Staff the ability to issue permits for all filling and grading on private, individual lots. He added that has created a problem insofar as public hearings are not required, public notifications are not done, and in many instances, the filling and grading takes place without even a simple zoning permit.

Mr. Schultz indicated that last year his department issued six Cease and Desist Orders. Two applications came in and the Commission held public hearings and they are now pursuing legal action on the other four. The Commission was very concerned about this predicament. The Zoning Staff took it to the Zoning Subcommittee and what they did is prepare a rewrite of the whole regulation. These regulations go back to the 1950's and 1960's; they have not been addressed by the P&Z Commission in a long time. Mr. Schultz commented that first and foremost, he wanted to advise everyone what precipitated this and what the main reasoning was behind it.

Mr. Schultz commented that as everyone is aware, Shelton is a very hilly community and more and more of the property owners want to make better yard space. More and more private property owners are bringing in fill and, unfortunately, in many instances they are not taking out the proper permits. He added that they also have a lot of wetlands and watercourses in the City of Shelton and in many instances wetlands and watercourses are impacted. The P&Z Dept has worked with Inland Wetlands and they are well aware of this proposal. They find it to be needed in the community so that everything is spelled out and everyone knows exactly what needs to take place.

Mr. Schultz indicated that before getting into all the different sections of the regulations, he thinks that it is important – and probably it is the most important provision - that now, everyone has to come to the P&Z Dept. and sit down with Staff and advise them exactly what is going on. He stated that there are thresholds in here that once they are met, it will precipitate a public hearing that must come before the P&Z Commission. He thinks that they are all in agreement that the adjacent property owners need to know what is going on because they are normally the ones that are impacted both aesthetically and from water problems. Mr. Schultz added that, after all, it is his department that gets the complaints and his obligation is to report it to the P&Z Commission. They are seeing a pattern of a lot more filling and grading going on in this community. As they all know, most of Shelton is one acre and they have a lot of interior lots and a lot of the Cease and Desist Orders went to the interior lot property owners because they don't see what they're doing. But eventually it will come back to his department either by the truck trips generated on the weekends or they will receive complaints that are investigated. He commented that they do have part-time staff that works on Mondays and occasionally on the weekends. So, they are getting reports from the general public and what they are

hearing is that this needs to be regulated better. Mr. Schultz added that he thinks that they'll find that ultimately the regulations will be fair, complete and above all will protect the interests of the property owner receiving the fill and the adjacent property owners effected by it.

Mr. Schultz indicated that he would quickly go over the 17-page document. What the Commission and Staff would like to hear from the public is what sections concern them and what recommendations they have. He indicated that after tonight, they will take this back to the Zoning Subcommittee which meets monthly and they'll be constantly reviewing it. They do not anticipate the hearing to be closed tonight. This is a 17-page document and it will probably take several meetings before it is finalized. It is important that everyone understands that.

Mr. Schultz stated that the first page deals with the Purpose. As he indicated, the City of Shelton is not a flat, level type of community and when filling is done, especially hundreds or thousands of cubic yards, it can affect the environment. This provision indicates what the impacts can be, what materials are regulated, and how they want to protect the natural environment. The Inland Wetlands Commission regulates the wetlands and watercourses but the P&Z Commission does also protect all of the natural resources as a whole. They do spell it out because that is one of the purposes – to protect the natural resources of the community. At the same time, they realize that property owners want to have a better yard space, but in doing so, property owners need to be respectful.

Mr. Schultz referenced Page 2, the General Provision and stated that essentially the permit period is up to two years and the Commission can grant extensions. Generally speaking, if the Commission receives an application in late autumn or winter, they do prefer you to hold off until springtime so that you can finish the job and stabilize the site. However, generally speaking, the Commission can give you up to two years. They like to do six months to one year. They want to see the project development completed.

Mr. Schultz referenced Page 2 – Page 5, 32.3 Authorized Exclusions and Exemptions. He indicated that they've broken down the community into two areas – the R-1A is three acre (upper #110); the R-1 which is most of Shelton, one acre; the R-2 ½ acre (they only have that in Huntington Center); and the R-3 scattered downtown which is a transitional area. Those lots can accommodate more fill because you can spread a lot more on 12,000, 20,000 and 40,000 square foot lots.

Mr. Schultz indicated that the R-4 and the R-5 which are in the Downtown area are obviously smaller lots that can also create the most problems especially with adjacent property owners. He indicated that Downtown they have many lots that are aligned by stone walls. They have seen many instances where they have filled right up to the top of the stone wall and it's created some severe drainage concerns. There is a little more emphasis in the R-4 and R-5 downtown for the obvious reasons because it can have a lot more impact to a lot more people.

Mr. Schultz stated that they've added a provision for the slashing of trees. As a side note, the Conservation Commission initiated an ordinance to regulate the removal of trees that did not go anywhere. However, they took this opportunity to include that provision under this section and essentially, the Commission would be allowing up to 5,000 square feet area of slashing of trees. That is an area which the Commission believes is substantial but at the same time will give the landowner more lawn area. In his department, they are seeing more new people moving in that don't want the trees; however, that creates a conflict with the adjacent property owner. So, they believe that provision is needed to be

included because in many instances they clear cut half or a quarter of their lot and then do the filling and grading. This provision went in under Section 32.3.2.

Mr. Schultz referenced Page 3 under Section 32.3.3 and commented that they have necessary foundation and trench involving not more than 400 cubic yards. When a Certificate of Zoning Compliance is issued by Staff, the said amount may be increased by not more than 2,000 cubic yards. When a Certificate of Zoning Compliance is processed by the ZEO, any filling, excavation, grading and removing authorized under this paragraph shall be deemed to permit the filling, excavating or grading of only the quantity of material necessary to make the lot more suitable for the proposed use. This is involved in the preparation of making a building lot. Once again, they have allowed this to take up to a two year period.

Mr. Schultz stated that there are a lot of sections in here and he thinks that he would be doing a disservice if he goes into great detail because they really want to hear from builders and interested parties. He just wants to point out some of the real important sections. He asked to keep in mind that there is a threshold for permits that Staff can issue in house. Once that threshold is exceeded, it then goes to the P&Z Commission.

Tape Side 1B – 8:40 p.m.

Mr. Schultz stated that they have a new provision where they ask the individual property owner to hire an engineer to do a quick review. He has contacted several engineers and the price range is up to \$500. Staff believes that is a reasonable amount of money insofar as it is not the responsibility of the City Engineer to review a private improvement to a private property. They believe that it is the responsibility of the property owner to hire a Professional Engineer to review it and advise Staff that it has been reviewed and the proposed grading plan will not have a negative impact on the adjacent property owners, or for that matter, City of Shelton open space, or a City road.

Mr. Schultz indicated that the next section deals with septic system improvements and that is really dealt with by Valley Health, but again, they are trying to quantify it. They do have a farming and agriculture provisions and the Commission does recognize that when subdivision is approved, obviously, they are approving the grading plan so that remains the same.

Mr. Schultz referenced Page 5 dealing with the Application and Procedure. When a public hearing is required it is called a Temporary Special Exception and the application is accepted by the Commission and a public hearing is held, just as it is being held tonight. Twelve copies of the application must be submitted and all the details required to be shown on the plan are on Page 6 and Page 7.

Under Section 32.4.3, The Commission may request additional information from the property owner. They do get input from the Inland Wetland Commissioner, Fire Marshal, Army Corp. of Engineers and the DEP, if necessary. They will also ask for comments from the Conservation Commission insofar as their duty is to oversee the protection of natural resources in the community as well.

Mr. Schultz referenced Pages 7, 8, and 9 deals with existing site conditions and what the proposals are, adjoining property owners, notification requirements. On Page 10, Processing Machinery, the developers in the community know that they are condition by permit allow portable processing equipment when processing the earth material on the site for the construction of roads or improving lots.

Mr. Schultz commented that the Commission will also be dealing with Truck Access, Disposal of Excavated Materials and Stockpiles on Page 11.

On Page 12, Fill Materials, Mr. Schultz stated that this has been a big concern for the P&Z Commission. Several years ago, they had a situation where thousands of cubic yards were brought in from another community and, unfortunately, the material was not clean. It had rebar in it, contaminated bituminous and, unfortunately, there were a couple

of wells situated adjacent to the fill area. Obviously, that is of concern. The fill material that is brought in has to be documented.

Mr. Schultz referenced Page 13 for Hours of Operation. He commented that obviously they want to get the job done but they will take into consideration the proximity of it to schools, churches, etc. This page also addresses the Site Restoration provision. Obviously, they want to see the site stabilized and they don't want to go through winter months. He reiterated that anyone coming in with an application late in the fall or winter, the Commission will require a start-up date in the spring unless it is a public safety issue that must immediately be addressed.

