

SHELTON PLANNING & ZONING COMMISSION **FEBRUARY 27, 2013**

The Shelton Planning & Zoning Commission held a special meeting on Wednesday, February 27, 2013 at Shelton City Hall, Auditorium, 7:00 p.m., 54 Hill Street, Shelton, CT 06484.

COMMISSIONERS PRESENT: Chairperson Ruth Parkins
Commissioner Joan Flannery
Commissioner Virginia Harger
Commissioner Elaine Matto
Commissioner Thomas McGorty
Commissioner Ned Miller (alternate)
Commissioner Anthony Pogoda (via Skype & Conference Phone)

STAFF PRESENT: Richard Schultz, P&Z Administrator
Anthony Panico, P&Z Consultant (via Conf. Phone)
Patricia Garguilo, Court Stenographer
Karin Tuke, P&Z 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

PUBLIC HEARING

APPLICATION #13-1, KIDS ZONE REALTY, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CHILD DAYCARE CENTER WITHIN DWELLING UNIT), 7 PLATT ROAD (MAP 64, LOT 8), R-1 DISTRICT.

CALL TO ORDER/PLEDGE OF ALLEGIANCE & ROLL CALL

Chair Parkins called the February 27th Special P&Z Meeting to order at 7:04 p.m. with the Pledge of Allegiance and a roll call of members in attendance. She indicated that Comm. Pogoda was attending the meeting via Skype and Conference Phone and P&Z Consultant, Anthony Panico ("A.J.") was in attendance via Conference Phone.

She stated that this meeting was a public hearing for Application #13-1. She reviewed the procedures for a public hearing and no cell phone usage for those present in the audience. She requested that those wishing to speak sign in, address the Commission not the Applicant, and keep their questions or comments focused only on the application being presented tonight.

APPLICATION #13-3, KIDS ZONE REALTY, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CHILD DAYCARE CENTER WITHIN DWELLING UNIT), 7 PLATT ROAD (MAP 64, LOT 8), R-1 DISTRICT

Chair Parkins asked the P&Z Secretary, Comm. Virginia Harger to read the Call of the Hearing and applicable correspondence. She indicated that any letters from residents will be read during the Public Portion of the hearing.

P&Z Secretary read the Call of the Hearing and three pieces of correspondence from the Police Department, Fire Marshal and the City Engineer.

***See attached correspondence addressed to Richard Schultz, P&Z Administrator from Shelton Police Chief, Joel Hurliman dated February 27, 2013.**

***See attached correspondence addressed to Richard Schultz, P&Z Administrator from Shelton Fire Marshal, James Tortora dated February 22, 2013.**

***See attached correspondence addressed to Richard Schultz, P&Z Administrator from City Engineer, Robert Kulacz dated February 19, 2013 including Planning Sheets 1-4 dated 2/8/13 and Storm Drainage Report dated 2/8/13.**

Atty. Fred Anthony, Anthony & Reale, Huntington Center, Shelton addressed the Commission. He stated that he was representing the Applicant, Debra Petruzzello Ulrich, Kids Zone Realty, LLC regarding the Application submitted for the property at 7 Platt Road.

Atty. Anthony briefly showed a site plan of the property and provided copies to the Commission of a color aerial photograph of the site.

Atty. Anthony also provided copies for the record of the notices that went out and returned green cards. He added that actually two notices went out. His office sent out the first notice and then a second notice with an attachment of a copy the actual publication when he received it from Mr. Schultz. He provided a list of the all the property owners notified and added that all of those property owners returned the green cards.

Atty. Anthony stated that he wanted to begin his discussion of this application by talking about what it is not because they will spend a lot time talking about what it is; however, he briefly wanted to tell them what it is not. He has heard different feedback and he wanted to correct a couple of things. He commented that it is not a zone change. It doesn't extend the LIP zone and he pointed out the LIP zone on the site map. It doesn't change the zoning map.

Atty. Anthony showed the location of building and stated that it doesn't change. He added that he has brought the architect, Joe Mingolello; unfortunately, he doesn't have a lot to tell them because there aren't any exterior changes to the building, no additions, no second floor, glass façade or a big atrium in front of it. He indicated that all of that stays the same.

Atty. Anthony indicated that what they are seeking is, as he said, site plan approval. He apologized in advance to the Commission because he knows that the Commission is very familiar with their Zoning Regulations. However, he wants to make the Zoning Regulations a part of his presentation so he distributed copies to the Commissioners of Section 3 of the Shelton Zoning Regulations entitled Permitted Uses.

Atty. Anthony commented that Schedule A lists the Permitted Uses for different things in the City of Shelton. He referenced 6B on Schedule A which read "Group Day Care Homes and/or Child Day Care Centers when such use is conducted in a dwelling unit and subject to the additional standards and conditions set forth in Section 33." He commented that next to this statement there is a letter "E." He returned to the first page under 23.1 that indicates that "E" means that it is a use permitted in the district subject to the securing of a Special Exception from the Zoning Commission who has to review their site plan.

Atty. Anthony commented that he has heard a lot of talk that they are changing this...he stated that this is a permitted use and that was discussed previously at other meetings. So, they are starting with a permitted use and now they have to address the additional standards.

Atty. Anthony indicated that the additional standards begin with Section 33 which talks about the general standards required for any type of Special Exception. He distributed copies of Zoning Regulation, Section 33 for Special Exceptions to the Commissioners. These are in regard to their Statement of Use and he will be addressing those.

Atty. Anthony stated again that because this is a Permitted Use and it is contemplated use there is a specific provision in the zoning regulations for it – Section 33.16 which talks about Group Day Care Homes and/or Child Day Care Centers in this zone. He provided copies to the Commissioners of Section 33.16 and he added that he knows the Commissioners are familiar with their own Zoning Regulations but indicated that it may be easier for them if they have it in front of them.

Atty. Anthony commented that he was the MC tonight and he had Joe Mingolello, the architect with him tonight; Mr. James Swift, the Engineer; and Mr. Colburn who is a Certified Real Estate Appraiser and they are all going to speak tonight and will discuss various parts of this application. They will discuss the property, the building, the regulations and the Applicant will also be (inaudible).

Atty. Anthony stated that before he gets involved with all of that, he preferred to have the Applicant, Ms. Ulrich speak to them because the first question is about what is going to be happening here. He stated that Ms. Ulrich will tell them what type of use this is.

Ms. Debra Ulrich, 9 Allyndale Court, Shelton CT addressed the Commission. Ms. Ulrich stated that this is going to be a proposed child care center that they would like to call Kid's Zone. She stated that the hours of operation would be Monday through Friday from 7 a.m. to 6 p.m. It does not mean that it is going to be full run at those times. A before and after school program is for children ages 5 to 12 years old only. This is care for children who need care before the time that they have to go to school – sometimes school starts at 9 a.m. – so it would be 7 a.m. to 9 a.m. before they go to school and then 4 p.m. – 6 p.m. which would be after school.

Ms. Ulrich stated that right now in the Shelton schools have a half day kindergarten program so they would like to accommodate those children also but again, it is at various times. Right now, kindergarten is 9 a.m. to 11:45 a.m. or 11:50 a.m. and then the next session is 1:50 p.m. to 3:40 p.m. Again, they want to provide a before and after school “home away home” for children to come to do their homework. For the morning schedule, they would eat breakfast and then go off on the bus. She added that parents drop off their kids at staggered times. So, they open at 7 a.m., they don't have all the parents there at one time. There will be a 7 o'clock, a 7:05 a.m., a 7:10 a.m., she has two at 7:15 a.m. and there may be none at 7:30 a.m. She added that every day it changes, it fluctuates by the parent's needs and the parent's schedules.

Ms. Ulrich discussed the area that the children would actually be using. She commented that it wasn't just an open area and it wouldn't be a free for all. It wouldn't be a room with no organization and just chaos. There are actually different areas and different sections for the children to be constructive. She stated that they would have a computer area, an art area, science and math area, a library/homework area, a snack/lunch area, table activities. She added that there would be a lot of nature-enriched programs where the children would learning all about “reduce, reuse, recycle” and things like that with bird feeders, gardening outside to really get the children active in the community. Ms. Ulrich asked if anyone had any questions.

Chair Parkins stated that they would prefer to hold their questions until the end of the presentation.

Atty. Anthony stated that next he would have Mr. Swift come up and address the specific site plan for them.

James Swift, P.E. and Landscape Architect, with offices in Shelton addressed the Commission. Mr. Swift indicated that this was a fairly simply site; as was pointed out, there are no structural changes. This is an existing single-family residence and the structure stays exactly the same except that it would be enhanced by painting, washed, repaired, etc. He indicated that there wouldn't be any changes to the front section of the building at all.

Mr. Swift stated that right now a driveway comes in – he showed the location where it currently exists and comes in and stated that it goes around to the back. It has a fairly large pavement parking area at the rear of the site. He commented that they feel that this driveway is a little bit too close to the intersection of Long Hill Avenue, so they are going to move this driveway down so that they have a little bit more room down there.

Mr. Swift stated that the only physical change to the site would be building nine parking spaces and he showed the vicinity on the site where that would be done. He commented that they will work out pretty well with the grades so they aren't very much of an issue. They will remove all the existing pavement areas where it calls for it. Mr. Swift stated that they would have the standard things you would expect for nine parking spaces which include, of course, a handicapped parking space.

Mr. Swift mentioned that a ramp would be built to the rear of the house to provide handicapped accessibility. He has been to the main floor of the house which is really the only physical concession that they had to make to the outside. They put it in the rear of the house where it cannot be seen. It also happens to be the area where the children's play area is located. There are no structures in that area. It's a fenced in area with a certain square footage as required by

the State. There are no big jungle gyms or anything of that nature; it is an open, grass play area. From what he understands from Debra, it is kind of what the State likes to see. He reiterated that there would be no play structures back there.

Mr. Swift stated that lighting is another issue that has come up. They are cognizant that they are in a residential zone and they need to keep things like lighting at that scale. All they are going to do is put three light poles in. He showed the locations of the light poles with one light being in the middle of the lot and one toward the entry. He indicated that they would be six foot poles. They are the kind of light poles that anyone of them might go to Home Depot or Lowe's to buy and put in their yards. He showed where he had provided detailed information regarding the light fixtures at the bottom of the proposed plan.

Mr. Swift stated that the lights would be a standard watt bulb. There would be no metal halide or anything like that. Again, this is the kind of light pole that any one of them would put at their front steps. He reiterated that it would be a six foot high, residential light pole.

Mr. Swift showed a drawing with the proposed contours and explained that it was actually a minimal of grading just so that they could put the parking in but all of the grading in the front of the site remains untouched. He commented that he would show a landscaping plan later to indicate that the area would be untouched. He showed where they would be doing a little bit of work and where they would be cutting in the new driveway. He pointed out where they would remove some pavement out and re-landscaping it.

Mr. Swift stated that they met with the City Engineer. Drainage is always an issue when they do anything like this. They have decided that since this is such a small amount of pavement; there would be no curbs, no drainage structures and nothing of that nature. They are going to let all of that water just run off the pavement just like they would in any of their own driveways. He showed where they come down to the driveway and the location where they would have the low point so that the water flows off to either side. It discharges no water onto Platt Road.

Mr. Swift added that there is actually a balance when you consider the pavement that they are removing and the pavement that they are putting in. The impervious surfaces are very, very comparable. There is a slight increase. He showed the location where they would be putting a little rain garden to take care of that. He referenced Mr. Kulacz's letter stating that all of the drainage issues have been taken care of.

Mr. Swift stated that there is a Soil & Erosion Control Plan which is standard whenever you do something like this. It shows the fabric fence. It requires them to make sure that they keep the site clean when they are grading that parking lot.

Mr. Swift explained that the landscaping would be very minimal and there is a very good buffer all along Long Hill Avenue and it will all stay. There would be no change proposed to that. He indicated that there was a nice maple tree and an apple tree in the front which would remain. Over by the neighbors they have a nice maple and upright arborvitaes that would also stay. All the existing trees to the rear of the yard would also remain. The play area that they will be constructing is in an existing lawn area so there is no need to change anything there.

He reiterated that they would remove a few trees in the area of the proposed driveway. There is a pretty good stand of hard woods on either side of that and they will leave those in place. Mr. Swift indicated that they were going to plant a holly ilex hedge across the front of the parking spaces for a couple of reasons. He thinks that it is pretty well buffered and hard to see from Long Hill Avenue but you can see it, especially in the winter. They will plant that evergreen hedge there to hide the pavement in the parking lot, hide the cars and it will keep the headlights from being an annoyance to anyone.

Mr. Swift stated that it is a straightforward, simple plan. The only thing to do is get those parking spaces in there with minimal disturbance.

Atty. Anthony indicated that Mr. Swift will be here if they have any questions for him. He provided copies to the Commissioners of the Inlands Wetlands Report which shows that there are no inland wetlands issues and a copy of the Storm Drainage Report that he knows that they've

already received in Mr. Kulacz's report indicating that there are no drainage issues; however, he would like to make both of those a part of the record.

Atty. Anthony stated that he next would have Mr. Mingolello, the architect, talk about the building, how they came up with the square footage, the numbers, show pictures, elevations, etc.

Joe Mingolello, architect, Mingolello & Hayes Architects, Huntington Street, Shelton addressed the Commission. Mr. Mingolello showed a larger site plan so that they could understand how they developed the property. He stated that in terms of the exterior, there is not a lot going on and there are no changes. The house will remain as is; however, there was some interior planning. Basically, how they developed the size of the program space is really based upon regulations. Mr. Mingolello indicated that the regulation really says that you can have a total of one third of the total for program space for Kid's Zone of the total building area or livable space.

Mr. Mingolello stated that was developed by – and he showed the basement area on the floor plan and explained that was converted into a residence. It was a single bedroom at this level, living space, dining area, kitchen, bath, and a laundry/mechanical equipment space. The total existing basement space is 1,019 square feet.

He explained that the main floor of the ranch home is really the level that is on grade that you really see. The total square footage of the main level is 1,484 square feet. There is a total residence living space of 2,503 square feet. If you take one third of that total 2,503 based upon the regulation, you end up with 834 square feet - so that is what is allowed by the City regulations in terms of daycare space.

Mr. Mingolello commented that then the State of Conn. has its regulation. The State says that toilet rooms, a handicap accessible toilet room, an employee toilet room, and kitchenette – so, you can back that out of the 834 square feet which is permitted by the Shelton regulation, leaving a balance of 706 square feet. The 706 square feet is divided by 35 because every child requires 35 square feet of program space. Mr. Mingolello stated that was how they come up with the number of 20 children – that is how you do the math.

Mr. Mingolello indicated that the additions to the back – he showed the location of the rear handicapped ramp up to the entrance and exit of that program space. He showed the program space on the plan and indicated that balance of space belonged to the residents. He indicated that the entrance to the residence is also in the back. The front façade will remain the same. The bay window where the old kitchen was, the entrance door and the front walk will all remain the same. Mr. Mingolello concluded that was how they planned it based upon the regulations, the State Health Department requirements in terms of program space, both interior and exterior. He asked if there were any questions about the planning of it.

Comm. Flannery asked if was 706 square feet.

Mr. Mingolello asked her for clarification about what she asking about 706 square feet.

Comm. Flannery referenced the rendering shown of the program space layout and asked if it was 706 square feet.

Mr. Mingolello responded no, that area rendering is just to give an idea of the space– they didn't do that – it was done by Debra Ulrich – it is basically to show the space would be broken up. These 706 square feet will have all those different functions in it though – such as arts & crafts, etc.

Comm. Flannery asked if that means that drawing isn't what it is going to look like then.

Mr. Mingolello responded no, not from an aesthetic standpoint. This will be laid out differently with all those program spaces incorporated into it.

Comm. Harger asked him to clarify about the ramp in the back for handicapped access and if it was going to the first floor.

Mr. Mingolello responded yes, to the first floor.

Comm. Harger asked about the interior or exterior handicapped access for the basement.

Mr. Mingolello responded that there isn't any and that it wasn't required for residents. It is only required for the first floor for the public space.

Comm. Harger asked if the children are only going to be on the first floor.

Mr. Mingolello responded yes, he showed a coded diagram and indicated that the children would only be on this end of the house.

Comm. Harger asked if the owner would then be living in the basement - in the newly renovated apartment.

Mr. Mingolello responded yes, correct. There will be a full residence on the lower level and a bedroom on the second floor. He indicated that the entrance for that would be where it is located right now. It would come into a foyer and the stair goes down to that living space.

Atty. Anthony clarified for the record that Comm. Harger stated that the owner would live downstairs; however, that is "no" – the regulations require that the operator would live there - there will be an employee that will be residing here.

Comm. Harger responded OK.

Atty. Anthony thanked Mr. Mingolello and indicated that he himself was not an architect or an engineer; he's a lawyer so he spends his time worrying about the law and the regulations. He submitted a copy of the law and the regulations in preparation for today's hearing. He added that he has also created a grid of his own to go through if the Commission would like to follow along with him. He provided copies of this grid to the Commissions:

- 1) Grid #1 – 33.4 General Considerations for a Special Exception Application Requirements
- 2) Grid #2 Group Day Care Homes and/or Child Day Care Centers Application Requirements.

Atty. Anthony commented that they've discussed that for a regulation of this type, they have some general considerations and then some specific considerations. In looking at the first grid entitled 33.4 General Considerations for this permitted use, the Board has to consider the following things in reviewing the site plan. First, *is it the size and the intensity of the proposed use.*

He referenced an aerial site map of the area showing Long Hill Avenue and Platt Road. On the copies he provided he indicated that the entire residence can't be seen on the map that he provided because part of it is covered by a little red flag that they see on the map. He added that was the size of the use that they are talking about here.

On this aerial photograph, he pointed out the location of Sikorsky Aircraft and Precision Resource, the US Post Office, Danbury Mint and commented that they are all below this in the LIP zone. He commented that when you look at this neighborhood, he isn't sure how one could say that the size of this use of 29,000 square foot lot is of concern. When they talk about the intensity of the use that is what Ms. Ulrich told them about. It is limited in scope and it addresses a specific need. It is a before and after school program and that is the main purpose that they see here. The numbers that are submitted are for a maximum of 20 children.

Atty. Anthony commented that Ms. Ulrich will explain this – "Does she anticipate have 20 children at one time?" No, because they have morning kindergarten and an afternoon kindergarten. There may be kids that come in and use this facility in the morning before school and there may be children that come here at the end of the day in the afternoon. Atty. Anthony stated that is very limited in its scope and it is very limited in the size of the lot. It is very limited

in the size of the building and it is very limited in the usage that it is permitted to have that she is taking advantage of to use. It is a very limited scope.

Atty. Anthony commented that most of the time someone will be here is between 7 to 9 in the morning and 3 to 6 in the afternoon. When they consider the scope of this residential neighborhood, the scope of the LIP zone which it backs into, it is really an insignificant impact, if that.

Atty. Anthony stated that the next thing that they have to consider is *the effect of the proposed use on any adopted comprehensive plan of development for the City*. He reiterated that this is such a small use to take an existing building and a permitted use in a permitted zone, there is no violation of any comprehensive plan. What they have here is a permitted, appropriate, transitional use. This is the perfect use for this property because you have this LIP zone behind it, the residential zone here, and in looking at the building, which they have all heard, does not change. It is the exact same façade that they are going to see. There is nothing in the site plan that you see that is anywhere on the front of this building on the Long Hill Avenue side.

He added that the limited additions that are here are to put parking spaces in. Mr. Swift told them that once you take out this parking lot, this driveway and put in another driveway, there is not a very big gain of asphalt. The other thing that he pointed out was the location of Long Hill and Platt and noted that everything here is on the Platt Road side. He added that across the street there is the Jehovah Witness facility. Their parking lot is more significant than this one directly across the street.

Atty. Anthony discussed *the capacity of adjacent and feeder streets to accommodate peak traffic loads and any hazards created by the use*. This has become an issue that many people have spoken about and he's sure they will hear people talk about it – the traffic. His first thought was that they have a use here where the maximum during the course of the day, they are going to have 20 people on Platt Road which goes into Sikorsky Aircraft and certainly has the capacity to handle that traffic and on Long Hill Avenue – he asked what real effect it could have on traffic. He stated that because they have to come a public hearing and to further deal with the facts and not just opinion, they have secured a traffic study. Atty. Anthony indicated that he would have Mr. Swift talk about the traffic study.

James Swift, P.E. and Landscape Architect addressed the Commission. Mr. Swift stated that this study was conducted by Dave Sullivan, Traffic Engineer from Milone & MacBroom. He indicated that he was going to paraphrase it a little bit. It very much speaks for itself and obviously, he is not Dave Sullivan so he isn't going to try to represent his detail but what he is going to point out is that in Mr. Sullivan's conclusions there would be no negative impacts of the traffic generated by the site. He wanted to make an observation on his letter because the only point that he had that raised any question at all was the sight line. Mr. Swift indicated that when Dave went out there and did the study, one of the things that he looked at aside from the traffic volumes – which are innocuous – his conclusions stands that there are no adverse impacts. Mr. Swift stated that what he is looking at is the possible issue of a sight line coming out of the driveway looking to the left. When Dave was out there looking at the site after the storm, he wasn't 100 percent that this sight line exists at this time. He thinks it did but he was not 100 percent sure.

Mr. Swift indicated that he wanted to point out two things. There is an oddity about this site because if they look at the property line which he pointed out and the actual street, Long Hill Avenue and Platt Street, all of this land, it's almost 100 feet of land between the edge of the pavement and the street line. Mr. Swift stated that his personal belief is that in order for the sight line that Mr. Sullivan is looking for to be accomplished, it might require a little bit of trimming of the brush and there's a possibility that a tree may have to come down.

Mr. Swift added that personally he doesn't think any grading is necessary because of the contours but if they take the worst case scenario that it does have to be graded a little bit, it is all within the City Engineer's Office and the Department of Public Works to clean up a little bit on that shoulder. He stated that it was not a bad idea because if the sight line doesn't exist for the driveway, then the sight line doesn't really exist for the curbs and the roads so that work should

be done. Mr. Swift concluded that he would let Dave Sullivan and Milone & MacBroom report speak for itself.

Comm. Harger asked about Dave Sullivan's report in the 2nd to last paragraph where he recommends a Stop sign and Stop bar be installed at the site's driveway exit to Platt Road. She exited if he was talking about one of those lines.

Mr. Swift responded yes, he's just talking about a line.

Atty. Anthony stated that he wasn't Dave Sullivan either so he won't speak for him but he will read for him because he thinks it is important - Comm. Harger's point about the first sentence of that paragraph. This is a traffic study where he looks at trips, he looks at traffic, property, use and it is not just an opinion but someone who is certified as an expert.

Mr. Sullivan's letter states "It is our opinion that the impact on traffic operations at even the intersection most heavily traveled by your patrons would not be impacted in any perceivable fashion." Atty. Anthony read that "In summary, it is our opinion that operation of a daycare facility at this location as described, limited to 20 students, would have no adverse impact on traffic operations." Atty. Anthony indicated that they thought it was important to bring an expert opinion to the Commission and make sure that they have those facts.

Atty. Anthony commented about the traffic and the buses. He stated that they are all familiar, there are buses - and it is not as though this facility brings buses. Long Hill School is right up the road so there are buses here. Will buses be coming to this facility? Potentially yes, because it is a before and after school daycare center. There may be a bus that picks them up and brings them to the school and one that comes in the afternoon - does that increase the use? It is a three bedroom residential dwelling and if someone moves into this house with a 6th grader and a 3rd grader then there will be four buses - a pick up and drop off for Long Hill School and a pick up and drop off for Perry Hill School. There are already buses coming in here and it is not like they are bringing it to someplace where they've never seen a school bus. Long Hill School is right up the road.

Atty. Anthony commented that Ms. Ulrich did an informal count of the number of buses here and there are buses going by here all day long so it is kind of a red herring to say "oh, there are going to be buses and there's going to be traffic..." He indicated that they have an expert report that there is no traffic issue here. In regard to the buses, they may potentially have less buses here than someone who is residing on the property with children because that is the type of use it is.

Atty. Anthony moved on to 33.4.4 that the Commission must consider *the effect upon property values and taxable values in the neighborhood, taking into account the topography of the lot and the character, location and height of proposed buildings, walls, stacks, fences, grades and landscaping*. He pointed out the location and the height of buildings. He commented that they aren't changing the location of the building and they aren't changing the height of the building. He added that they've discussed their landscaping plan.

Atty. Anthony commented that if they want to make sure that they get the factual, proper information when it comes to the effect on property values, they brought a real estate appraiser - not a real estate agent, but a real estate appraiser who is authorized to testify in the Connecticut courts as to the value of property. He provided copies of his report and introduced Mr. Colburn.

Mr. Mike Colburn, Licensed Real Estate Appraiser, 62 Windsor Road, Shelton addressed the Commission. Mr. Colburn stated that he was asked to perform an analysis of the effect of a proposed business at this 7 Platt Road site, the effects it would have on the neighborhood, adjacent properties and neighboring properties.

Mr. Colburn stated that the City of Shelton right now has 42 active Connecticut State Registered Childcare/Daycare, Substitute and Assisted Centers. The best way to start is to see how the town, the Assessor Office reacts to these existing businesses. They are from commercial buildings all the way to small, similar residential, single-family homes.

Mr. Colburn stated that a search of these properties, these daycares and adjacent, adjoining, nearby and neighborhood properties showed no adverse effect on valuation or marketability by the Assessor's Office for any of the properties so even one being adjacent or located next door within the same neighborhood has absolutely no effect as other properties not near them within the neighborhood.

End of Tape 1A 7:46 p.m.

Mr. Colburn stated that the other thing is typical appraisal adjustments of these properties, they (inaudible) its children in a residential dwelling. It's not liquor stores or tattoo parlors or things of that sort where you would have more of an external obsolescence such as what is there right now with these commercial and industrial businesses and buildings, heavily trafficked roads, places of worship, post office, large parking areas and the like. The other way to judge the effects is market reaction to these properties and to these neighborhoods, the desirability of these neighborhoods when these businesses are present. Again, there is none noted by the City. There is no industry standard in the appraisal business for these properties and a check of the Multiple Listing Service (MLS) for other properties similar to this and for residential home daycare centers. There is actually a positive promotion that can be advertising of subjects in surrounding towns that actually it is beneficial. They promote it as a residential benefit. It's for kids, its neighborhood people; there are not out-of-towners that are driving from five towns over to transport kids to a non-neighborhood area.

Mr. Colburn commented in regard to traffic from a market reaction standpoint not from a traffic standpoint. He stated that it is not a high traffic generator. He doesn't know if they can actually distinguish if the surrounding businesses, and there are many and they are large with hundreds of employees – if they each hired another five or ten people each so they'd be talking about 40 – 100 more people. So, 20 cars and that's if everybody had one kid, one car, everyday into an off-street parking area in a residential home and the house is similar to other area houses.