Mr. Schultz referenced Page 14, Posting of Bond and Insurance, especially when blasting is required. On Page 15, they have Inspections and Periodic Reports and Mr. Schultz addressed the developers in the audience that it is something that they've done for the Inland Wetlands Commission. He indicated that he already discussed the Duration of the Permit on Page 15. They have inspection fees and there is a provision for existing operations.

He referenced Page 16 and Page 17, for Return of Bond, City Operations and Maintenance of Ponds. Mr. Schultz concluded by saying that it is quite inclusive and they are trying to address all of the concerns. There is a lot here and they are interested in hearing from the public tonight.

Comm. Harger commented that on Page 11 in regard to the Disposal of Excavated Materials, she wasn't sure if it was reviewed in regard to whether or not the disposal of excavated materials was within the City of Shelton or whether it's transported outside of Shelton.

Mr. Schultz responded OK.

Chair Parkins asked if there were any comments from the Commissioners before opening this hearing up for public comments. There were none. She asked if there was anyone from the audience who wanted to speak in regard to the Rewrite of Section 32.

Atty. Stephen Bellis, 121 Lane Street, Shelton addressed the Commission. Atty. Bellis stated that he was speaking here tonight as the attorney for the Shelton Builders Association comprised of builders, developers, large and small land owners in the City of Shelton. Atty. Bellis indicated that he would summarize this in a very short sentence – there is a fundamental disconnect in philosophies. It would appear that by creating a 17 page document, the Commission or Subcommittee feels that government can tell land and property owners what they can and can't do with its property and they are going try to take into consideration every little act or incident that has occurred and then come up with rules to prevent that in the future.

Atty. Bellis indicated that he suspects that there were one or two, maybe more, landowners that did not use common sense and those couple of bad apples are probably the 1%. He thinks that 99% of the land owners, builders and developers use common sense and don't need these regulations. He commented that he was afraid that the 1% is dictating what ought to be done in this town to the other 99%. He added that he is speaking on behalf of the group and this is not his personal opinion. There was a strong consensus that they don't need these 17 pages of regulations. He understands that the P&Z Commission has several functions – they all do.

Atty. Bellis commented that he thinks that it is admirable that they want to help adjoining property owners but he isn't so sure that is their job. There is a remedy already in place for that and that remedy is called public and private nuisance. If someone's property is being damaged because of water run-off or contamination from a neighbor, they can bring a common law lawsuit under nuisance. It is whenever there is a danger or whether anyone has inflicted damage to your property. They can also bring an injunction in court which gives the judge a lot of flexibility to stop future problems and to stop what is currently going on. There are remedies for these adjacent property owners that may be

impacted by the 1% of bad apples that Rick is referring to. However, it was the common consensus that they can't regulate for everything that is going to happen.

Atty. Bellis cited that there is a Supreme Court in Connecticut which says that "the unreasonable use of property may be a nuisance even if the defendant (that's the bad guy) conducts all this use in full compliance with the applicable zoning regulations." Atty. Bellis added that you could even bring a nuisance action even if you're meeting all the current Zoning Regulations. This would be if you are creating a danger, disturbance or inflicting damage to someone else's property. He added that is what the courts are for; that's why they have lawsuits and the cause of action known as nuisance. There are other causes of action such as trespass, and a statute for cutting someone's tree down on their property in which you can sue for three times the value of it.

Atty. Bellis summarized that the overall consensus is that they don't feel as though they need these detailed regulations for the town. He stated that he wanted to point out a couple of other things and provide some examples of what he's talking about. Atty. Bellis indicated that he thinks that there are a lot of activities they do such as a subdivision, site plan, PDD or Special Exception, in which they have to come before this Commission. The Commission has a lot of control over that application according to the rules and regulations. He thinks that they are trying to do something for when they don't have those situations and they aren't coming before the Commission for a PDD, site plan or subdivision – that is what you're worried about. He added that if they aren't careful, they could have unintended consequences. He added that he doesn't mean this in a pejorative sense.

Atty. Bellis stated that when the Commission passes a regulation like this it is going to stay in the town for years and years. The present six or eight Commission members are not what they are worried about. This group may be reasonable but he doesn't know what the next Board is going to look like. Atty. Bellis commented that 10 years from now, he doesn't know who that Board will be and if they'll be as reasonable. He stated that he didn't want them to assume and think how they're interpreting it because it may not be them doing it. It could be someone else with totally different values and standards of reasonableness. Atty. Bellis indicated that he didn't want them to take any of this personally.

Atty. Bellis provided an example under Section 32.2 General. It says "blah, blah, blah..." In cases where such activity is covered by an approved Subdivision, Site Plan or other Special Exception, no separate application for such activities is required... He commented that he gets that part but then it says "... unless specifically required by the Commission and provided that all application requirements and standards of this Section are met." He asked what that means. It means that the Commission now decides in a Subdivision, in a Site Plan, or in a Special Exception, that they want to enact all these regulations..." "...and standards of this Section are met."

Mr. Panico responded that is to protect the community against an unscrupulous developer and files a Subdivision Plan simply to take a mountain down so that he can have material. That is the bottom line and (inaudible)...

Atty. Bellis stated that he appreciates that... he's using one example (inaudible)...

Mr. Panico commented that (inaudible)... Successive beyond the needs of what that subdivision would reasonably command then the Commission would have the right to step in and say "Hey (inaudible)..."

Atty. Bellis responded that it does not say that, Tony. It says "unless specifically required by the Commission." He stated that he does not know what (inaudible)...

Mr. Panico asked if he wanted them to cite every possible (inaudible)...

Atty. Bellis stated no, he wants him to throw this 17-page document in the garbage - that is what he would like. But he knows that they've worked very hard on it and he knows

that they were well-intentioned, and he's not trying to take that away from them. He is trying to say that this document contains unintended consequences... (inaudible)

Mr. Panico asked Atty. Bellis if he was suggesting that if a homeowner has a house on a couple of acres of land and he decides to go in his backyard and do an extensive amount of filling just because he'd like to have a level yard but it ends up creating a 50 foot high embankment – that he should just be able to do it without any controls.

Atty. Bellis responded no, that if he is in the middle of nowhere and doesn't impact anybody, then he thinks that he can do it. If it is going to impact on a neighbor and cause harm or injury, then that neighbor has a cause of action called nuisance. They want to regulate every single thing that someone can do - that is crazy.

Mr. Panico stated they want people to use reasonableness.

Atty. Bellis responded that he knows that they do but that is why they say that they've gone overboard on this document. He thinks that (inaudible)...

Mr. Panico stated that is what they're there for – they're here to listen.

Atty. Bellis responded that he knows that.

Comm. Pogoda commented that he had one question or one comment about what Atty. Bellis said before about the adjoining neighbors. If they are aggrieved, they can take this to court – he asked why they should let it get to the point that the neighbor is aggrieved and then it has to be taken to court. He asked why they had to get to that point. They are trying to stop from getting to that point of a neighbor being aggrieved. What good is it after the damage has been done and he goes to court? He asked Atty. Bellis to explain that to him.

Comm. Flannery added that it takes years too.

Chair Parkins commented that she did not think that they should get into a debate about this. They are going to let the public have their comments and the Commission will take them into consideration.

Mr. Panico stated that he thinks that Comm. Pogoda's point is simply that physical damage is so extensive that it is just can't be restored.

Atty. Bellis responded that he agrees with that and that's why he mentioned the word "injunction" because an injunction allows someone, before it gets to that crazy state of damage, for a judge to immediately go in and immediately sign an order. Sometimes they do it without a judge even having a hearing and saying stop that until there is a show of cause hearing to prevent further damage.

Chair Parkins asked him if he does it on contingency or does the land owner have to pay him.

Atty. Bellis responded that it depends upon the situation. He understands where they are coming from. There probably has been in their experience, a couple of people who have ruined it in their eyes and caused damage. He doesn't disagree with them.

Mr. Panico commented that they have those situations where their hearts go out to the landowner but there's nothing that they can do about it simply because it is between him and his neighbor. They don't like to hear them say that but sometimes when people have a civil problem with their neighbor they have to take care of it themselves.

Atty. Bellis responded that he doesn't think that they can do - they are taking the paternalistic approach that they are going to help everybody in town with a regulation. They can't foresee everything that is going to happen in the future – like something stupid that someone will do – they just can't because people can do some pretty ridiculous things.

Comm. Matto asked if this didn't just lay out what the expectations are so that it is clear.

Atty. Bellis responded no, this is a burden on the good people in town. It is making them come to public hearings; it is making them hire lawyers, planners, engineers and surveyors. They are trying to nip in the bud the few people that are causing problems and they are making it 17 pages of things that they have to worry about.

Atty. Bellis commented that he just pointed out that one but there are other things that people were concerned about and it would take a long time. They stated what he was going to suggest. He would rather a private, sit down to point out some of the concerns people have in a tech session and a subsequent meeting.