Mr. Colburn commented that the best example of this is an existing business in town at 71 Longfellow Road in White Hills. It is in heavily residential area, absence of any industrial or commercial influences such as the neighborhood of Platt Road and Long Hill Avenue. It has the capacity for 22 kids, is open Monday through Friday, 7:30 a.m. to 6 p.m. There is no parking or additional parking. It is very residential and not one of the properties adjacent, near or in close proximity to that business had any adverse effect on valuation. Any effect on the value of any property in that area is going to be more determined by the LIP zone, the industrial businesses that are already present with that higher than typical traffic flow which is already noted on the field card in that area as medium versus light. Again, the adverse influences are already there and they are commercial and industrial. A small home business in a same residential building of children would not have an adverse effect on marketability or property values or market desirability for the neighborhood.

Chair Parkins asked if there was any adverse notation on field cards for this particular residence for the property surrounding it in the LIP zone or anything.

Mr. Colburn responded that there is not. The only one for this property and the ones within a 1000 foot stretch either way was a higher than typical traffic flow.

Chair Parkins asked if it was noted on the assessment, on the card.

Mr. Colburn responded yes, other than that, no.

Atty. Anthony stated that for the record he wanted to point out two things when it comes to traffic for property value. He commented that he thinks that they need to remember that this use becomes part of the neighborhood. The people that typically are going to use this are in the neighborhood. If you live in White Hills, you wouldn't drive them all the way down to Long Hill Avenue to drop them off. Most of these students are already going to be going to Long Hill School. His parents are going to be coming from the surrounding neighborhoods because it is a convenient place to bring little Billy when they have to be at work at 7:30 a.m. and both mom and dad are working. This is not a use that brings other people from out of the area. He added that they aren't going to come from Westport to bring their child to that two hour daycare in

Shelton and then go to work in Greenwich. He commented that he thinks that they need to consider the context of what it is that they are talking about here. Also, Mr. Colburn mentioned that there is a facility similar to this on Longfellow Road. As they know, Longfellow Road is near Dickinson Drive, way up and it has a capacity for two more children than what is proposed here and he believes that it's been open for a little over 20 years.

Comm. Flannery asked for clarification as to where that daycare was located.

Atty. Anthony explained its location at 70 Longfellow up off of East Village near Dickinson. He added that this is permitted use and it's not something that they've never seen before in this City. He commented that they also need to consider that if they want to make a finding that having this residential facility next to you reduce property value, well; there are 42 daycares in the City of Shelton. He thinks that they should all be prepared for about a hundred tax appeals and assessments saying it impacted their values. The reason is because it doesn't and that is why they brought in an expert who has reviewed the records, the Assessor's cards, and has expertise in this area.

Atty. Anthony commented that they would next go through 33.4.5 regarding *the number, location and arrangement of off-street parking spaces and vehicular access to the lot*. He pointed out the existing driveway on the site plan, Long Hill Avenue and Platt Road and commented that the existing driveway was about 80 feet from the corner. They've moved the existing driveway back. There will be more room between Long Hill Avenue and the driveway here. It will be a little bit more than 150 feet so when it comes to vehicular access, this plan actually improves vehicular access to the property.

In regard to the parking spaces, Atty. Anthony stated that they are based upon the regulations. This isn't a number that Mr. Mingoello or Ms. Ulrich said "how about 9 spaces." This is based on the regulations, as based upon the number of children, based upon the number of employees. It meets the regulations. There have been concerns about the parking lot and the lighting. Mr. Swift has already stated that the lights here are residential-style lights. If they ask what effect it will have on the neighborhood, well, in looking at the next house over, there are about 150 feet before you get there.

Atty. Anthony suggested that if there is a concern about the light, take a 75 watt light bulb, stand next to it and read something. Then use that same 75 watt light bulb, walk 150 feet away and see how much light that gives you to read. He stated that it is not an intrusive light and it is designed to be behind the house and it's on Platt Road. Atty. Anthony reiterated that there was serious consideration in putting this together and trying to make sure this was indeed going to be friendly. It is pushed to the rear of the property to the LIP zone.

Atty. Anthony stated that in 33.4.6 considering *fire and police protection needs*, they have two reports here. Police Chief Hurliman submitted a report and what he found interesting in his report is that the proposed use of this residence as a daycare center in a residential area is not recommended. Atty. Anthony indicated that it wasn't Chief Hurliman's determination because the proposed use is a permitted use. Well, he supposes you could say that the proposed use of this as a house doesn't seem to work – well, it is a permitted use. He doesn't know if Chief Hurliman has viewed the same traffic study or if he's reviewed the plans to see the extent. He doesn't know how it is that Chief Hurliman's has drawn his conclusion but in his letter he talks about the proposed use. Atty. Anthony commented that he wanted to point out that the proposed use is a permitted use.

Atty. Anthony referenced Fire Chief Tortora's letter who mentioned some concerns that they are more than happy to address. The Fire Marshall states that with the "aforementioned agreed upon, I approve the site plan as submitted." So apparently there are no fire protection issues to be addressed as it reflects this property.

He pointed out that Mr. Kulacz, City Engineer, in reviewing the same plan says "having no concerns or reservations with the approved being proposed, I endorse the application for construction as submitted."

Lastly, 33.4.7, Atty. Anthony commented that in regard *to water supply, sewage disposal facilities and drainage and erosion problems*. He stated that they have already told them this will be City Water, City Sewer and there are no water supply or sewage problems or drainage and erosion problems. They have the reports and Mr. Kulacz, who is the City's expert, has signed off on it.

Using another grid that he provided for the Commission entitled 33.16 Group Day Care Homes and/or Child Daycare Centers, Atty. Anthony indicated that he would discuss the specific provisions that address this permitted use in this district. He stated that they would be checking the box on each of these items.

Atty. Anthony commented that first they need to consider if the use is located in the dwelling unit. He indicated yes, it is and that the following standards shall apply.

- A) The person or persons conducting such use shall reside in the dwelling unit, and there shall be no more than two non-resident persons engaged in the conduct of such use.*

Atty. Anthony indicated that the plans that they see now only have two people working here so there would be a resident and a non-resident, which is actually less than what is stated in their regulations.

- B) Except for required outdoor play areas, the use shall not impair the residential character of the premises.*

Atty. Anthony apologized for being redundant but he showed the photo of the proposed site again and added that if they drive by it today that is what they would see, if they drive by tomorrow that is what they would see, and if they drive by next year that is what they will see. He stated that it is a residential dwelling and it will continue to be that look of that residential dwelling. They aren't changing it. No brick, mortar – it isn't going to happen.

Atty. Anthony addressed the outdoor play areas and that there would not be a giant mountain of apparatus there. Ms. Ulrich said that they designed it to be more of an open area with a garden and birdhouses to give it more of a nature feel. Of course, he clearly thinks that fits in with a residential neighborhood.

- C) The floor area used for the conduct of the use shall not exceed one-third of the finished, livable floor area of the dwelling unit.*

Atty. Anthony commented that he wouldn't repeat what Mr. Mingoello went through and that's how they came up with the number. He pointed out that is also an important thing. They didn't ask Ms. Ulrich what she wanted to have. They had her follow not only the Shelton Zoning Regulations but State Regulations for these facilities. These aren't numbers that they pulled out of the air. They aren't arbitrary, capricious numbers. These are numbers based upon the regulations that they have and the regulations that the State of Connecticut has and this application complies with both of them.

- D) The lot shall be a conforming lot, adequate in size, shape and physical characteristics to accommodate the site needs of the use and shall have a minimum area of not less than 15,000 square feet, or as required by the applicable district, whichever is greater. Such use shall not be permitted on any interior lot approved under these Regulations.*

Atty. Anthony indicated that the lot was 29,000 square feet existing here already. It is not an interior lot; it is a corner lot. He reiterated that they fulfill this requirement.

- E) No play apparatus shall be located in any required street setback area. All such play apparatus shall be appropriately fenced and screened with foliage. Such fencing and foliage shall be of such type, style, design and location as to ensure privacy to adjoining residential properties.*

Atty. Anthony provided a rendering to show the street setback and added that there was nothing there. The play area will be in the back, which by the way, it is next to an LIP zone. As they have discussed, the play area is not set up with giant things. It is a grassy area with gardens and birdhouses, again, in keeping with that residential neighborhood.

F) Adequate off-street parking shall be available at the ratio of one space for each non-resident employee and one (1) space for every five (5) children enrolled during the maximum enrollment.

Atty. Anthony stated that they've got five children for one space; there are five spaces, one space for each non-resident employee making it six. He pointed out that it is 25 foot wide there to make sure that there is a shoulder there for people to come in and pull out. Again, they have picked the number based upon the regulations.

G) When not served by public water supply and municipal sanitary sewers, all on-site utility systems shall be deemed adequate by the Lower Naugatuck Valley Health District and confirmed in writing.

Atty. Anthony indicated that they have public water, sanitary sewers and all will be Lower Naugatuck Valley Health – they have that.

H) The application shall state the number of children for which approval is requested, together with the anticipated age breakdown, and hours of operation. The facility shall have written confirmation of an approved license prior to issuance of a Certificate of Zoning Compliance.

Atty. Anthony indicated that they've done this based upon regulations and State regulations. They've done an anticipated age breakdown and hours of operation which Ms. Ulrich explained to them. He added that if people have a question of how they can make sure that it is going to be that way, it will because the facility will have written confirmation of the license pursuant to the Certificate of Zoning Compliance is issued.

Atty. Anthony stated that they have to comply with the City's regulations and they have to comply with the State Regulations. He indicated that he appreciated everyone's patience as he's gone through each step but he thinks it was important to do so and to show everything that they've discussed – that this is a permitted use. The use that they have here has been specifically designed to minimize any impact to any neighbors surrounding it. The house is staying exactly the same, the parking and driveway come on to Platt Road across the street from the church. He commented that the Jehovah Witness Church driveway is closer to the north than this driveway. They comply with all of the regulations and it is a permitted use. He stated that he appreciates them letting him go through all of the provisions. He thinks it is important here and he thinks that they have to consider, and this is why he keeps saying that this is a permitted use, this is not something where Ms. Ulrich is looking for any kind of zoning change. It is contained in the regulations, it has been contained in the regulations for a long time and used in other places in the City of Shelton and they believe that it is an appropriate application. He offered to take any questions and direct them to any of the experts that he has.

Chair Parkins asked if there was a maximum of 20 children enrolled or a maximum of 20 children at a particular time.

Ms. Ulrich responded both. The maximum they can have is 20 at one time and they can't go over that obviously (inaudible). Ms. Ulrich repeated with a microphone that they can have 20 maximum at one time.

Chair Parkins commented OK, 20 maximum at one time so she could potentially have 35 enrolled if the timing arrangements worked out.

Ms. Ulrich responded yes, she understands what she means but it is also only 20 at one time.

Chair Parkins asked if they have part-timers in the morning, she could effectively have 35 children enrolled in the program.

Ms. Ulrich responded yes, but no, and the reason why is because it is only for before and after school. It is not for infants and toddlers which is a different program.

Chair Parkins responded OK, she only wanted clarification in regard to the maximum. She asked if she would be limited to children that attend school only in that district – so, Long Hill School or students that (inaudible)...She said students ages 5 to 12 so that would put them at the Intermediate School or Perry Hill School. She asked if she would be planning on having any shuttle bus service or is it just the children that, if they resided in that house, those are the schools that they would go to.

Ms. Ulrich responded that it would be for the Shelton Public Schools so it would be for all the schools in the area, if needed. Right now, if they had enrollment, it is just Long Hill School that is the biggest need in the area.

Chair Parkins responded right, but asked if she would serve any children that go to, for example, go to Elizabeth Shelton School.

Ms. Ulrich responded that they could if they needed it but they would have a van for that, there would be no bus.

Chair Parkins responded that she would have a shuttle van for that.

Ms. Ulrich responded correct.

Chair Parkins asked if technically with that bus service she could service all of the schools that are in Shelton.

Ms. Ulrich responded yes.

Chair Parkins commented that it was mentioned that there would be no playground structures in the back. She asked if that was no playground structures at all or would there be any swing sets or tents.

Ms. Ulrich responded no, none at all – open space.

Chair Parkins asked how often the State makes site visits and do they do so unannounced.

Ms. Ulrich responded absolutely, they come whenever they want to. Right now, for instance, they give you a four-year license and they can come every two months, every year or six months, it is their discretion and there is no set time. She stated that they surprise them with visits all the time.

Chair Parkins asked Atty. Anthony about the maximum square footage that is allowed for use of this particular use for Shelton Zoning Regulations. She doesn't believe it is the State.

Atty. Anthony responded correct.

Chair Parkins commented it seems the bedroom upstairs could technically be used for program space.

Atty. Anthony responded that he wanted to note that they do not connect. Secondly, and more importantly, just as she said is that it is part of (inaudible). It is important because it is part of their zoning compliance to insure that it does and it is also a part of the State compliance. He added that as Ms. Ulrich has said the State can show up at any time. There is a problem when you walk in and suddenly there are kids in that other room. He showed the room on the plan and that is what is going to be there. They would have liked to rearrange the space differently but based upon the building that they have – because they don't want to change the footprint of the building. Based upon the footprint of the building, this is what they've come up with but that is why there is a solid wall that separates that to say this is the child space and that is the space for

the resident. It is subject to review by the City and it is subject to review by the State of Connecticut as well.

Comm. Matto asked a question about the residents in the basement. If this daycare goes away, does this end up being kind of like a two-family house because there is a full kitchen, bedroom, etc. on the basement level and then also ...

Atty. Anthony responded that if they look at the floor plan, there is only one kitchen which is on the basement level.

Comm. Matto commented yes, there is right now and it is in the basement.

Atty. Anthony responded no, that is why the building would be redone and the top floor would be the program space and the bottom floor the kitchen so it doesn't establish any kind of additional residence because that is the configuration that you have. There is no kitchen on the second floor and there is no ability.

Comm. Matto stated there is a kitchen in the basement and asked if that was correct.

Atty. Anthony commented that was just a drawing that Ms. Ulrich tried to put together to show the type of space it would be and it's not just a big open room. On the plan, there is one kitchen on the bottom floor.

Comm. Flannery asked if they had a kitchen area for snacks.

Comm. Matto asked if there was a full residence in the basement.

Atty. Anthony responded yes.

Comm. Matto commented that she is saying that if the daycare goes away, then you have a full house in the basement and another full house above it.

Atty. Anthony responded no, because if he wanted to put a new kitchen upstairs, he has to go to the Building Department and if he tried to get permits for it, he would have a bit of a problem. It's the way it is in any residence in the City of Shelton. He pointed out that at first they contemplated trying to have this done without a resident. They thought that it might be a better use but there was objection to it so they put it together to strictly comply with the regulations with a resident. Atty. Anthony stated that was the way that they have it and to answer her question, there is only one kitchen on that bottom floor. The top floor is for the program space.

Comm. Flannery asked about the orange area on one of the renderings and if they had to take down a supporting wall.

Atty. Anthony indicated that Mr. Mingolello would have to respond to that.

Mr. Mingolello responded that yes, they would have to restructure that to create it but there would probably be some columns and it will all open with some limited structure. Yes, it would have to be restructured but they do that every day.

Comm. Flannery asked if they were basically just taking down walls.

Mr. Mingolello responded absolutely, that house has three bedrooms in that orange area right away so they are taking some walls out. There will be some columns here, here and here so they are opening that all up and restructuring that.

Comm. Flannery asked about the children aged 5 to 12 and if they are going to be together in this one room.

Ms. Ulrich responded yes, but there will be two separate groups so there will be 5, 6 and 7 year olds and then 8 -12 year olds. But, again it all depends upon enrollment. They might have all 5-year olds, or only 5 and 6 year olds. There is only one room that they can go into and that is

permitted by the State as long as there are 35 square feet per child. Actually, the number can be 3 – 12 year olds but she is having only 5 -12 year olds.

Comm. Flannery asked if the 12-year olds want to play baseball are they going to do that out in the front yard or something like that.

Atty. Anthony responded that from a practical point of view, the front yard slopes down. So, from a practical point of view, no, but he thinks Ms. Ulrich is a licensed, experienced provider in this field, and that is not the anticipated use here. She has explained the types of programs that they have for the children. It is not going to be free-for-all play. It is controlled, supervised – he should let her speak about it but he has had a lot of time discussing this with her.

Comm. Flannery commented that she is very concerned because she is a teacher and she works in a K through 8 school and she knows what the problems are because they are all in the same building. They cannot have all of the different ages outside on the playground at the same time. They have to separate them.

Ms. Ulrich responded yes, and that is exactly what would happen.

Comm. Flannery commented that was why she was asking if they were going to use the front yard for some...

Ms. Ulrich responded absolutely not. The State law requires that them to be fenced in. It sounds terrible because it doesn't sound like children to say it that way but all children have to be in a fenced area. Those are daycare regulations.

Comm. Flannery asked if she was going to put 5 year olds and 12 year olds in the same fenced in area outside.

Ms. Ulrich responded that you can but she does not. She currently has a daycare center and she does not put her 5 year olds with her 12 year olds. She needs to split them up. They have 5, 6, 7 year olds and 8, 9 and 10-year olds. Actually, she doesn't have any 11 year olds or 12 year olds at this time.

Comm. Flannery asked where she has a facility right now.

Ms. Ulrich responded Apple Tree Daycare Preschool Center on Long Hill Cross Road. She has been there for 18 years.

Comm. Flannery asked if she was moving to a new location.

Ms. Ulrich responded that this is a totally different location.

Atty. Anthony added that it is a different location and more of a different use because this is not to be used a full day daycare, it is a before and after school program. He doesn't want to speak for Ms. Ulrich but as she explained to me, you can't just take the 20 kids and push them out in the backyard either. It has to be in groups and that is how it (inaudible) so that it is State regulated but he can certainly understand her question.

Comm. Flannery asked if they would have one person inside and one person outside supervising.

Ms. Ulrich responded that it's a 10 to 1 ratio and that is what the State requires.

Comm. Flannery asked what she would do if she has 15 five-year olds and five 12-year olds.

Comm. Parkins commented to Comm. Flannery that this is going to be State issued and it is not their purview (inaudible)...

Comm. Flannery stated that she is just trying to find out where these 12 year olds are going to hang out.

Chair Parkins responded that it is going to have to be in that room or out in the fenced in area. Two places - those are the only two places that they can be. That is what the State permits. She added that if the State shows up and they are in the front yard, then she is going to lose her license.

Comm. Flannery asked if that boxed in area was one acre.

Atty. Anthony responded no.

Comm. Flannery asked how that could be if it is in a one acre zone.

Atty. Anthony responded because it is a pre-existing, non-conforming lot that has been there for many, many years. Most of the lots here are pre-existing, non-conforming lots. Across the street, she can see all the line of houses that should go along here. The lot pre-dates zoning by many, many years.

Comm. Flannery asked if this facility was only open on Monday through Friday and closed when Jehovah Witness has their services to avoid conflict.

Ms. Ulrich responded that unfortunately, she doesn't know when Jehovah Witness has their services, so she can't say. They are open Monday through Friday, 7 a.m. to 6 p.m. only and they don't open on the weekends.

Comm. Flannery asked if she would object to a condition that the children would only go to Long Hill and Perry Hill so they don't have all these shuttle buses and extra traffic. She asked if that would be something she would consider.

Atty. Anthony responded that the difficulty of that is that he isn't sure what that accomplishes.

Comm. Flannery responded less traffic.

Atty. Anthony responded that he isn't sure how that is less traffic from the point of view that it is – that they'll still have the same parents dropping off and picking up if you have a shuttle. If Long Hill School bus picks them and brings them back and they have a shuttle bus taking them to...

Comm. Flannery stated to Elizabeth Shelton, Perry Hill...

Atty. Anthony responded that they would have a shuttle bus leave here, goes down stop at Sunnyside, come back around and drop children at Perry Hill - it doesn't save a trip. It is one bus and these kids all go to school around the same time. It isn't like one school opens at 8 a.m.; another one opens at 10 a.m. – if there is a shuttle bus, it is going to make one trip and go out and make its stops so there wouldn't be a change in traffic.

Comm. Flannery asked if all these children are going to be in school, no preschool or anything like that.

Ms. Ulrich responded correct, 5 to 12 year olds. She added that actually, the 5-year old has to be in kindergarten by the State law. So, if they are turning 5 in June, then they cannot come to her program until September and enrolled in a public school. That is a State law.

Comm. Flannery commented that she knows several parents who like to keep their kids back and they enter school at the age of 6.

Ms. Ulrich responded OK, they can't start until they are five. They have to be in school to start whether that's 5, 6 or 7. That is the State law – your child has to be in public school first before they can come to her program.

Chair Parkins asked if she was licensing this as a latchkey (inaudible)...

Ms. Ulrich responded a before and after school program.

Comm. Flannery asked if that they have to be in school to come to this program.
Ms. Ulrich responded yes.

Comm. Flannery asked if that means she wouldn't have someone there all day that didn't go to school.

Ms. Ulrich responded correct.

Chair Parkins asked Comm. Pogoda if he had any questions.

Comm. Pogoda commented that he wasn't sure if he missed the question or the answer as to whether there would be any Shelton school buses dropping off kids.

Chair Parkins responded yes there will.

Comm. Pogoda asked if there would be somebody coming out of the residence to guide these children to and from the bus at the bus stop.

Ms. Ulrich responded yes, absolutely, they actually do that currently. The teacher goes out and takes the children off of the bus and walks them safely back into the facility.

Chair Parkins asked if that was the only question he had.

Comm. Pogoda responded yes, right now.

Chair Parkins asked Comm. Flannery if she was all set with the questions.

Comm. Flannery responded yes.

Chair Parkins commented that at this point, Atty. Anthony indicated that he had some letters. She indicated that the Applicant has some letters from the public and the Commission has some letters from the public that they will read into the record and then they will open up this hearing to the public in the audience. She asked anyone wishing to speak to please sign in.

Atty. Anthony asked Chair Parkins if she wanted the full letter read into the record.

Chair Parkins stated that the Commission is going to read the letters that they received. She asked if they were very lengthy letters.

Atty. Anthony responded that some of them are. He commented that he could read excerpts from them.

Chair Parkins asked if they were addressed to him or to the Commission.

Atty. Anthony responded that some of them are addressed "To Whom It May Concern."

Chair Parkins commented that they did not receive them at the Commission level so he can summarize them as he would like but they will be reading the ones received by the Commission.

Atty. Anthony stated that he would ask that they all be a part of the record but he doesn't want to belabor the night any longer than he already has. He indicated that he had a letter here from Tracy Ganino stating that she is concerned about having an affordable daycare, her son will be starting kindergarten and she resides with her husband in Long Hill Elementary School District and there are no after school programs to accommodate half day kindergarten schedule.

He read another letter from Ms. Ruggiero who resides on Long Hill Avenue and drives on Platt Road every day and she doesn't see what the big fuss is about for a child daycare facility and there is a great demand and need for before and after school programs. Working parents have to be in work at 8 a.m. and most schools don't start until 9 a.m. It would be a great location,

convenient for all and hopes the P&Z Commission will approve it. It would be a great asset to Shelton residents.

Atty. Anthony read correspondence from a life-long Spoke Drive, Shelton resident (name inaudible) who wrote she doesn't understand what the problem is about having a before and after daycare program for 20 kids on Platt Road. Ms. Ulrich has met City requirements and hopes P&Z grants approval.

He read another letter from a resident on Shelview Drive (name inaudible) in favor of a daycare facility in the neighborhood and is confident that it would be well maintained. He provided but did not read six other pieces of correspondence from area residents (names inaudible). He stated that he didn't want to read through each one in an effort to not be redundant. He added that if there are no other questions from the Commission, they will be happy to listen while others have a say and he understands that he'll have an opportunity to respond at the end. He thanked the Commission.

Chair Parkins asked the Secretary to read letters that the Commission received from Shelton residents.

Secretary Virginia Harger read correspondence from three Shelton residents opposed to the proposed project.

***See attached correspondence to Richard Schultz, P&Z Administrator from Mark & Joelle Widomski dated February 25, 2013.**

***See attached correspondence dated February 26, 2013 To Whom It May Concern from Jo Ann Spiteri-Iegeza, 462 Long Hill Avenue, Shelton.**

***See attached correspondence to Richard Schultz, P&Z Administration dated February 27, 2013 from Regis Dognin, 342 Long Hill Avenue, Shelton.**

(Audience Applause)

Chair Parkins opened the hearing to the public members of the audience and called people up in the order that they had signed in.

Atty. James Cordone, Offices at 572 White Plains Road Trumbull, CT addressed the Commission representing Lou and Mary Beth Martino who reside at 453 Long Hill Avenue. He added that the Martino's property is immediately next door to the subject property and they are present in the audience this evening.

Atty. Cordone stated that they respectfully request tonight that this Commission deny the application on two grounds. He realizes that there are a lot of people here tonight who would like to speak. He will try to be brief but he has to hit certain points for the record.

Atty. Cordone indicated that the first point is that the application does not comply with the requirement of the Day Care Center Regulation 33-16. The second is that even if they were to find that it did comply with that regulation, it does not satisfy the general considerations for granting a Special Exception under 33.4. He commented that he thinks that they need to remember that this is a residential zone and this use is only permitted by exception. He reiterated that it is a permitted use by exception, if certain criteria are met.

Atty. Cordone stated that the first regulation, the 33-16 Day Care Center. He commented that he wasn't going to go through every one; however, he was going to hit on the ones that he does not believe that they comply with. The first one is the residency requirement, Section 33.16.1A states "a person who is conducting a day care must live in the house and can have only two non-resident employees there." It does not state that the person conducting the daycare can designate someone else to live the house. It says that the person conducting the daycare must live in that house and only have two non-resident employees. He indicated that when step back and look at this regulation in its entirety, he would suggest that the clear intent of this requirement is that someone could use their own home, and only a portion of it, to have the daycare. It is not intended for a company to purchase the home and convert it into a daycare and that is why there

is this residency requirement. Atty. Cordone stated that he does not believe that the Applicant meets that.

Atty. Cordone stated that the second criteria that he does not believe they meet are Paragraph B in that section regarding the residential character of the house. It states that the use shall not impair the residential character of the premises and he would suggest that this application does impair the residential character of this property. The fact that there is – he commented that in the application there is a request for a sign, there are going to be nine striped parking spaces, a retaining wall and a dumpster in the front yard. The Fire Marshal, in his letter states that the driveway needs to be designated as a fire lane. He indicated that the Applicant's Travel Study, which he has not seen; however, one of the Commissioner's mentioned it, that there needs to be either a Stop sign or bump at the end of the driveway. All of these things don't show the residential character of that house. It states "Day Care Business" to him.