Chair Parkins stated that what they would like to do is invite him to appear before the Zoning Subcommittee and just (inaudible)...

Atty. Bellis responded that he likes that idea. If he can't persuade them not to waste their time on it and get rid of these 17 pages, then he takes them up on that offer.

Mr. Panico stated that's not their intention. Very seldom work with (inaudible)... As you can see from the dates on this, they've been at this for 1 ½ years.

Chair Parkins asked if there was anyone else in the audience that wants to speak on this proposal for excavation, filling and grading. With no more comments, Chair Parkins asked for a motion to continue this public hearing.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to keep the public hearing open for the Proposal of the Shelton Planning & Zoning Commission to amend the Subdivision/Zoning Regulations pertaining to the rewrite of Section 32: Excavation, Filling, Grading and /or Removal of Earth Materials.

PROPOSAL OF THE SHELTON PLANNING & ZONING COMMISSION TO AMEND THE SUBDIVISION/ZONING REGULATIONS PERTAINING TO OPEN SPACE SET ASIDE.

Secretary Virginia Harger read the Call of the Hearing and one piece of correspondence.

- 1. *See attached letter dated January 20, 2012 to P&Z Chairperson Ruth Parkins from the Greater Bridgeport Regional Planning Council, Brian Gadelli, Executive Director.**

Chair Parkins noted for the record that correspondence for this open space proposal was combined with correspondence for the previous Section 32 filling and grading proposal. It has already been read into the record.

Mr. Schultz indicated that Staff will be reading from a two page documents and copies are available at the front table.

Chair Parkins asked Rick to clarify the correction on the last paragraph of the first page of the document.

Mr. Schultz stated that the Zoning Regulation Amendment, the last section on the bottom of the first page should read "Section 24.11 and not Section 4.11 and the word "frontage" should be deleted from that paragraph as well and read "same area, square requirements."

Mr. Schultz indicated that these recommendations came from the 2006 Plan of Conservation and Development (POCD) which recommends to acquire a mandatory open space set-aside of 15% as part of every residential development application. This was to

be formulated by the Conservation Commission and the Planning and Zoning Commission, which it was and this had a priority rating of No. 1 which is the high recommendation.

Mr. Schultz stated that he would read the first paragraph (24.12 Consolidated Lot Standards) from the Zoning Regulation Amendment pertaining to the 15% which amends Paragraph 24.2 Lot Area, Shape and Frontage.

While reading, Mr. Schultz clarified that Residential R-1A is the three acre zone (upper Route #110); R-1 which is most of Shelton; R-2 which is the half acre and R-3 the 12,000 square foot lot.

Mr. Schultz reviewed the table for the R-1A, R-1, R-2 and R-3 minimum size, shape and frontage of such consolidated lots. He commented that this is something that they do right now with the CRD and the PRD.

Mr. Schultz stated that this is the Zoning Regulation that needs to be amended and which complements the Subdivision Regulations.

Mr. Panico added that he thinks that the important thrust of this are those words that say “maybe required by the Planning and Zoning Commission.” He stated that this is nothing that a landowner or a developer is entitled to. Their obligation is to provide a plan that has the 10% Open Space Set-Aside – that is what the regulations say. This gives the Commission some additional flexibility in examining that plan and taking areas of excess size on these lots and assembling them into creating some additional open space. It is not to generate additional lots but by the same token it is not to penalize by losing lots. This is an approach that they are exploring which would preserve the value of the property to the landowners that have held out until now before they are selling their property to development and balance it against what the regulations were beforehand. Mr. Panico commented that the City wants to come out of it with more than 10% open space.

Mr. Panico stated that his will allow them the design flexibility to take that subdivision that otherwise generates 10% or whatever it is and say to the developer “We’d like you to take Lot #7 and reduce the depth of it by “X” number of feet and put it into open space and take the two interior lots and take the back 1 ½ acres off it because you don’t need it.” Your septic systems aren’t out there. You were just creating the minimum 1 ½ acres that you needed. They would have the flexibility to do those things. They still basically get the subdivision that they want to get but they get more open space. They are pretty certain that it works and just needs minor adjustments in the standards of the lot. They have applied it to two or three subdivisions that were recently approved and he went through them. He saw the open space that they had and thought if he had this flexibility, he could add to the open space here and there, and here and there. He went through the calculations and was able to bump up the open space by 25%. They thought it was a concept worth considering and they are trying to be fair and achieve the standard that was put forth in the POCD of getting the minimum of 10% open space, but 15%. They want to do this in a fair manner.

Mr. Panico stated that they have vehicles in their regulations now through cluster developments and things of that sort but quite frankly they have been underutilized because the procedure that is outlined in them sets forth a pattern where the entire development – the lots – are shrunk, Therefore, it is major and they’ve got to go to a public hearing and it delays the whole administrative process by 4 to 6 months. This allows it to be done in the same manner that they do it reviewing a subdivision.

Mr. Schultz added that it would be done administratively.

Mr. Panico restated that it's done administratively but it is done at the Commission's request and not the Applicant's.

Mr. Schultz commented that it should also be noted that when the P&Z Subcommittee and the members of the Conservation Commission sat down, they were doing this in recognition of the remaining land owners and their needs. The goal of the open space plan for the City is a minimum of 15%. The Conservation Commission, as they know, takes the lead in that and takes great pride in what they've assembled today and they want to continue in that direction.

Mr. Schultz indicated that the second part of the amendments deals with the Subdivision Regulations. He stated that under Section 4-19 Open Space, Parks and Playgrounds, he read the proposed new wording. He added that as Mr. Panico indicated, it provides the flexibility in the design solution. Also, under Section 4-19-2 Minimum Reservation, Mr. Schultz read the new, proposed wording which has been added.

Mr. Panico stated that there is actually a basis for this in the Statutes. He added that Atty. Bellis may be familiar with it, if the Commission were to incorporate the proper provisions in this regulation, it could in fact mandate cluster development. They have not gone that far; they've taken one little step which gives them enough flexibility to get some more open space and to get it without penalizing anybody. As they know, the standard R-1 lot, when they are relatively uniform, is 150 feet x 267 feet. Nobody uses 267 feet deep and what happens is that it goes wild. So why not take the back 40 or 50 feet off of those lots, put it all together and make reasonably useable open space or protect features that they want to protect. He added that was the concept. The impression that one gets in driving down the street, you wouldn't see the difference in a consolidated lot or a standard lot. It would be insignificant. It wouldn't be every single lot; it would be one here and one there.

With no questions or comments from the Commissioners, Chair Parkins opened the public hearing to the public for comments.

Atty. Stephen Bellis, 121 Lane Street, Shelton addressed the Commission. Atty. Bellis indicated again that he represents the Shelton Builder's Association which is comprised of builders, developers and land owners.

Atty. Bellis prefaced that he doesn't think that anyone in this group is against open space. Open space is good for communities and they understand that. It makes playgrounds, parks, schools and it looks nice, there are a lot of trees. They get all that, but – and he thinks this is where they may have another major disconnect – it is OK when the City buys it and pays the landowner for that open space. They have no problems with that.

Atty. Bellis reminded the Commission that this whole country was founded on private property and it was such a big deal that they put the Fifth Amendment in the Bill of Rights. If they haven't heard it in a while, he would provide just two phrases from it. "No person shall be deprived of life, liberty or property." He added that his is private property that they are talking about.

Atty. Bellis read the second phrase of the Fifth Amendment which he commented was the key one. "Private property shall not be taken for public use." He added that they were doing a land grab. When they take the 10%, when they take 15%, they are taking private

property from people in violation of the Fifth Amendment and using it for public use open space.

Mr. Panico commented that he would assume that issue was debated before it was put into the statutory requirements for the State of Connecticut.

Atty. Bellis responded that he was getting there and told him to please, not assume things. He continued that they all know that you can bring a lawsuit under the Federal Constitution and challenge whether even the 10% taking of private property for public open space is constitutional. Just because they haven't done that, it doesn't mean that it is constitutional. Atty. Bellis stated that if you look and if you are a strict constructionist, and even if you're not, he doesn't know what part of the Fifth Amendment you wouldn't be able to understand – that taking private property owners land shall not be taken for public use. They are violating the Fifth Amendment. They will never be able to convince him otherwise. But they don't have to convince him, they have to convince a court.

Atty. Bellis commented on Mr. Panico's example and look to the Connecticut State Statutes. He submitted, in a nice way, that the people that write those statutes and it was just revised on October 1, 2011. They know the make-up of the legislature up in Hartford, CT. They are predominantly very liberal Democrats. The Republicans have very little say because they have no power of vote and things can get written as legislation that may not reflect this community. That is all he is going to say about that.