Atty. Cordone commented that this goes to the heart of this regulation – it is meant for someone to use a portion of their house to have a daycare business and not to take a house and turn it into a business.

Atty. Cordone stated that the third item that he does not feel that they comply with is the limitation that a third of the house being used for daycare. The keywords here in the regulation is "a third of the finished, livable floor area" and when you look at the application it is unclear to him whether they are counting the gross square footage of the property including stairways, mechanical rooms, etc. or are they counting the livable square footage.

Atty. Cordone commented that they are also taking a basement and now calling that livable square footage, granted they are going to renovate it as such, but he questions whether that is something that this regulation is intended to have happen and what they actually demonstrate is actually a third of the livable square footage.

Atty. Cordone indicated furthermore if they look at, and it was brought up by one of the Commissioners, the first floor there is a bedroom and a large portion – he doesn't have any dimensions on what he has. He would say that a good quarter of the first floor is designated as an entry foyer which isn't counted toward anything, although he guesses it counts towards the residence. When he looks at it, half of the house is going to be daycare and half of the house is going to be a basement.

End of Tape 1B 9:25 p.m.

He added that the basement is going to be a residence that somebody else is going to live in, not the person running the daycare. Atty. Cordone stated that in his opinion, that is does not seem to comply with the intent of this daycare regulation.

Atty. Cordone stated that he wanted to make two more minor points that he indicated were worth making. He indicated that the regulation requires that the play area must be appropriately fenced with plantings to insure privacy of the neighbors. Again, fencing and foliage are the words used in the regs for the privacy of the neighbors. The plans only call for a four foot chain link fence and there are no plantings designated in the proposal.

Atty. Cordone stated that finally, the Applicant must confirm in writing that they have an approved license and – maybe it is in the application, but he did not see that. So, on its face, he does not think that the Applicant complies with the underlying Daycare Center Regulation 33.16. Atty. Cordone commented that if they disagree with them on every point, and they believe that the Applicant does comply on all those items, they still have to meet the Special Exception requirements. Again, it is an exception and he would suggest that even they disagree with him, they don't meet these general considerations for a Special Exception and that is under their Regulations 33.4.

Atty. Cordone stated that under 33.4.1 you must consider "the size and intensity of the proposed use." He simply suggested that the potential of 20 children at any given time being dropped off at 6 o'clock in morning and picked up at the same time in afternoon is not a use that is conducive for a 1400 square foot first floor ranch. The size and intensity of use does not fit that property.

Similarly along that same line, and he'll skip to 33.4.3 "the capacity of streets to accommodate peak travel widths," 33.4.5 "off street parking and vehicular access." He commented that intensity of use and streets for traffic, parking - all kind of speaks to the same issue and that is that they are talking about 20 children potentially being dropped off and picked up at the same time. Atty. Cordone indicated that when you look at the parking space, there are only nine parking spaces there and two are designated for employees, they just heard that there would be a shuttle, a handicapped space - so they are down to six spaces for 20 children being picked up and dropped off around the same time. He asked where these cars were going to be.

Atty. Cordone stated that there is a traffic study; he hasn't read it. He knows that when he drove by the property, it was apparent to him that there is industrial use nearby. When he drove by, there was an 18 wheeler truck finishing a drop off and coming around the corner. The intensity of use in this location by 20 people coming, picking up and dropping off at the same time does not comply with the Special Exception requirements.

Atty. Cordone referenced 33.4.2 "it must comply with the Comprehensive Plan of Development." He commented that as it was stated in one of the letters, there is a buffer zone between commercial and residential and that is part of the Comprehensive Plan of Development. He thinks that what they are basically doing here is putting commercial in residential and that does not comply with the City's Comprehensive Plan of Development.

Atty. Cordone discussed 33.4.4 regarding property values. He thinks that it is a common sense approach here. If you are living next door to a house that was a 1400 square foot ranch with a family living in it and now that has been transformed to a house with nine parking spaces, a driveway marked for fire trucks, a sign in front out in front, the value of your home will go down. He thinks that is common sense.

He stated that they have a letter from a realtor to that extent from Lynn Stone, Licensed Real Estate Agent, William Raveis regarding property at 453 Long Hill Avenue, Shelton. He summarized her letter regarding the adverse effect of the proposed special exception on the surrounding residential neighborhood would greatly diminish the value of the property at 453 Long Hill Avenue. Additionally, the exception requested is consistent with commercial zoning and not permitted in the R-1 zone. She concluded that this client would lose value in their home due to the business property which would be bordering it and make it more difficult to sell.

Atty. Cordone submitted Lynn Stone's letter and a petition of 45 - 50 neighbors. It is his understanding that most of these neighbors are in the immediate area so when they talk about this becoming part of the neighborhood or a use for the neighborhood, most folks in the neighborhood are not looking at this in a positive way. They are looking at it as something that would hurt their property values.

Chair Parkins asked if their addresses were included on the petition.

Atty. Cordone responded yes, he believes that they are.

Atty. Cordone made his last point on the regulations about the general considerations for a granting a Special Exception also require Police and Fire concerns and this Commission has a letter from the Chief of Police stating not his concerns, but his objections to this. He thinks that is worthy of their consideration and sufficient enough on its own merits to deny the application. If the Chief of Police has concerns about enforceability of the regulation, of the intensity of use, of the traffic then it should be worth of their consideration tonight.

He wasn't aware that letter had been submitted until tonight so he had prepared a proposed decision and reasons that he would like to respectfully submit to the Commission for their consideration. It does not include the Police Chief's statement that he did not believe this application should be approved so he would add that as a reason as well.

Chair Parkins asked if he was submitting a summary of what he just spoke about.

Atty. Cordone responded yes, concerning the regulations. He concluded his remarks, thanked the Commission and offered to answer any questions.

Chair Parkins responded that they had no questions for him. She called the next person to speak.

Sandra White, 480 Long Hill Avenue, Shelton addressed the Commission. Ms. White commented that she has sat and listened to Mr. Anthony and he said that everything is permitted, everything is permitted. She stated that she thinks that he is asking for a special permit because everything is not permitted. She added that they also did not address about how many trees have already been cut down. They said that all the trees there were remaining but a lot already came down.

Ms. White commented that no one said what time of day the traffic study was done. She has lived there a long time and she knows that in the morning and in the evening, sometimes they are 15 deep on that road, especially if there is bad weather trying to get home between 3 p.m. and 6 p.m. at night.

Ms. White stated that when they built her home, they had a six acre plot and at that time all of the homes in her neighborhood were basically a ½ acre or less, zoning had changed it to one acre, and at that time she did not hesitate to abide by the zoning codes. If zoning changes are made for certain people, it's not fair to the people who have abided by it. She thanked the Commission.

(Applause)

James Welch, 12 Broc Terrace, Shelton addressed the Commission. Mr. Welch asked about the house and who approved all the tree removal and excavation on the property before this was proposed. He stated that in the wintertime you couldn't see that house and in the summertime, you could not see that house. He asked about the school buses picking up on Platt Road and commented that there are no sidewalks on Platt Road. Right now, the school bus only stops on Long Hill Avenue and it is on the side of the street with no sidewalks. There are only sidewalks on one side of Long Hill Avenue.

Mr. Welch asked if they submitted a photo of the property before all the excavation was done.

Chair Parkins commented that people are allowed to cut down trees on their property.

Mr. Welch responded OK but asked if it could be that many.

Chair Parkins commented that you are allowed to cut down trees on your property.

Mr. Welch asked if you were allowed to clear cut the whole yard.

Chair Parkins responded yes.

Mr. Welch commented OK, he was just asking – they're the Zoning Board. He asked about the building plan for the basement dwelling and if there was a second egress out of the basement since it is at grade level.

Chair Parkins responded that she believes that there has to be in order to meet code.

Comm. Flannery asked where that would be.

Chair Parkins responded that they will address these questions after the public portion.

Mr. Welch commented that he knows that it is a business and he knows that they are going until after school. He asked about summer hours and if they were closing down during the summer or will there be kids there during the summertime and during school breaks or vacations. Also, they are stating that it is a residence and there is a person living there. He asked if it was a rental property in which the person is paying rent because they are an employee – not a resident homeowner. He commented about there being 20 kids but asked how many would be enrolled and if it could be 50+. He thanked the Commission.

Sue DiMauro, 1 Broc Terrace, Shelton addressed the Commission. Ms. DiMauro stated that she would consider her residence to be in the immediate area. She indicated that she has a few concerns after hearing tonight's presentation. She indicated that one of them was in regard to the exterior changes to the property. She stated that she has a very clear view of this from her back deck, her backyard and her side yard of this particular property. The building is going to be painted and because it is a business so she's sure it is going to be an eye-catching color. There was no mention whatsoever of signs and she's sure that they are going to be there.

Ms. DiMauro commented that she is finding out that there are going to be nine painted parking spaces, a dumpster, and three 6 foot poles for lighting. There is a buffer on Long Hill Avenue and she knows that the trees were kind of chopped down but most of that buffer has been removed. The neighborhood was mentioned but not any of the houses. Sikorsky was mentioned, Precision Resource was mentioned but none of the homes.

Ms. DiMauro indicated that she was concerned about the summertime when she is in her backyard. She asked if she was going to hear a lot of children and what would be going on during school vacations.

Regarding the traffic there she would consider herself an expert because she has been at the residence most of her life. She grew up there and returned back there and has lived there now for 20 years. Ms. DiMauro stated that she can tell them she can hear cars screeching all the time. She added that something which was not considered when they talk about the buses. If a bus is turning onto Platt Road from Long Hill Avenue, they are going to have to stop immediately to drop a child off that would be crossing Platt Road and if a bus is stopped immediately on Platt Road, it will back up all of Long Hill Avenue. She stated that she has enough trouble pulling out of Broc Terrace onto Long Hill Avenue now.

Ms. DiMauro stated that she just found out that it is not just schools within the area but all schools in Shelton. She indicated that she respects Mr. Colburn's property assessment, however, he didn't come to her house and stand in her new sunroom that has a clear view of this property or stand in her backyard or her side yard.

Ms. Dimauro indicated that she feels that this is a Special Exception and if they allow this, it opens up a can of worms. If this can take place here, then where else can this happen on Long Hill Avenue. She asked if there weren't plenty of other options in Shelton to put this type of daycare in a commercial area. She thanked the Commission.

(Applause)

Jackie DuBois, 28 Totem Trail, Shelton addressed the Commission. Ms. DuBois commented that she thinks this is a great program to have here. The Jehovah Witness Church is right next door that causes a lot of traffic on the weekend and during the week. She saw what Ms. Ulrich did to the property and it looks 100% better than it has in the past 15 years. Ms. DuBois stated that she has a child in Long Hill School and she is looking forward to sending her daughter to her place of business. She does see why (inaudible) –they aren't putting in a package store or a grocery store on Long Hill Avenue. The church down the road has a daycare that causes traffic. There is a lot of traffic that comes across Route 110 and cuts across Rocky Rest Road and there's traffic everywhere – Platt Road, Ojibwa – so she can't see that this should get denied. This is a good opportunity for working parents for a place to send their kids; otherwise they have to wait and can't get to work at certain times or the kids are left home or sitting at the bus stop by themselves. She thinks it is a good opportunity.

(Applause)

Mike Ligi, 34 Shelview Drive, Shelton addressed the Commission. Mr. Ligi stated that he has come here tonight to ask the Commission to please deny the special request based upon the fact that these people came in and bought a piece of property that wasn't legal to build a daycare and they are trying to do it after the fact.

Mr. Ligi commented that they didn't come in here first in front of you guys and try to get it approved first. They just went in and did what they wanted to do and then got denied and now they are trying to go for it again in another way.

He commented that this lady has a daycare already on Long Hill Cross Road which is more a light industrial area and now she wants to open one in a residential neighborhood which isn't even a mile away from her existing place. He asked why she didn't just enlarge the place that she has – make it bigger, put another floor, whatever – or look for a commercial place where she doesn't have to come in front and jeopardize their homes, to put a business that makes her money. If this is not a place that is making children that have to go to learn and get an education or a church that they are going to on the weekend to learn about God or to preach – this is a place that is making her money. This is not a commercial building and she's not paying commercial taxes on it. This is a residential house and she is trying to make it her way to make more money. It is built on greed.

Mr. Ligi stated that if you want to start a commercial business, he owns a commercial business – if that is the case, then he should be able to open a commercial business at his house too. He should be able to come to you guys, do a special session, and do whatever he wants to do too , and as long it is approved then we can get somebody to change the laws based on what he needs instead of following existing law which would be to go rent a commercial space.

Mr. Ligi stated that they keep talking about the lady on Long Hill who has the daycare in the church which has been there for years. He added that he'd no objection if this was at the church next door, the Jehovah Witness and rented a space there and use their existing huge facility. But she wants to take a house and turn it into a commercial business.

Mr. Ligi commented that it is funny that the person who spoke in favor of her just admitted to all the bad traffic congestion. He has lived there for 15 years and has four kids and he personally drives his kids because those buses are a crazy situation. He's afraid to put his kids out on those main streets. The simple thing is – to add more congestion to that – to add all these parking spaces at a residential house...if they look at the map that they've put up there, their parking lot is bigger than the house if they look at the scale. It is drawn to scale. They are showing that the parking lot that they want to put in is bigger than the house. He asked what that is saying to their residential people that live there and own homes – it is just like saying, “you know what? Anybody can move in , buy a piece of property, come in front of them and change the rules for a special reason.”

Mr. Ligi asked if they could make precedence here and say “enough is enough.” The end with this – this is not a legal that she should do this. If it was something beneficial to the community then he wouldn't have a problem with it. The problem is that it isn't beneficial to the community, it is beneficial to her pocketbook and that's why he's against it. He hopes that you guys will see that and vote against it. Thank you.
(Applause)

Ingrid Waters, 261 Long Hill Avenue, Shelton addressed the Commission. Ms. Waters commented that she was surprised that the Applicant's lawyer did not go into the Shelton Zoning Regulations that adhere to Special Exceptions because that is what the Applicant is applying to. The applicant is not applying to a daycare in a one-family home. In order to qualify for this application at the property located at 7 Platt Road, she'd like to point out the following points.

Connecticut State Law Section 19A – 77 specifies three categories of daycare services: 1) child daycare center that provides services to more than 12 related or unrelated children; 2) group daycare home who provides services to no less than 7 or more than 12 related or unrelated children; 3) family daycare home which consists of a private family home which provides care for no more than 6 children including the provider's own children. Such homes are not subject to local zoning approval as long as the home complies with all codes and ordinances applicable to dwellings.

The Greater Bridgeport Regional Planning Agency, the responsible regional planning body for the metropolitan region which has six member municipalities – Bridgeport, Easton, Fairfield, Monroe, Stratford and Trumbull suggests that child care centers with more than 12 unrelated children may not be appropriate for single family residential zoning districts. Zoning State Law Section 19A-77 recognizes all levels of daycare was adopted by Shelton P&Z in 2001.

Regarding Zoning Regulations City of Shelton Volume 1 she wishes to highlight a few sections from Paragraph 33.4. This is the Special Exception which, for whatever reason, the Applicant totally overlooked...

Chair Parkins interrupted just to let Ms. Waters know that the Applicant's attorney did address that.

Comm. Flannery indicated that she would like to hear it again.

Ms. Waters indicated that she didn't think that he addressed 33.4 in its entirety. If he did, she won't repeat it.

Chair Parkins commented that he had a chart for 33.4 and he did address it but if she wants to repeat it, go ahead.

Ms. Waters indicated that she wouldn't repeat it. She stated that she was following (inaudible) ...the anticipated usage of 7 Platt Road as a child daycare with 20 children and two employees for starters will be taking place in a one-family home, zoned R-1 and located in an R-1 neighborhood. Therefore, this daycare business does not meet the recommendations specified by Connecticut State Law Section 98-77 as explained by GBRPA Category 1 Child Daycare Center which provides care to more than 12 children may not be suitable for single family residential zoning districts. It appears that the applicant does not meet the requirements necessary for Planning & Zoning approval.

Ms. Waters indicated that furthermore, she was surprised by the comparison of the child day care in White Hills to this densely populated over developed area of Shelton. They have very little space left here and whatever one family homes are left should be made as one family homes and not be turned into businesses. Also, traffic on Platt Road and Long Hill Avenue is at an all time high due to closeness to Shelton's business corridor on Bridgeport Avenue that stretches from Downtown Shelton all the way up to Huntington Road. Bridgeport Avenue is lined by large office buildings, large stores such as Wal-Mart, Staples, Shop Rite, Stop & Shop, Sears, shopping malls on both sides of Bridgeport Avenue, and many restaurants...Needless to say, Shelton's business corridor is frequented by thousands of people daily of which many travel via Long Hill Avenue and Platt Road wanting to get to Bridgeport Avenue.

Ms. Water continued that Sikorsky Aircraft located on Platt Road and exiting into Platt Road generates dense traffic jams going toward Long Hill Avenue and Bridgeport Avenue in the morning and at their shift change starting at 3 p.m. Furthermore, the vicinity of Platt Road, the following two businesses add to the heavy traffic situation in the area – Splash Car Wash on Platt Road/corner of Bridgeport Avenue and the Recycling Center on Oliver Terrace which has big trucks coming and going all day long. The Spooner House, a dog shelter and a tire shop on Todd Road are less traffic intense but need to be considered in the overall traffic scenario.

Ms. Waters stated that lastly, the City of Shelton School buses clog up Long Hill Avenue and Platt Road in the morning and whenever school lets out. The aforementioned facts point to a high traffic volume in the area of Long Hill Avenue and Platt Road. Additional school buses serving a 7 Platt Road daycare center, parents dropping off and picking up their youngsters will only add to the congested traffic conditions at that intersection considering the high traffic volume (inaudible) part of Shelton on a daily basis.

In closing, Ms. Waters emphasized that she isn't against anyone who wishes to open up a business in Shelton. This business, must however, be in compliance with the present zoning of the property and in harmony with the existing neighbors. Therefore, she finds it surprising that the Applicant who is obviously familiar with local and state zoning regulations that need to be adhered to purchased a property and is now looking for a Special Exception from Planning & Zoning in order to operate. In lieu of the fact that there is no lack of availability of LIP and OPD in Shelton, the Applicant should be able to open such a business. She suggests that this Commission consider repealing the Child Day Care provision from its regulation because it appears to be confusing where child day care businesses can be established and operated. No Shelton home owner should ever be subjected to the same kind of business proposal going forward. She recommends that this application be denied. Thank you.

(Applause)

Alderman John Anglace, 676 Long Hill Avenue, Shelton addressed the Commission.

Alderman Anglace indicated that he had a prepared statement but he wanted to start by just commenting on some of the things that he heard during the presentation that he wasn't aware of before.

Alderman Anglace stated that he wanted to comment first and agree that the statement was made that the employee was going to live in the premises. The regulations, as he understands them, require somebody to live in there – the person who is registered with the State as conducting the business is the person who should be living in the residence and that person said at the ZBA hearing that they did not intend to live on the premises. Now that set of facts that are changed from one hearing to the next. He thinks that this intent to have an employee live in the premises does not meet the intent of the Zoning Regulations because as the Attorney said early, the intent of their regulations was to permit somebody who owned a home and was going to take care of children, just as 6A does, to allow them to use part of their house to do this – to take on this kind of daycare. It was not intended to be used as a business but that is what it is talking about.

Alderman Anglace commented that he wanted to talk a little bit about property values. It was said that it would have negligible impact on other property values. He was sitting there wondering what their Assessor would say if asked. Property values, in his view, are in the eye of the purchaser. When you go to purchase something that is when you determine what your property is valued at when somebody is going to pay for it. Property values decline in proportion to the quality of the area. If the quality of the area is allowed to deteriorate or decline from its original intent as a strictly R-1 zone then the property values have to decline.

Alderman Anglace stated that he thinks that this is something that he would call the “creeping conversion principle.” He says this, because if they go today and convert this piece of property and convert it to a daycare center and they effectively put a business in an R-1 zone. He asked what happens if they do the house next door to it next week, and the house across the street from it the following week. Then they've effectively converted an entire neighborhood to a business district and that is not the intent of their zoning regulations.

Alderman Anglace stated that he heard it said at least six times, “this is a permitted use.” Well, respectively, he thinks that the person saying that did not finish the statement. It is a permitted use, subject to Special Exception approval from the Planning & Zoning so each case takes on its own life. It isn't only a permitted use where anybody can come in and is permitted to open up ...that is not the intent, and you know that and that is what is written in the regulations. It is a permitted use subject to your Special Exception approval and it must meet the guidelines and the regulations. And, in his opinion, it doesn't.

Alderman Anglace stated that what is also serious about this decision is that what they are doing – they are considering a change in perpetuity from an R-1 use to a business/commercial use because once they grant this to the property owner that is where it stays - with the property. They can convey it to the next property owner. He believes that he is correct in that because he heard it said more than once. “Oh it was a gasoline station there before, so I can come in and run a gas station there.” They don't have to come back to P&Z, it is a done deal. It is in perpetuity.

Alderman Anglace commented that he wanted to address another point about cutting down trees. The gentleman brought it up earlier. Somebody bought this property and went in and had a good time cutting down trees. Now, you bet, this is an R-1 zone and you can do anything you want – you can cut down the trees, remove shrubbery, you can do anything you want. But, what is being done here is that they went in there, they cut down the trees and then they made an application to P&Z and tonight they said to you “Look, here's what the property looks like and it is not going to change.” Well, cheers – well it already changed – no wondered it is not going change.

Someone in the audience interrupted. Chair Parkins asked that there be no outbursts from the audience when the speaker is speaking – with all respect, everyone has a chance to speak. Thank you.

Alderman Anglace stated that he wanted to address the Application with his prepared remarks. He, of course, speaks in opposition to the subject Application #13-1, Kids Zone Realty, LLC at 7 Platt Road, Shelton CT. However, he wanted to preface his remarks by saying that the Applicant should be recognized and applauded for having conducted a successful child daycare business in the City of Shelton for many years providing excellent care, creating much needed jobs and maintaining a business building to be proud of, all which he may add - in an appropriate zone. He thinks that is commendable so he doesn't think that anybody should look upon the Applicant as being anything but a good provider in the City.

Having said that, the P&Z flowchart directed the 7 Platt Road applicant to the Zoning Board of Appeals (ZBA) but following a public hearing, the requested variance to waive Section 23, Section A, Use Line 6C to allow a daycare center and Section 33.16.2B to allow a play area within the setback was denied. He wants that on the record. Most neighbors thought the process was ended but, alas, here they are once again, facing the same threat to the quality of life in the R-1 residential district. So be it. Everybody has their rights and anybody can make applications and that is what the process is all about.

Alderman Anglace commented that it is discouraging and it is disappointing when you are sent in one direction, you come out and forcefully state your opinions and the body agrees with you. Now they are before another body trying to accomplish the same thing. At the ZBA Meeting on November 20, 2012 they described 7 Platt Road property of being in the R-1/LIP zone. He has since learned that the 7 Platt Road property lies entirely within the R-1 zone and would ask the Commission to so note that and advise if they are not in agreement.

Alderman Anglace stated that the Applicant requested relief under Section 6B of the regulations and seeks a Special Exception or a Temporary Special Exception to the Zoning Regulations. He stated that is what is written on the actual application but what is really being said, as he understands it, is that the reference, Special Exception to the Zoning Regulations is from Section 23.1, Schedule A, Permitted Uses Item 6B. He commented that an administrative shortcut like this leaves the public in limbo unable to understand the process and creating doubt and distrust in the system. Alderman Anglace stated they he, himself went crazy trying to figure this out. He doesn't know how many days and how many trips he took in to talk to Rick Schultz to find out what this was all about. He asked what they were applying for. It was stated as 6B but he asked what 6B is because it doesn't make any sense. He added that it is a shortcut and Number One, it shouldn't be allowed on the Application.

Alderman Anglace indicated that apparently the statement of use for the property required of the applicant is contained on the second unnumbered page attached to the application which is titled "Description of What the Building at 7 Platt Road will be used for." That description cites the following:

- 1) That the building will be used as a childcare facility;
- 2) That the building will be under supervision of the State of Connecticut Department of Health.
- 3) That the amount of children that will be able to be at the center is up to the discretion of the State of Connecticut per square footage in each of the classrooms;
- 4) That they are requesting to have accommodation to hold 20 children per State guidelines;
- 5) That the day-to-day function of the center will care for children between 5 years and 12 years old;
- 6) That a school-age room ages 5 to 12 years old will hold 20 children and two teachers.

Alderman Anglace commented that was the statement. He called their attention to #3 wherein the Applicant applies that if this Special Exception is approved by Planning & Zoning, the State will then step in and determines how many children may be housed at 7 Platt Road. He commented that he thinks that this is misleading. This State says that it will not grant a license until all local issues are resolved. State Childcare Regulations allow a maximum of one child per 35 square feet on uninhibited floor space – and that is defined. He added that he would give them a copy of that regulation just to make sure that everyone sees it because it goes on to describe it a little more.

Alderman Anglace stated that logically if P&Z grants the Special Exception subject to a specific limited number of children, the State Regulations do not allow the Licensee to extend the number granted locally. The Applicant is telling them that the State may then grant them the license, determine a higher number of children depending of the size of the facility, etc. That would render local P&Z Regulation null and void and that is just not the case.

Alderman Anglace referenced #4 is incongruous with #3. The Applicant is requesting of P&Z that they be allowed to serve 20 children in an R-1 zone but in Item #3 they say that the State of Connecticut will determine the number of children allowed. He stated that he believes it is the Planning & Zoning Regulations utilized in conjunction with State Regulations that determines the number of children permitted. The bottom line here is that P&Z should turn down this application because 20 children is much too intense a use for this site.

Alderman Anglace referenced Item #6 which states that there will be two teachers for 20 children. State Regulations determine the number of teachers required for the number of children approved for care. This State requirement will impact the density of the site and Shelton P&Z would have no say in the matter and that is not what they want when they are considering a Special Exception use in an R-1 zone where such business use is only acceptable upon approval by P&Z of a Special Exception. The number of teachers impacts the number of parking spaces which effects site use and density.

Under Item 6B, Schedule A, Permitted Uses Section 23.1 the decision makers for the additional standards and conditions set forth in Section 33 when deciding a use requiring a Special Exception. Section 33.1 in general specifically states that the P&Z Commission may – may grant Special Exceptions for the establishment of one or more uses for which a Special Exception must be secured. He added that it specifically says “may;” consequently, P&Z is now required to consider other factors and weigh them before making a decision. Alderman Anglace indicated that it does not say “shall.” So, P&Z is not bound to automatically find for the Applicant, nor does the Applicant’s position carry any more weight because P&Z Regulations require a review of the facts.