Mr. Panico responded that set of rules has been in there for years and years, Steve. It is not new.

Atty. Bellis commented that he's getting to it. In that provision, the Subdivision Regulation that Mr. Panico is referring to which is 8-25 it says that a Commission "may" require the provisions of open spaces, parks and playgrounds in places where it deems it is proper. He agreed that has been in there for a long time. Atty. Bellis stated that it does not mean that they have to do it – Shelton does not have to have an open space provision where they take people's private property.

Mr. Panico responded that they chose to do that a long time ago, Steve.

Atty. Bellis commented that they are rewriting the regulation and it will be a revelation here. He added that just because it was done in the past, it does not make it right. They had slavery in this country too but that does not make it right.

Chair Parkins asked Atty. Bellis if he was basically dittoing his comments from the previous proposal.

Atty. Bellis responded no, he is going to go one step further. That was just a warm-up. He said that if they want to take the Subdivision Regulations and take people's property, and they are comfortable taking it in violation of the Fifth Amendment, then at least they don't go beyond the liberal Democrats up in Hartford and make it even worse than what they have in their statutes.

Atty. Bellis read from the Connecticut State Statutes. It says "such payment or combination of payment and the fair market value of land transferred shall (not "may" – it's mandatory) be equal to not more than 10% of the fair market value of the land to be subdivided prior to the approval of the subdivision." He added that even they are saying that the landowner has the right to make a payment not greater than 10% of what the land

was worth before the subdivision application. He commented that what the Commission is doing in their regulation goes beyond that by saying that the Commission (which could be different members 10 or 20 years down the line) is going to decide that they want more of the landowner's land – they want 15% of the land. He added that is not what the Statute says. The Statute gives the owner the ability to pay 10% and it says shall be equal so it is exceeding even what the Connecticut State Statute says. He thinks that they need to be careful on that.

Atty. Bellis indicated that he would pass out his suggestion on the Subdivision Regulation. He explained that if they want to do the taking of people's private property, then make it reflect what it says in the State Statutes and allow the owner to pay 10% of the fair market value of the land.

Atty. Bellis stated that he wanted to get to the heart of what he thinks they want to do which is the P&Z Regulation. He reminded everybody again that it may be a taking under the United States Constitution because there are Supreme Court cases that have said if you regulate too much it is tantamount to taking someone's property. If it is unreasonable then they don't even have to physically take the property like they are in the prior zoning proposal. They are now just going to regulate it to the effect until it becomes a taking under the Fifth Amendment.

He commented that they shouldn't think that just because they are enacting regulations they are not impacting on people's private property and it may not be a "taking of their property."

Mr. Panico asked if they were arguing the philosophy of zoning across the boards.

Atty. Bellis responded no, absolutely (inaudible)

Mr. Panico commented that this is just another zoning provision.

Atty. Bellis responded that is not necessarily true. He is not advocating that all the zoning regulations should be thrown out – that isn't his position – because not all of them are... Some of them are in there to help one understand what rights he has in a particular zone and what one can build. It may protect property values. He isn't throwing out the baby with the bath water and everything else. He added that he wasn't going that far because that would be insulting. He indicated that he was saying was that what they think they are doing may not accomplish the goal intended. He stated that he had a concrete suggestion that if they want to increase open space in a particular application, it should be something that the Applicant and the Commission has a say in. He doesn't like, and the members of the Builder's Association don't like, that the Commission is telling them that they can't do an R-1 if they think they need that little open space in the back and that they have to go to smaller lots. He knows that everybody here is saying that they aren't going to lose any lots – that the builders and landowners aren't going to lose any lots.

Atty. Bellis stated that he thinks that after he speaks, the Commission will hear from some of these other people why it is hurting the property owner in doing that. The property owner may not want to have a smaller lot. Some of the things that they have in there does not limit it to 15% so if the Commission wanted to make more than 15% and take some of these smaller lots, then it could grab and take more land.

Secondly, he asked who says that 40,000... (inaudible)

Mr. Panico stated that they've used their abilities to review and massage their developer's proposals to achieve more open space without losing development potential.

Atty. Bellis responded yes but (inaudible)

Mr. Panico asked if anyone had (inaudible)

Atty. Bellis stated that it was in concert with the applicant. That is what he's getting at - if it is a two way street. If the Applicant and the Commission thinks it is desirable then he thinks it is a great concept.

Mr. Panico responded that it is their goal was to achieve 15% of open space and you're saying that (inaudible)

Atty. Bellis stated "buy it." If you want 15% then buy it.

Mr. Panico commented that they'll say "they really don't want to do that..." Then what they have is 10% open space.

Atty. Bellis stated that if they want open space then buy it. They are taking somebody's land. He doesn't want to argue.

Chair Parkins stated that yes this doesn't sound like (inaudible)...

Atty. Bellis indicated that he just wanted to point out a few other things and see if they agree or disagree. He continued by asking if a 40,000 square foot lot have the same value as a 30,000 square foot lot.

Mr. Panico responded that was the argument they went through 20 years ago when they first wrote clustered regulations for the City. All the real estate agents paraded up here and said that you couldn't get the same price for the smaller lot as you would for the bigger one. Yet when the concept became established, everybody's clamoring to do open space subdivisions.

Atty. Bellis stated that he wanted to sum it up. He asked if the landowner would like a 40,000 square foot lot on this land does he have the right to do it under the standard Planning & Zoning Regulations.

Mr. Panico responded yes, bottom line, yes.

Atty. Bellis stated that the bottom line is no, if they want their 15% then they are going to tell him to make that lot 34,000 square feet.

Mr. Panico responded only if there is no other way of achieving the goal.

Atty. Bellis stated that they are being paternalistic again.

Chair Parkins asked Atty. Bellis if he would make the same invitation for the Subcommittee. She knows that he wants this on the record. She understands that.

Mr. Panico added that they aren't out to punish developers.

Atty. Bellis responded that it is not developers - its land owners. He commented that he knows the Commission would like to hear from some of the others. He has ten reasons

why what they think is OK for all the landowners having smaller lots. It is not. He indicated that he wanted to hand out his suggestions and changes which are constructive. It may accomplish what they are trying to do in a way that is not so paternalistic.

Chair Parkins indicated that they would have it added to the record.

Atty. Bellis stated that he didn't put all his arguments in here. It is just changes in text.

Chair Parkins indicated that it is in fairness to the other people who want to speak. It isn't that they don't love to hear your (inaudible) but there are a lot of people here and a full agenda.

While Atty. Bellis provided the Commissioners with his comments for the record, Chair Parkins asked if anyone else in the audience who would like to speak on this amendment.

Jim Blakeman, Blakeman Construction, Big Horn Road, Shelton addressed the Commission. Mr. Blakeman commented that they be familiar with him and his father, Monty Blakeman. He owns subdivisions, larger lots and smaller lots so he can answer their question about prices. The price is about the same but it limits his customers. Some customers like a bigger lot and some don't. If he is limited to just a small lot, people will leave and they won't come to Shelton. He has that much.

Mr. Panico responded that again, that was not their intention.

Mr. Blakeman stated that is what is going to happen.

Mr. Panico indicated that is why they are saying one or more lots. They don't know how many are going to be necessary to create the additional open space.

Mr. Blakeman stated that, and he means no personal offense, as soon as the power goes to the Board, you guys are not going to want that 15% and it pushes them to small lots. They know what is going to happen. He commented that it was not fair to the landowners – Rudy, the farmers – not him right now, it doesn't affect him.

Mr. Panico responded that is exactly what they don't want to have happen.

Mr. Blakeman continued to say that when they go to get the land developed, they are going to pay, not the developers. It is their right, they are citizens. They belong to Shelton and they own that land. It is their land. He asked if they understand that.

End of Tape 2A 9:25 p.m.

Mr. Blakeman commented that he had a lot of issues with a lot of materials and things – he understands – the Commission has done a wonderful job in this town.

Mr. Panico stated that on behalf of the Subcommittee and the Commission, the intent was to achieve that without penalizing the development potential of a piece of property.

Mr. Blakeman responded that he knows that but like Steve says – the future Boards are going to push it. He commented that they should look at our own Government – they get a little power and keep pushing it. Before they know it, they don't have any rights left. That is what is happening here. What they have in place has worked for many years. Like Steve said, they've got a couple of bad apples in town and all the good people are going to pay. There isn't a better guy than Rudy Hudak in town – it is wrong what they

are trying to do. He understands that they have headaches on a lot of things and it stinks. People are suit-happy these days but really should the good people pay for that. He doesn't think so.

Chair Parkins stated that his comments are valuable.

Mr. Blakeman stated that he's not a public speaker and he doesn't do this but he just thinks it is wrong what they are doing to the town of Shelton and the people - taking land from them. It is their land; they own it and they pay taxes on it. It is not fair to tell them that they can't cut some trees on their property.