Further on in Section 33.3, under Procedure, it says after the public hearing the P&Z Commission shall either approve, approve subject to modifications, or disapprove the application. He added that he would discuss that further later.

Alderman Anglace stated that under Section 33.4 General Considerations, 33.4.1- the size and intensity of the proposed use. He commented that there is already ambiguity regarding the number of clients to be served and who has the authority to enlarge the original number granted with the Application, if approved. Without specific P&Z control over initial and subsequent plan size, such use should be denied. He stated that the site use is intense with 9 parking spaces, an extra wide driveway to accommodate bus service in an R-1 neighborhood.

33.4.2 The comprehensive plan of development is adversely impacted because residential areas are being changed to commercial areas.

33.4.3 The before and after child care use will introduce school buses, van service and cars to and from the site which is located at a high intensity intersection adding further congestion, especially at peak travel hours. The traffic problems increase if this Special Exception is granted. Alderman Anglace commented that there is a difference here. He is not saying that this one operation is going to cause such traffic congestion and stop everything but they’ve already got a problem there and a high intensity use and this would add to it unnecessarily.

33.4.4 Property values are sure to be impacted. Already the site is taking on the look of a business versus a residence. Trees have been removed and the site plans are taking on the look of a business. High intensity lighting will surely be added that will light up the night, not at all the character of a residential neighborhood. Alderman Anglace called their attention to what an evening at a daycare center looks like and suggested that they should take a ride over and look at Apple Tree Daycare. It’s 9:45 p.m. and the place is all lit up – front, back and sides – like it is daytime and that doesn’t fit in a residential area.

33.4.5 With wider than normal driveways and nine off-street parking spaces, the residential character of the property is sure to be adversely effected. The square footage of black top is totally out of character with a residential neighborhood.

Section 33.5 deals with approvals, again the regulations state that the P&Z “may” approve – subject to modification or may disapprove the Special Exception application. It goes on to say that the grounds for disapproval shall be stated by P&Z Commission in its records.

Alderman Anglace asked if they would permit him to observe – if an application for Special Exception may be granted, may be modified, may be denied, why is it necessary for their regulations only to state the reasons for denial. He knows that someone may say “that’s the law.” Alderman Anglace commented that well, he thinks that they can change the law because you can change the Zoning Regulations. He asked why they would not state the reasons that they are granting a Special Exception so those aggrieved property owners would have the same

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

foundation in which to appeal a P&Z decision as P&Z is inadvertently providing for the Applicant. He commented that someone is probably going to tell him that State law requires the reasons be given for denial, and that may be, but there is nothing that prohibits P&Z from doing the same for approvals or disapprovals with modifications.

Section 33.16 Group Day Care Homes or Child Day Care Centers

33.16.1 This Special Exception is applied for in conjunction with Section 6B which specifically states that such use is subject to the additional standards and conditions set forth in Section 33. He offered the following comment for 33.16.1A – requires a residency requirement with no more than two non-resident employees. He has already discussed this so he won’t say it again.

However, he stressed that an important point here is that under Section 6B, residence is required of the person conducting such use and there is just no way around that. The Applicant has stated in the ZBA Hearing and now restates that she will not reside in the dwelling; therefore, the Applicant does not meet the requirements for Special Exception.

Section 33.16.1B requires that except for outdoor play areas, the use shall not impair the residential character of the premises. He repeated that – the use shall not impair the residential character of the premises. So whatever the use is, it doesn’t matter what is being proposed there, no matter what use, if someone is going for a Special Exception, they can’t impair the residential character of the premises. The site plan shows all types of changes to the property that are anything but are characteristic of a residential character of a neighborhood. He stated that a 24 foot driveway and nine parking places aren’t typically found in the average R-1 area home.

Alderman Anglace stated that not mentioned on the site plan and not mentioned by the Applicant, is the need for outdoor lighting (inaudible) the building and the parking areas. He asked them to look at the wonderful job the Applicant has done at the Apple Tree – it is illuminated on into the evening. He just heard tonight that they were only going to propose three poles, 6 foot poles, but before there was no mention of this. As a result, how would the public be aware of what was going to happen. His assumption was that they were going to do what they did in the other place. He asked them to think about this – if you are going to be bringing cars in and out of that place at 6 p.m. in the evening – it is dark. They are going to be driving in and out of that driveway with just three lights? It isn’t going to do it.

Alderman Anglace commented that the hours of operation proposed for a business facility are essential to deciding the Special Exception question. In this case the Applicant states an 11 hour work day which is more intense than what they experience in some LIP situations and certainly far more than intense than in most R-1 office situations, where people have offices in their homes. He reiterated that this was much too intense for use for a residential neighborhood – he asked if 11 hours - if that isn’t changing the character. Alderman Anglace stated that it certainly is changing the character of the neighborhood. He commented that if they added to this use - delivery and other service requirements and it is an intense use at peak traffic periods.

Alderman Anglace stated that another issue to examine is whether these employees are full time or part time and what constitutes one employee. Two part-time employees that constitute one full time employee mean two cars versus one. This matters because it impacts adequate off-street parking, congestion, etc. All this adversely impairs the residential character of the premises. To him, that means that they don't qualify for the Special Exception.

Alderman Anglace addressed Section 33.16.1C – he stated that the floor area submitted on the floor plan needs verification. State Regulations require the availability of 35 square feet per child exclusive of anything in the room – he repeated exclusive of anything in the room – that means tables, chairs, computers, desks, etc. Someone needs to do the math to verify his contentions that the required 700 square feet of uninhibited space needed to house 20 children does not exist. Consequently, the Applicant does not meet this requirement for Special Exception.

He addressed Section 33.16.1F requires adequate off-street parking at the ratio of one space for each non-residence employee and one space for every five children enrolled. This application already starts with a use that impairs the residential character of the premises. Should the site use increase, it will only make the residential character worse. This is adequate reason why a child daycare business, and his stressed the word “business,” does not belong in an R1 district.

In regard to Section 33.16.1H requires the Applicant to state the number of children for which approval is requested together with the anticipated age breakdown and hours of operation. The hours of operation are listed on an expected daily basis but, what is not listed is what happens when there is a day off from school. He asked if children would still come to the daycare and spend the entire day there and if two teachers would still be enough. He asked if the required toilet facilities would be sufficient. This possible change of use needs to be looked at in detail. Five-year olds are usually kindergarten and subject to half day sessions making their before and after school time much longer than for the 6 to 12 year olds. The congestion caused by this grouping should be given close scrutiny before a Special Exception decision is made.

Alderman Anglace stated that Section 33.16.1H requires that the facility have a written confirmation of an approved license prior to issuance of a Certificate of Zoning Compliance. A daycare provider could be licensed by the State in another location but it is the particular location under request for this Application now that would be granted only after all local zoning approvals are in place. This needs careful consideration as well. Future growth of this daycare business should also be taken into consideration. Once they get a foot in the door, he asked who monitors the number of children, the use, etc.

Alderman Anglace stated that his conclusion, which he knows they will be glad to hear, is that the proposed use is much too intense to qualify for Special Exception. It does not protect the existing integrity of the R-1 zone. It changes the character of the R-1 lot where it is proposed and puts too much pressure on local streets and intersections. The Greater Bridgeport Regional Authority expressed a number of concerns and cautioned our planners back in 2001 when this issue was first discussed and suggested that daycare centers with more than 12 unrelated children may not be appropriate for single-family residential zoning districts. Alderman Anglace submitted to them a copy of that letter dated March 29, 2001 for the record.

Chair Parkins stated that he can certainly hand it in but Ingrid Waters already addressed that letter. He can feel free to just reference it.

Alderman Anglace stated that he would give them a copy of everything that he said and a copy of the letter from the Greater Bridgeport Planning. He thanked the Commission for the opportunity to be heard, for their diligent attention to duty – they are great listeners and it is wonderful that they are up there and have so much patience, and for all the courtesy extended by P&Z Staff throughout the exploratory phase of this application. He thanked them again.

Chair Parkins thanked Alderman Anglace for his comments.

Alderman Stanley Kudej, 43 Plaskon Drive, Shelton addressed the Commission. Alderman Kudej stated that he came down to add his support to the 2nd Ward people and their battle. He is the 2nd Ward Alderman and he knows that John has been involved in this project and they can

see he has done a lot of research and work so he wanted to offer him moral support and whatever else he could do.

Alderman Kudej stated that during these conversations, he didn't hear too much about if you guys approve this project if this house has City sewers or if it is septic tanks.

Mr. Schultz responded that it was City sewer and City water.

Alderman Kudej commented that they didn't mention anything about the bathrooms in the building. They are talking about kids and he would think that you need at least one bathroom on each floor for at least 20 kids. They can't go without that – he knows. He is here to hope that they deny this thing. It is not good for the neighborhood or the City. He thanked the Commission.
(Applause)

Michael Ulrich, 9 Allyndale Court, Shelton addressed the Commission. Mr. Ulrich thanked everyone for coming. Obviously, there are going to be people that are opposed and obviously, there are going to be people for it. There were a lot of good points on either side for the supporters and for the naysayers. He referenced some notes that he took during the meeting.

Mr. Ulrich commented that one of the neighbors said that there were no sidewalks on that street. He stated that $\frac{3}{4}$ of Shelton has no sidewalks on many of the streets. Children go to the edge of driveways and street corners for the bus. He knows that it is a very busy street, but so are most of the streets in Shelton. He thinks that sidewalks shouldn't even be a consideration because its City property for a good 30 feet of the Long Hill side and 60 – 100 feet of the Platt Road side. He added that if the neighbors would like sidewalks, then they should contact their Aldermen and ask for sidewalks to be put in if they are concerned with it. Mr. Ulrich commented that people walk Forest Parkway on a daily basis from all the businesses. Sikorsky has a health plan for their employees to walk and they walk around the neighborhood and there are no sidewalks. It is a concern for more than just a daycare, it is concern for all of the business and all the other people who work and live here and do that. So, yes that is a positive- so he'll take that.

Mr. Ulrich referenced the clear-cutting of the trees. He indicated that apparently there were no regulations that can stop anyone from cutting trees down on their property. The trees that were cut on their property are their trees. They did not cut any City trees until they contacted the City's Tree Warden who said that as long as it doesn't cost the City a dime, they could cut where they needed to for the City sewer, the City water and the electric trench that came in. Those are the only trees that they touched and it was approved through the Tree Warden.

Mr. Ulrich discussed the traffic and indicated that the Police Chief gave them a letter and he's not sure what he was given for information on this as to what it is as a traffic generator. However, on a daily basis tractor trailers are on Long Hill Avenue – on a daily basis. If they go down to the beginning of Long Hill by Mr. Dognin's house there is clearly a sign posted at that end and at the other end too that says "No Thru Trucks" yet it occurs on a daily basis. He added that maybe the Police Chief should concern himself with correcting issues that are already going on instead of this.

Mr. Ulrich commented about the zoning and stated that this is current zoning which has been in effect for over 10 years. It exists and it is an exception. They understand that and that is why they are here for this public hearing. He understands that there are a lot of people that are upset and don't like it but instead of coming here and bashing her business and what she does, they should be coming to the Planning & Zoning Commission or other ones to get the laws changed so that they don't affect any residents in the future. He added that it could be done through their Aldermen and P&Z and that is where these concerns are going. There are tons of laws on the books that a lot of residents don't even know about and if the residents have complaints, and they don't want things in their neighborhoods then they need to educate themselves about the laws and the ordinances within the City.

Chair Parkins again requested that outbursts not be made from other audience members because it is not fair or courteous.

Mr. Ulrich commented that in the Fire Marshal's Report he stated that the driveway should be listed as a fire zone/fire lane. He isn't sure but he is a past Assistant Fire Chief in the Shelton Fire Department for 25 years, but he's not sure that driveways are listed to be as fire lanes under current Connecticut Fire Safety Code. There have to be designated areas and driveways aren't listed as part of that.

In regard to the buses, Mr. Ulrich indicated that he sat there on Monday in the driveway and watched 80 buses, as a minimum, on Long Hill Avenue. He added that for those who weren't around during the daytime to see how many buses come through, there are a lot seeing how there is a school down the street. He stated that he has four kids and if he were to live in that house, they all go to different schools - so that is 8 bus stops for his kids to get picked up for school. He commented that it is no different than if a family had ten kids living in that house, there could be 20 bus stops depending upon where the kids go to school. He said that just wasn't acceptable as that.

Mr. Ulrich stated that as far as this being a business on Long Hill Avenue, and for those who don't know, DD Stables which is now out of business and in a shambles - he would think that deteriorated property... There is currently a hair salon in a dwelling three houses down from that. There is also currently an animal training facility on the opposite side of the street, three houses up from Alderman Anglace's house. Those are all businesses that attract traffic and whether those were permitted uses or currently permitted uses - he guesses not because that animal training facility has only been there a short period of time. There are tons of devices out there for animal training in the yard and- that's a business.

Housing is proposed in an LIP Commercial office zone on Bridgeport Avenue and there is one currently in front of them for Long Hill Cross Roads. He stated that it was kind of like reverse discrimination. They are putting houses in a business area that shouldn't be there - it should be the same for offices. That is what they are trying to do on a much smaller basis.

Mr. Ulrich commented that there are currently nursing homes on the street which generate a lot of traffic and have outdoor events on a regular basis outside that affect the neighbors - shows, tons of buses coming in, traffic being impacted, parking up and down both sides of Long Hill Avenue. He added that he doesn't hear too many complaints about that.