Comm. Flannery stated that it is wrong that you did all that blasting at Split Rock, made her well collapse and you never paid for it.

Chair Parkins stated "let's not make this personal."

Comm. Flannery continued to say that OK, last straw. She added that she doesn't see him as a good person.

Mr. Blakeman responded OK...

Chair Parkins stated that was enough – that's enough of that.

Mr. Blakeman commented that he was speaking for everyone and not himself personally. He asked Comm. Flannery not to drag this into a personal discussion. This is about in general, for the town and for the people – that is what they're here for. They aren't effecting him with money or anything; there is no ulterior motive here for him. The landowners that develop the property are going to pay. There might as well a contingent on how many lots they get. It is not fair to those people. He knows that everyone wants open space to walk around on and he gets it. He walks on the Trails himself and enjoys it.

Mr. Panico stated that is why they didn't want to tip the balance of the playing field. They'll just have to find another way of doing it if this doesn't do it. If this doesn't do it then they'll explore other ways but he would appreciate a sit down with Atty. Bellis. They can go through it provision by provision. They will listen to his comments and then explain why they did it and see if they can put their heads together and find a reasonable way of doing it.

Mr. Blakeman stated that he thinks they have good intent with what they are trying to do but he thinks, like Steve said, give the developer or the landowner the right to talk and not be blocked out.

Mr. Panico indicated that their goal was to achieve the intent of the plan without destroying value to the landowner.

Mr. Blakeman stated that he hopes in the sessions with Steve – Steve represents a lot of guys in the room and that's why no one else is standing up.

Chair Parkins indicated that this would be staying open.

Mr. Blakeman stated that he'd like to talk about this some more. There could be some good improvements done. He agrees with that. He thanked the Commission.

John Pawlowski, 21 Jonathon Lane, Shelton addressed the Commission. Mr.

Pawlowski commented that a lot of White Hills is not serviced by sewers. It is very hilly and a lot of the lots are R-1. There are a lot of problems with septic and if they don't have the right lot size, what are people going to do when their septic fails. Now they'll have to dig up the entire septic system.

Mr. Panico responded that obviously they can't do that.

Mr. Pawlowski commented yes, he understands that but he sees this – “when topography and soils are suitable.” He stated that a lot of the soil types are very difficult in White Hills. That's a lot of the open space land and land that is available for development. It is basically going to effect the landowner and the future owner of those houses.

Mr. Panico stated that obviously one of the paramount things that come into play is suitability because they obviously can't exclude area that is needed for future systems. They would sit down, and they have done this time and again, they've looked at lots and often asked the engineer why a lot was so big. He would explain that they have a system here and reserve areas there. That is fine. There is a reason for that and it is fine. They have to leave that and can't touch that. He added that many times when he asks why a lot is so big, he's told that the Zoning Regulations required it. It's an interior lot and interior lot has to be 1 ½ times the size of a front lot. He asked what is so Gospel about that. He commented that the Gospel part of that is that they wanted to discourage the overuse of interior lots – that was one of the premises.

Mr. Panico stated that now they are saying is fine, do the interior lot but instead of making it larger in area, set aside that additional area as open space. It is a win-win for everybody – the developer gets an interior lot and they get a little more open space. There are a lot of tools out there that are available. They certainly don't want to compromise the integrity of a lot for the present owner or the future owner.

Mr. Pawlowski commented that when they do reduce the size of that interior lot, what happens is that the second house is almost on top of the first house. They don't have the space anywhere and it's less desirable.

Mr. Panico stated that the point he is trying to make is that it is not always like that. in those instances, yes, they need to preserve the integrity of it. There are many situations, however, where interior lots abut against designated open space – so, you move about in the open space.

Mr. Pawlowski commented that he just has a concern. He sees 10% and then it is going to go to 15% then 20% and where does it end. These are landowners that have owned their property for years and now they are taking more and more space away. It degrades the value of the property. He concluded that those were his comments.

Chair Parkins thanked Mr. Pawlowski for his comments and asked if there was anyone else wishing to speak regarding this.

AJ Grasso, 18 Beech Tree Hill Road, Shelton addressed the Commission. Mr.

Grasso indicated that he only had a couple of points. He showed a drawing of subdivision map of ? Pond Woods. He pointed out that it had been done with a 10% open space set aside requirement. He stated that if it were to go in today, and they asked for 15% or more – and it's the “more” part that he has the biggest problem with. Mr. Grasso used a pen on his site rendering to outline how the future division might look.

Mr. Grasso pointed out the 40,000 square foot lot, took another 5% on each one and showed how they connected. He asked what was to keep them from saying that they have open space here, open space here and here, so wouldn't it be a great idea to take all of this and run an open space corridor all around the back of all the lots. And it would be nice to have a trail around that for everybody – he asked what would keep the Commission, maybe not this Commission, but a future Commission for asking for that.

Mr. Grasso commented that in regard to the percentage. They are asking for 15% or more and today they read into the record an agency that sent a referral letter saying that maybe 40% - 70% of the land could be given for the same number of lots. He asked where this stops. It's 15% and they read something earlier into the record asking for 40% - 70%. Mr. Grasso asked where it ends. The State is asking for 10% and this Commission is asking for 15% or more. He asked if more means 15% or does more mean 25%. And if one Commission member happens to be mad at one of the builders, it might push for 20%, 25% or 30%. It has to stop at some point. He thanked the Commission.

Bob McGuire, 162 Birdseye Road, Shelton addressed the Commission. Mr. McGuire indicated that he doesn't agree with any of this. He thinks that it amounts to taking their land and not giving them anything for it. He commented that the way this is written, it is too gray. As Commissioners they can decide that he can build one thing and the other guy can't. There are no boundaries and it is going to just keep going and going until you guys take it all. He thanked the Commission.

Alderman John Anglace, 676 Long Hill Avenue, Shelton addressed the Commission. Alderman Anglace commented that he wanted to speak a little bit on the perspective of the Board of Aldermen. He wasn't sure if when they take 10% or 15% that it comes to us by Statute or if it comes to us through their good graces, but the BOA has to approve any open space that they agree to take.

Alderman Anglace stated that he has seen from time to time - they've found that the open space that they may think is good is really a piece of open space that really isn't going to do them any good. It is a piece of land and what it represents to us is a liability as a City.

Alderman Anglace agreed with what was said earlier and he has to respect the fact that the people who own property – it is taking money out of their pockets. The more we take away from them. He doesn't think that they are hurting in this town for open space and he doesn't think that they are hurting with the ability to purchase open space. He stated that if they need open space, it should be contiguous, useful to us and of benefit – not just a piece of land that is a piece of land for the sake of taking a piece of land.

Alderman Anglace commented that he wasn't so sure that he is speaking to the same concept that they are speaking to but he just wanted them to know their perspective. They don't want to pick up a piece of land just for the sake of getting a piece of land that they can't doing anything with and it represents nothing but a liability to them.

Mr. Panico responded that he thinks it is important and he thinks they've lost the importance of the distinction between preservation of open space and taking land. It does not have to be the same thing. You can't create open space reservations without taking it physically and giving it to the City. Maybe they have asked the developer, if it is a major development, to set up an association and keep that land owned in common. The association can use it for common walkway areas. It does not necessarily mean that there needs to be a taking and a deeding of land to the City. That is not the intent at all.

Chair Parkins agreed. Mr. Panico reiterated that the intent is to preserve a certain portion of the track in it's basically in its existing, natural condition. Sometimes it may be logical to have it conveyed to the City for some purpose. In other cases, it may be simply a designation on it as open space.

Alderman Anglace asked Tony Panico if he would agree that over the time that he has sat on this Board, as consultant of this Board, over time that he's been up there that there has been considerable change in the way government goes about encroaching upon individual rights. He commented that for him to go in and say, "I like this piece of property, let's take it by eminent domain." Well, they better have a very good reason for doing it and they don't do it that often, but they have that right. But taking 10%-15%, they are at 10% and they aren't hurting. They don't need to go out and campaign for more open space land. They have been able to buy it, they've been able to accumulate it over the years and it is all paid for.

Mr. Panico responded that he thinks that those concerns should have been expressed at the time that the Plan of Conservation and Development was adopted. Somebody should have gotten up and said that they don't need any more open space. All they are doing is saying that somebody prepared a plan and the plan makes a very strong point about increasing open space. The Subcommittee said that is a good idea but they shouldn't be penalizing the land owners who have kept their land vacant up until now to suddenly lose some development potential. They set about to do this without penalizing anybody.

Alderman Anglace stated that he had one more experience that he wants to pass on to them. He knows that some of them are aware about it. They have open space where people have encroached on their open space. They've cut their grass, built on it, used it – they know that. They went back to try to get these people to stay off of it and they thought we were terrible. That's the other extreme but if they pick up little pieces of open space, it doesn't help them. It just creates a liability and he wouldn't be in favor of that.

Mr. Panico agreed that there were many instances where the City should not be involved in having deed to the open space.

Alderman Anglace stated that was all he had to say and he thanked the Commission.

Chair Parkins asked if there was anyone else in the audience wishing to speak regarding this subject. With no one, she asked for a motion to continue this public hearing.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to keep the public hearing open for the Proposal of the Shelton Planning & Zoning Commission to amend the regulations pertaining to Open Space Set Aside.

Chair Parkins thanked the very patient people in the audience who have been sitting and waiting for the rest of the agenda. She asked for a motion to add two items to the agenda for tonight.

AGENDA ADD-ONS

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to add Separate #6182 and Separate #6204 to the agenda.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

SEPARATE #6187: SIGN-O-RAMA, 93 CENTER STREET, BUSINESS & SIGN

Mr. Schultz stated that this was for 93 Center Street, Vicky's Candy Boutique. The lease area is 1200 square feet, hours of operation 11 a.m. to 6 p.m., Tuesday – Sunday, one full time employee.

Chair Parkins asked for clarification as to the location of this.

The Applicant (name not provided) responded that it was the yellow house right next to Joe's Variety.

Mr. Schultz commented that the application also includes the proposed sign which is consistent for Downtown. He showed the Commission a rendering of the sign.

Chair Parkins asked if this would be a wooden sign.

The Applicant responded that they kind of changed some things – that was just to get the application in. She showed the revised rendering of the signage. She stated that they changed the colors.

Mr. Schultz asked if it was still hanging. The Applicant responded yes.

Comm. Pogoda asked for clarification as to which sign she planned to use.

The Applicant explained which one she'd be using.

Chair Parkins commented that the first one was a sample of the style.

Mr. Schultz added that it would be solid and non-illuminated.

Some discussion (comments inaudible).

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #6187 for business and signage.

SEPARATE #6174: R.D. SCINTO, 2 CORPORATE DRIVE, BUSINESS OFFICE
SEPARATE #6166: R.D. SCINTO, 4 CORPORATE DRIVE, BUSINESS OFFICE
SEPARATE #6167: R.D. SCINTO, 4 CORPORATE DRIVE, BUSINESS OFFICE

Mr. Schultz stated that Separate #6174 is for business occupancy at 2 Corporate Drive. The new company is CDW Government LLC. They are a software technology reseller. The lease area is 29100 square feet, 177 employees; hours of operation are Mon. – Fri. 7 a.m. to 7 p.m. The previous tenant was Clayton.

Mr. Schultz stated that Separate #6166 on 4 Corporate Drive is for a business occupancy. The company is Advanced Decisions for software management. Lease area is 2350 square feet, 9 employees, hours of operation Mon – Fri. 9a.m. – 5 p.m. Previous tenant was Index. Separate #6167 is a business occupancy on 4 Corporate Drive for Wachovia, banking. The leased area is 2883 square feet, 8 employees, Mon. – Fri. 8 a.m. – 5 p.m. They are replacing Advanced Decisions. Staff recommends approval on those three separates.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6174, Separate #6166 and Separate #6167 for business occupancy.

SEPARATE #6070: R.D. SCINTO, 2 TRAP FALLS ROAD, BUSINESS OFFICE
SEPARATE #6072: R.D. SCINTO, 2 TRAP FALLS ROAD, BUSINESS OFFICE

Mr. Schultz indicated that they have two separates for 2 Trap Falls Road. Separate #6070 is a business occupancy for York & Chapel Website Designers, 8 employees, Mon. – Fri. 9 a.m. – 5 p.m. They are replacing Baldwin.

Separate #6072 is a business occupancy for a company named Butterfly, energy management company with 3030 square feet of leased area, 8 employees, hours of operation Mon. – Fri. 8 a.m. to 5 p.m. They are replacing Verizon. Staff recommends approval.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6070 and Separate #6072.

SEPARATE #6073: R. D. SCINTO, 100 BEARD SAWMILL RD, BUSINESS OFFICE

Mr. Schultz stated that this was for a business occupancy at 100 Beard Saw Mill Road and replaces the former Health Net. This is Clayton Services LLC. They are leasing 23,366 square feet, 115 employees, Mon. – Fri. 8 a.m. to 6 p.m.

Comm. Flannery asked if that was the entire building or just half of the building.

Mr. Schultz responded that is for the partial building. The entire building is 148,000 square feet. So this is for less than 20% of it.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6073.

SEPARATE #6177: WAL-MART, 465 BPT AVENUE, OUTDOOR FLOWER SALES

Mr. Schultz indicated that once again they are providing the outdoor flower sales from March 14th through August 30th. Staff recommends approval with the same stipulations imposed by the Fire Marshal.

Comm. Pogoda commented that they are ahead of schedule this time, that's for sure. It's OK though, one day earlier is better than two weeks late.

Chair Parkins added that she was happy that they've finally gotten the message.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #6177.

**SEPARATE #6154: RICH FERNANDEZ, 890 BPT AVENUE, BUSINESS
SEPARATE #6179: VISION DESIGN, 890 BPT AVENUE, WALL SIGN**

Mr. Schultz indicated that this had been tabled. He advised the Commission that this was internally within Stop & Shop. It is a stand-alone store front right to the left of Stop & Shop. It's a very tiny store selling vitamins and supplements.

Chair Parkins asked for clarification as to it being to the left of Stop & Shop.

Comm. Harger stated that is near the bottle return and the pizza place. It is a tiny little closet size store.

Mr. Schultz commented that when they rehabbed the whole center, there were some adjustments made.

The Applicants (name not provided) commented that they already have their Certificate of Occupancy from the Fire Marshal and they've been open for two weeks. She commented that she doesn't know why it was still on that agenda.

Mr. Schultz explained that the Commission tabled it because someone wrote down on their application that Stop & Shop was the owner and it was inside of Stop & Shop. Stop & Shop doesn't own the building so the Commission was confused.

The Applicant apologized for the misunderstanding.

Comm. Harger asked what type of business this was for. Mr. Schultz responded vitamins and supplements. He asked the applicants if they also had a sign to be approved.

Scott Johnson, Vision Designs addressed the Commission. Mr. Johnson commented yes, and indicated that evidently he made that mistake on the application and 864 Bridgeport Avenue and actually it is 890 Bridgeport Avenue.

Chair Parkins commented that they would also be Separate #6179 for signage.

Mr. Schultz stated that he was going to include this and show them a copy of the location too. He asked the applicant if the sign was internally illuminated.

Mr. Johnson, Vision Designs responded no, it's solid just like the Hallmark sign which is not lit. It conforms to everything else that is in the plaza.

Mr. Schultz commented that they'd be acting on #6154 for the use and #6179 for the wall sign.

Comm. Harger asked if the layout of the sign conformed to the rest of the signs in the plaza because they redid them.

Mr. Schultz responded yes. It is not internally illuminated but it is centered.

Comm. Harger asked if this was an honest representation.

Chair Parkins asked the applicants how accurate the representation was of their sign.

Mr. Johnson responded that it is 100% accurate.

Mr. Schultz asked if it was centered. Mr. Johnson responded yes. Mr. Schultz asked if he used channel letters. Mr. Johnson responded yes, channel letters, not illuminated just like the rest.

Comm. Harger asked if the landlord went along with this.

Mr. Johnson responded yes

Mr. Panico commented that the problem is that their rental space is very short so they aren't going to fit those big block letters.

Chair Parkins added yes, they need to use a very condensed font.

Comm. Harger stated that they are getting away from the design already. The whole shopping center went through this whole major thing and now they are getting away from it. Comm. Pogoda agreed.

Mr. Johnson asked how it was different.

Comm. Pogoda responded that it is different than all the rest of the signs that are up.

Mr. Johnson commented that the rest of the plaza has channel letters and those are channel letters. There is no difference. If they don't like the font than that is just preference.

Comm. Flannery indicated that it was better than the Super Saver Spirits.

Mr. Panico indicated that it was in terms of its height and he asked if it lined up and the top or the bottom or anywhere. Obviously, the S line is up at the top of "Pizza" but he doesn't know how that is with the rest of the shopping center.

Mr. Johnson responded that the landlord only said that it just had to stay within his storefront, which it does.

The Applicant (name not provided) stated that originally he wanted navy blue but they requested either red or black, so they went with black. They approved it.

Comm. McGorty commented that the spacing looks OK.

Chair Parkins added that the only thing that they could do would be to hyphenate it and that would look terrible. So there is no (inaudible)... they only thing they could do would be to put it on a diagonal going this way.

Mr. Johnson responded that was one of the ideas that they had to go on an angle but it was kind of gaudy and it throws off everything.

Comm. Pogoda agreed that would throw everything else off.

Mr. Johnson commented that the problem is the size of the store.

Chair Parkins indicated that as long as this is an accurate rendering, they are going to hold him to the fact that he's said it is accurate in terms of space on top and bottom.

Mr. Johnson indicated that he said it was accurate for Super Saver Spirits and it is accurate. He stated that he had been here last summer

Chair Parkins responded that she thought he looked familiar.

Mr. Schultz commented that Staff recommends approval for those two.

On a motion made by Thomas McGorty seconded by Elaine Matto, it was voted (5-0) with one abstention to approve Separate #6154 and Separate #6179. Commissioner Harger abstained from voting.

SEPARATE #6142: JING REN, 514 BPT AVENUE, GROUND SIGN

Mr. Schultz indicated that this was a sign for the Wild Kongee Hibachi sushi buffet place.

Comm. Pogoda asked if that was Kobi's.

Chair Parkins responded that it was the old Kobi's.

Comm. Pogoda asked if this was a new sign.

Mr. Schultz responded yes, a ground sign.

Comm. Matto asked if it hadn't been there awhile.

Mr. Schultz stated that it was at the entrance on the far right side. This is a PDD so the Commission controls the number of signs. The commissioners have had issues in the past that they didn't want any more.

Chair Parkins commented that it is visible and asked why they need a sign there.

Comm. Flannery noted that there had been someone sitting here for the longest time and she thinks that she probably left.

Comm. Pogoda recalled that they had talked about this. This has about as much visibility as any interior business can have. He commented that there was a young lady sitting there for this for a long time but she left.

Mr. Schultz asked if they would like to table this. The Commissioners agreed.

Mr. Panico asked where they want to put this sign.

Comm. Pogoda responded right at that entrance – right near the road.

Chair Parkins asked if it would be at the far entrance.

Comm. Pogoda responded no, the one closest – the entrance right across from the restaurant.

Mr. Panico stated that entrance is only a tenth to the road.

Mr. Schultz added it's on the Wells side, closer to the road – south side.

Mr. Panico commented that on the Wells side, riding up from the south side, you're don't see that building until you're right on top of the entrance.

Comm. McGorty agreed and added that it is wooded and it is obscured – the sight line is (inaudible).

Mr. Panico stated that's the direction that it is intended to service then there is some merit in thinking about that.

Comm. McGorty commented that there is a shed there too and it's wooded – not right now but there's foliage. The sight line heading south is (inaudible)

Chair Parkins asked the Commissioners to take a look, take a picture and for a motion to table this.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to table Separate #6142.

SEPARATE #6176: SIGN LITE INC., 704 BPT AVE, WALL & GROUND SIGNS

Mr. Schultz stated that this was for change for the Hong Kong SBC to First Niagara Bank. He passed around a rendering of the wall, directional and monument signage. This is at the Split Rock location.

Comm. Pogoda asked if all they were doing was changing the name on the signs.

Mr. Schultz responded yes to First Niagara Bank – another change for the bank. Staff recommends approval.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6176.

SEPARATE #6184: CT CAR STORAGE, LLC, 496 BPT AVE, MONUMENT GROUND SIGN

Mr. Schultz provided a rendering of the proposed sign and explained that it would be the permanent monument sign.

Comm. Pogoda asked about the “.com” stuff on it.

Mr. Schultz responded that it was their call because this is a PDD.

Comm. Pogoda commented that he liked the sign but not the .com.

Mr. Schultz asked if the consensus was the .com be taken off.

Comm. Flannery stated that if they have .com here, they will have to have it on all the signs.

Chair Parkins responded yes, the agreement is to take it off.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve the monument ground signage with the noted modifications (removal of ctcarsstorage.com).

SEPARATE #6194: HIRSCHBECKS SPORTS BAR & GRILLE, 882 BPT AVE, SIGN & CHANGE OF OWNERSHIP

Mr. Schultz stated that this is the old Coasters in Shelton Square. He showed renderings of the proposed signage. It is internally illuminated with a white background and red letters.

Comm. Harger asked if they would be making any interior changes.

The applicant (name not provided) responded that they wouldn't be making any major changes right now. They are keeping the wrap around bar that Coasters had.

Chair Parkins asked if they were open already.

The applicant responded yes.

Chair Parkins commented that this is like an after-the-fact.

Mr. Schultz responded that they have a license. It is for the change of ownership and the sign.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6194 for the change of ownership and the signage.

SEPARATE #6193: JOHN RIBAS, ONE POSITIVE PLACE, KINDERGARTEN PROGRAM

Mr. Schultz stated that as most of the commissioners are aware, the Boys & Girls Club of Lower Naugatuck Valley provide youth services. They want to expand that youth service to include a kindergarten program. There will be three full time and 12 part time employees; hours of operation are 7 a.m. to 6 p.m. The area that is committed to the kindergarten program is 8000 square feet. Essentially there is a need and they...

Chair Parkins commented that this is an after school program, not a kindergarten school. It will be for after school and before school.

Mr. Schultz responded yes, and the parking has always been tight but it has worked because they make it work. They have shuttle vans and this is something that complements what they are providing to the Lower Naugatuck Valley. Staff recommends approval.

Comm. Harger asked if they were designating a certain part of the building for that.

Mr. Schultz responded yes.

Mr. Panico asked if basically they are going to shuttle bus the kids from school to this place.

Chair Parkins added that if it is before school, then the school bus would come pick them up there.

Mr. Schultz commented that they have their own shuttle bus but they coordinate with the town school bus service.

Mr. Panico stated that the parent would drop the child off, the school bus picks them, the school bus picks them up from school and the parents pick them up.

Mr. Schultz responded yes, right.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6193.

SEPARATE #6182: UNIVERSAL HAIR STUDIO, 442 HOWE AVENUE, BUSINESS & SIGNAGE

Mr. Schultz commented that this is Ralph Matto's building on Howe Avenue and they had the barber shop in there and this is being replaced with a hair styling and hair replacement operation. It is a 500 square foot leased area; number of employees will vary from 2 to 3 and the hours of operation Mon. through Fri. 9 a.m. to 7 p.m. and Saturday 8 a.m. to 4 p.m.

Chair Parkins asked if this was located near the Petal Pusher.

Mr. Schultz responded that it was next door. He commented that the sign will be uniform with downtown. Staff recommends approval.

Chair Parkins asked what the name of the place was.

Mr. Schultz responded Universal Hair Studio.

On a motion made by Virginia Harger seconded by Anthony Pogoda, it was voted (5-0) with one abstention to approve Separate #6182. Comm. Matto abstained from voting.

SEPARATE #6204: BAIT & TACKLE, 445 RIVER ROAD, POLE SIGN & WALL SIGN

Mr. Schultz stated that this was a new bait and tackle shop located next door to the Polish deli. They are proposing the pole sign and wall sign. It is called T.C. Marine Bait & Tackle and they will be leasing 1200 square feet. This is a husband and wife team, hours of operation 6 a.m. – 6 p.m., 7 days a week and they are replacing a mattress store that was there. He showed the Commission renderings of the proposed signage for the pole and wall sign.

Mr. Panico asked if this was attached to the sign down below.

Mr. Schultz responded yes, they are allowed up to 8' x 5' – 40 square feet.

Comm. McGorty asked if they would be taking that big thing off of the front of the building.

Comm. Harger commented yes, the big tarp.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve Separate #6204.

APPLICATION #12-02: SPORTS CENTER OF CONNECTICUT FOR MINOR MODIFICATION OF DETAIL DEVELOPMENT PLANS FOR PDD #30 (DETACHED STORAGE SHED), 784 RIVER ROAD (MAP 12, LOTS 37 AND 38)

Chair Parkins indicated that this was tabled from the last meeting and she thinks that the Engineer had some comments and there was some correspondence.

Comm. Flannery departed at 10:08 p.m.

Chair Parkins indicated that Comm. Dickal would be sitting in as alternate. She indicated that they did receive some correspondence from the City Engineer on March 8th.

P&Z Secretary Virginia Harger read correspondence from the City Engineer.

***See attached correspondence dated March 8, 2012 to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer.**

Mr. Schultz indicated that they have all favorable reports from the Fire Marshal and the City Engineer. He asked if the Commission would like him to read the Draft Motion that he prepared.

Chair Parkins responded yes.

Mr. Schultz read the Draft Motion for approval of Application #12-02 with noted conditions.

End of Tape 2B 10:10 p.m.

***See attached P&Z Draft Motion to approve the Minor Modification of Detailed Development Plans for PDD #30 for P&Z Application #12-02 for a detached storage shed at 782 River Road.**

Chair Parkins commented that Mr. Panico indicated that there was some stuff stored in the small shaded area on the plan. she asked if it was going to be moved into the storage building.

Joe Mingoello, Mingoello & Hayes Architects, 90 Huntington Street, Shelton, CT addressed the Commission.

Mr. Mingoello responded that there was a lift back there which fixes the nets and stuff like that. It will go inside one of the bays. This is a two bay garage. He added that a lot of the equipment presently in the little shed here would go in that. He explained that what is happening is that the buildings are getting older, they are doing their own maintenance, buy their own equipment and they are requiring more storage space as they continue.

Mr. Panico asked what the future situation with respect to the dumpster. He asked if he was going to keep that huge compactor type of dumpster out there.

Mr. Mingoello responded yes, as far as he knows.

Mr. Panico stated that originally that fenced in area was the dumpster enclosure. But now it is not a dumpster enclosure, it's an enclosure for buckets and maintenance supplies. If he is going to build a new shed, he assumes that he's going to want to keep that enclosure also.

Mr. Mingoello responded yes, right.

Mr. Panico stated that with the shed and the enclosure, there should be no need for any other stuff outside.

Mr. Mingoello responded that was the goal – to take the equipment and put it inside. Additionally...

Mr. Panico commented that they both know that there's a maintenance shed down there and in winter they need a bunch of sand for the pavement next to the shed and then two more parking spaces are gone.

Mr. Mingolello responded that he thinks that they hire somebody for snow removal – they don't do that. They have lifts to repair the netting for the driving range and a lift for inside the Rinks to change the equipment and stuff like that.

Mr. Panico commented that those lifts won't fit in the shed. They are parked in the back right now – they go 30 feet up in the air.

Mr. Mingolello responded that they can come down and be put inside too. He doesn't know what other equipment they would be storing in there.

Comm. McGorty commented that those lifts collapse.

Mr. Mingolello stated that they leave them up there right now because they have no place to put them.

Mr. Panico asked if this was a pre-fab shed that they were going to put up.

Mr. Mingolello responded no, it is going to match the rest of the architecture. He showed the proposed rendering of the shed.

Mr. Panico asked how long it would be.

Mr. Mingolello responded it's 36 feet.

Comm. McGorty commented that they could get that lift in there because it is telescopic.

Comm. Pogoda asked 36 feet X what.

Mr. Mingolello responded 22 feet deep. It has a tool crib for all the tools. They also need a place to store the canisters because they are going to open up and get the paintball going this spring. There are large paintball canisters and they need a place to put that stuff. Right now they have that little shed at the end of the driving range and it is just no good and it ends up outside.

Mr. Panico stated that he still thinks that they are getting into a situation where they are trying to put 50 lbs of stuff into a 10 lb. sack.

Comm. Pogoda commented that the problem is if they have to take up any more space, which is at a premium down there. Taking more space, like Tony said, putting stuff on the outside. It will be harder to find a parking space when those one or two spaces are ...does he understand what they are saying with that.

Mr. Mingolello responded yes, they are losing four here but they can put two more in another location. They have a net loss of two parking spaces. If they get into a situation where there is no parking then they can add a couple more if they have to. They could put two at the end. They just didn't do it right now because it is curbed out that way but there is room for two more spaces.

Comm. Pogoda responded OK but asked what if you need it that day – what are you going to do?

Mr. Mingolello stated of course, not that day, but if they find that they are having a problem, they are going to have to add back the spaces.

Chair Parkins indicated to Mr. Mingolello to let them know that there are people watching spaces and if they start encroaching on...

Mr. Mingolello responded that they always know that there is a parking issue there. If they have tournament going on, nice weather, more golfing – it gets busy and they are aware of that.

Mr. Schultz indicated that he read the draft motion and added that note about future storage and everything being inside.

On a motion made by Anthony Pogoda seconded by Nancy Dickal, it was unanimously voted to approve Application #12-02.

Chair Parkins commented that she didn't want to schedule their Regulation proposals during a regular meeting. It could have waited (inaudible)... It was unfair to a lot of people. There were people here to speak on it so she couldn't move it to the end of the agenda.

PUBLIC PORTION

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

Joshua Kopac (alternate Commissioner) addressed the Commission and indicated that he wanted to go on the record with this. Mr. Kopac made the following statement.

During last month's Valentine's Day meeting, one of the Commissioners was able to take part in the Planning & Zoning Commission meeting even though he resided in Florida at the time. I am OK with that notion providing that it is done in a responsible, transparent manner.

As per the Connecticut Planning and Zoning statutes:

Chapter 14, Section 1-200 (2) "Meeting means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multi-member public agency, and any communication by or to a quorum of a multi-member public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.

It is written in the City of Shelton Charter:

Section 5.1.4 (b) that "The Chairman of the Planning and Zoning Commission shall, when a regular member is unable to attend a meeting or is otherwise unable to participate, select an alternate in place of such member firstly from the same political party as the member..."

I have trouble with the words "or is unable to participate." In this particular instance, Anthony Pogoda was unable to rightfully participate. Physically being in Florida without access to seeing or hearing applicants coming before the Commission while voting on all but two measures is against the City of Shelton Charter as well as trumping ethics.

Now the question to be comes to "What can I do about it?" There are 3 options from my perspective as to how to proceed.

1st – Corporation Counsel.

The two members Tom Welch and Ray Sous are our legal counsel for the city. Judging by the fact that Tom was present at the start of the 02/14 meeting, I will assume that he has no objection to the way the meeting was handled. As per Ray Sous, he is quoted on record from the 2/26 meeting saying "I don't see an issue...as long as the public is aware of it," "We've done it with other boards." Considering the fact that the only reason the public was aware of this is due to my getting on record with the press, it appears as if I can only receive so much help from our legal guardians.

2nd – Ethics Committee

This is another laughing stock. The Ethics Committee has only one member right now instead of three. There also have been "Ethics" issues on the Ethics Committee. Even if the Committee was fully filled, you still have to keep in mind that "Government is the judge in its own case." It is time for an Ethics Committee comprised of community figures and not people associated with local government.

3rd – Don't pass the 02/14/12 minutes

This step is the only logical one which can actually effectively solve this dilemma. Providing that the minutes state on Page 15 of 22, "Comm. Pogoda stated he did not receive last month's ..." The inaudible heard on the tapes but not in the minutes is "package."

The whole point of being an alternate member on the Commission is to represent another member when they are physically not in attendance.

Mr. Kopac thanked the Commission for their time.

Chair Parkins asked if there was anyone else from the Public wishing to address the Commission on any item not on the agenda. There were no other comments. She 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.

OTHER MATTERS

APPROVAL OF THE MINUTES: 12/13/11 AND 1/10/12

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to approve the minutes of 12/13/11 and 1/10/12.

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 REPOR

Mr. Schultz indicated that he would table his report because it is quite long.
See attached P&Z Staff Report dated March 13, 2013

REMARKS FROM THE CHAIRMAN

Chair Parkins announced that she wanted to go on record informing everyone that they would be using Skype for the March 28th meeting.

Comm. Dickal commented that since Asst. Corporation Counsel doesn't have an issue with using Skype as long as the public has been made aware of it.

Chair Parkins responded that by public, it means the public that is here. She made an announcement at the beginning of the last meeting.

Comm. Dickal commented that at the last meeting, there were many commissioners that were present but unaware they would be using electronic devices. In all fairness to the alternates, if you read the charter because then they need to go back and readdress the charter. They have a full commissioner here who used to be an alternate and she thinks that he would have found it disrespectful that he was opted out of a meeting because of Skype. Everybody is here for the same reason – because they want to do right by the City of Shelton.

Chair Parkins responded that as the elected officials they have the right to participate via electronic methods. She made the announcement at the beginning of the meeting.

There was further discussion and comments regarding the use of Skype at scheduled meetings, informing all the Commissioners about its use. Comm. Dickal indicated that she did not like manner in which the Commissioners and the public had not been notified prior to the meeting.

Chair Parkins indicated that things come up unexpectedly and the decision to use Skype does not have to be posted like an agenda does.

Comm. Dickal commented that the Charter should be revisited because then they don't need alternates.

Chair Parkins stated that issue should be taken up with the Charter Revision Committee.

Comm. Dickal reiterated her opinions about notification, sensitivity and respect for other members. She questioned revisiting the Charter and the need for alternates.

Comm. Pogoda commented that there would always be a need for alternates. If he had not been available down there, they would have needed the alternate. Comm. Pogoda indicated that as a full member of the Commission he would like to be able to participate in scheduled meetings even when he is out of town.

Chair Parkins referenced a meeting in which she was made aware of Comm. Matto not being able to attend at the start of the meeting by another Commissioner who would act as alternate. That is the very same thing.

Further comments and differing opinions were expressed regarding the notification of the use of Skype at the 2/14/12 meeting (inaudible).

ADJOURNMENT

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn the meeting at 10:30 p.m.

Respectfully Submitted,

Karin Tuke, P&Z Recording Secretary