Mr. Ulrich addressed property values and some of the deteriorating houses within the neighborhood. On Long Hill Crossroads, they have several houses with tractor trailers in their yards, overgrown mobile homes - those are the kinds of things that lower property values but he doesn't hear anybody complaining about that. Maybe they are but he doesn't know about it. Mr. Ulrich commented that those are things that are run down and affect people's property values like DD Stables which is an overgrown mess, deteriorated buildings, etc. He sees it there all the time.

For those who say that they cut down the trees and then came to the Commission, Mr. Ulrich indicated that when this house was built all of the pine and spruce trees along the driveway weren't there. They were added and ran along the driveway and grew in over the years that the house has been there. They were removed because of their unsightliness and unhealthiness. If anyone had asked about the trees, they would have shown them the trees and then they would have seen the deteriorating condition.

Mr. Ulrich thanked Alderman Aldrich for recognizing his wife and how long she has been in business and how well her business is run. He's sure they are all welcome to see the business if they make an appointment with her, she'll be happy to show them around.

He commented that the Zoning Map and the Assessor's Map don't coincide - these are two City agencies within the City. He stated that every map should be the same. If they look at the Assessor's Map, it currently shows that the LIP zone runs half way through the property and the back door of the property. However, if you go to the P&Z Maps, it shows it in reverse and further back. He suggested all maps in the City, he knows it costs money, going from one agency to another should be identical. They shouldn't be assessing a property off of a map...

Chair Parkins commented that they understand his point. She added that for the sake of time, it is getting late.

Mr. Ulrich commented that the Zoning Regulations for the amount of students in the building – your zoning regulations only allow for 1/3 of the square footage allowed for that and Mr. Anglace said it could be changed at any time. He was going to challenge that because they can only approve for 1/3 on yours to be considered for the amount of students and that area has to be divided by the 35 square foot per child. Once that value is adopted, it can't be changed to add more.

Mr. Ulrich stated that in regard to lighting. Obviously, they are addressing the lighting. He's an electrician, a contractor, he's been an electrician for 26 years and he thinks that he knows what he is doing. They are putting lighting in that will only effect the immediate area and will not affect any additional properties. They aren't looking to light up the left-hand side of the house and have light trespass on any of the neighbor's properties. Mr. Ulrich added that it is a residential neighborhood and he can put as many lights on the house as he wants as long as he doesn't trespass he can make it look like Yankee Stadium.

Mr. Ulrich stated that it was questioned about the daycare hours for the kids were questioned numerous times – it is 7 to 6 with no weekend hours. There won't be any extended hours or after hour programs.

Mr. Ulrich commented in regard to who monitors the business - who monitors any business in Shelton? He doesn't think anybody monitors any business in Shelton unless a complaint is lodged. Nobody goes to every single business to see if things comply. There aren't enough people working in the City to handle those things.

Mr. Ulrich commented about the letter sent from the Bridgeport planning agency. It was sent to P&Z in 2001 and it is now 2013. If it wasn't adopted for a change back in 2001 – well, it is 12 years past that and if it hasn't been adopted and utilized then he doesn't see the relevance in it if it isn't going to be adopted or utilized. He thanked the Commission for their time.

Commissioner Flannery asked him to restate his name and address.

He responded Michael Ulrich, 9 Allyndale Court.

Comm. Flannery asked his address.

Mr. Ulrich responded the same as the Applicant - 9 Allyndale Court.

Comm. Flannery asked if his address was not 7 Platt Road.

Mr. Ulrich responded no, that's not their residence. It's his wife's business bought that house.

Comm. Flannery said OK, well this whole application is about the people who live there.

Mr. Ulrich responded correct, but you asked where I lived.

Comm. Flannery stated OK and asked if he lived there.

Mr. Ulrich responded no, he lives at 9 Allyndale Court.

Atty. Fred Anthony stated that he would be more than happy address that.

Comm. Flannery responded OK because she is very confused because she thought the owner of this house was having this business. She asked Mr. Ulrich if he owned the house.

Mr. Ulrich responded that his wife owns the house.

Comm. Flannery told the other Commissioners that she was confused and needed clarification because she thought the owner had to have this house and live there for this business. She thought that was one of the conditions.

Chair Parkins responded that she thinks that Atty. Anthony is going to address that and it has already been brought up by a few people.

Comm. Flannery commented OK, but asked if she could bring up a couple other things.

Chair Parkins stated that they should let him address what has been discussed and maybe he'll answer some the questions that she has.

Comm. Flannery stated OK but she wants to make sure she can while the public portion is still open.

Chair Parkins responded OK, but he may address questions she already has. She asked if there was anyone else in the audience who would like to speak but did not sign in on the sheet.

Shannon Ligi, 34 Shelview Drive, Shelton addressed the Commission. Ms. Ligi asked about the summer time issue and what would take place in the summer.

Chair Parkins responded that the Applicant will address that. She checked to make sure that Mr. Panico and Comm. Pogoda were still on line. They were both still listening via conference phone. She asked the Attorney for the Applicant to address these comments.

Atty. Anthony stated that they've heard some passionate voices and concerns. He thinks that it is appropriate that neighbors have come in a respectful way, brought forth their questions and concerns, comments from Alderman Anglace gave (inaudible) that he wasn't aware of before. He added that is part of the reason that they have a public hearing to go over the site plan so that they can all see what is here.

Atty. Anthony indicated that he has tried to address concerns with a point by point plan here. They all hear the concern about the traffic but the only objective, factual evidence that they have before them is the traffic report. It is not based upon subsection. As an attorney he didn't stand up there and say that there was not a problem with traffic. They got factual, objective evidence that says that this property in that location with that use, if they read the report, is insignificant, inconsequential to what is going on around it. It does not have an adverse impact on traffic. Everyone is entitled to their opinion and he understands the concerns that the neighbors might have but it doesn't address this property. This property is not part of that concern. It is an insignificant impact.

Atty. Anthony commented that with the parking – the parking numbers were not numbers that they picked out. When they addressed these type of issues what they typically do is meet with Staff and go over the regulation and that is how they came up with the formula here. Actually he believes that you could potentially remove one parking space if they want to do that at the Staff level, but they wanted to make sure that there was adequate parking to address that. It was a concern that people have, they didn't want off-street parking or people parking on the road. He commented absolutely and that is why it was designed to be on the property facing the Platt Road side. There is nothing in the front yard. Everything is in the side of the yard on Platt Road. He showed the site map again, pointed out the way the house faces on Long Hill and he showed that there was nothing proposed for the front of the house. It was untouched and would remain untouched – there is no parking there, no play area, nothing.

Atty. Anthony commented that he was going to try not to be redundant. They brought up public safety. The Fire Marshal's report has gone through and they will follow his recommendations whether there should or shouldn't be a fire lane. Again he thinks that is something that can be addressed on Staff Level on site plan approval but if that is what Mr. Tortora feels is appropriate, then he'll follow his recommendations because he is the professional, that's what he says and he'll follow what he says. It is not subjective.

In regard to Chief Hurliman's letter, it is in regard to traffic but again, they don't know on what basis he's basing that. Again, they have to consider what they do have on the basis of objective facts.

Atty. Anthony discussed property values and Alderman Anglace's comments in regard to wondering what the Assessor would say about this. He responded that Mr. Colburn answered that question, the Assessor said it doesn't have a negative value upon your property because in all of the properties he looked at don't have a reduction in property value because there is a daycare next to it. So, that not only answers that they professionals say that but answers "what would the Assessor say." There are no notes on any of the field cards that show any reduction in property value.

Atty. Anthony asked about the letter submitted by a realtor submitted by Atty. Cordone. He pointed out that it was prepared by Lynne Stone. He doesn't know Ms. Stone but she lists here that she is a licensed Real Estate Agent, not a licensed real estate appraiser, not certified or licensed by the State of Connecticut to assess values of real property in the State of Connecticut. He pointed out that she states "that the exception requested is consistent with Commercial zoning and should not be permitted in the R-1 district." He commented that they've already gone through the Zoning Regulations and it is permitted in the R-1 district so if he looks at the basic criteria that she's established, he doesn't believe that Ms. Stone is qualified to give the real value or effective value of real property in the State of Connecticut. However, she is basing it upon the fact that it is not permitted and it is commercial zoning and it is not commercial zoning.

Atty. Anthony commented that what is understandable with almost any action that comes before the P&Z Commission is when people are concerned about what is going to happen next. He referenced comments about "what will happen next," "what's the can of worms..." and "what is the precedent." He surmised "what would happen when there is an asphalt plant or a gas station?" Atty. Anthony stated that it was easy to address – you can't put an asphalt plant or a gas station in an R-1 because it is not a permitted use. Not permitted by way of a Special Exception or permitted by way of anything else. They need to keep the facts about what they are here. It is in an R-1 zone and they've heard from people here - that you won't just have houses in an R-1 zone. There are professional offices, churches, nursing homes, and hairdressers in an R-1 zone.

Atty. Anthony commented that there was a piece of property that was purchased, a review of the Zoning Regulations to see that this was a permitted use. This is someone who bought a house on Long Hill Avenue and said that they want to put a gas station in. It is already listed and it has existed in the application for many years.

In regard to questions that came up about who is going to monitor this. Atty. Anthony responded it is who monitors all zoning approvals in Connecticut. The City inspects them yearly and the Fire Marshal does inspections on these properties. As they heard from Ms. Ulrich, the State of Connecticut comes unannounced. He understands the concerns – about if they put two kitchens in or whatever, well if the State is coming unannounced it is really hard to pull that stove and refrigerator out in the last minutes. He doesn't mean to be facetious because he knows that it is a valid question but it is part of what they have in their Zoning Regulations to make sure that is taken care of.

Atty. Anthony commented that this wasn't "creep" because they aren't changing the zone. They aren't asking to make this an LIP or a commercial zone. If they look at the records from the City of Shelton Assessor and he brought them in to speak to Staff. It showed originally that there was an LIP strip in the back of the zone and it still shows today on the Assessor's records. When they spoke today and Mr. Schultz kindly explained that the City and the Zoning Office went to digital mapping which allowed the line to be better drafted. It is really an issue here and not applicable here because this is a permitted use by way of Special Exception.

Comm. Flannery asked what LIP stood for.

Mr. Schultz responded Light Industrial Park.

Atty. Anthony commented LIP is right beneath it which is why they have Sikorsky Aircraft, Precision Resource and the others there. He recalled a professor from law school who said “special exception is really a misnomer because it is really not special and it is really not an exception. It is a permitted use in a district with a site plan approval.” He commented that is what they had here. When they talk about this location as improper area, it is a dwelling unit in a residential zone and the application is going to have children come to a residential dwelling in a residential zone. They aren’t bringing hazardous waste in or tractor trailers, they are bringing children into a dwelling unit in a residential home. When the issue came up, and he believes it was in Mr. Dognin’s letter that said that they put in an important buffer here – exactly, that is what a buffer is. It is not necessarily one or the other...following Mr. Dognin’s logic, he would say that is what they should do here. They have this business area, LIP zone here, and this residential zone here – what a great buffer because you are going to have a building that is a residence – it’s a dwelling unit. They want it to be a dwelling unit and not steel, or brick or glass – it is a dwelling unit. That is part of why the zoning regulations are...Somebody asked what color they are going to paint it and what they are going to do to it. He responded that it is white and it is going to stay white. This is the purpose of this facility – it is a home that kids come into for 2 hours before school because Mom is going to work.

Atty. Anthony stated that there are so many other ancillary things here but he doesn’t want to belabor points. Regarding the trees – and he heard comments that it looks better - there were some dead trees and brush cut down and they hooked up City sewer and City water. In order to hook up sewer and water, sometimes they have to take a tree down to do that. This improved the property to add City water, City sewer, improved the look of the property and cleaned the property up. The property presents itself very well if you look at it.

Atty. Anthony stated that in regard to ingress and egress, they have made the driveway better. A question was raised about signs and he thinks that initiative would be raised at the Staff level. It would be their suggestion that, if there is a sign that it be put on the Platt Road side and not facing the Long Hill side. It will help to continue that residential façade and demeanor.

Atty. Anthony commented that they have heard testimony that there is already a daycare center right up the road so it is not like they are introducing a use that has never been here. He added that if they go right up the road, there is a day care center that is almost twice the size of this one. There is a school up the road. They bring children to that school every day and that daycare center every day.

Atty. Anthony stated that ironically and it surprised him that, somebody, one of the neighbors, suggested putting a daycare center across the street in Jehovah Witness Church just like at the Methodist Church without a problem – they even suggested it could be even bigger. If they are going to talk about what the traffic is and what it can generate then they should be careful about suggesting that. He added that this is a small use compared to what already exists out there on the same road.

Atty. Anthony wanted to make something a little more clear. Originally, there was an application filed with the ZBA and that application was discussed. They can look at Comm. Glover’s minutes, he made it very clear to the other members that they weren’t there voting whether there should be a daycare or not. It is a permitted use – there is going to be a daycare. They are voting on whether or not someone should reside there. Atty. Anthony indicated that their first impulse was maybe that someone should not reside there because they thought maybe it would have less of an impact because somebody wouldn’t be there on Saturday and Sunday. However, the neighbors came out, made their voices heard and said that they didn’t think that was appropriate. So, they have followed the regulations to the letter of the law to make sure that happens. Atty. Anthony indicated that there was nothing that was inconsistent about that ZBA application and this application because the ZBA application was not about whether there was a daycare permitted or not permitted. It was merely about that one requirement if someone should live there.

Atty. Anthony stated that was an issue that they should discuss. He asked if somebody should reside there and answered yes. Frankly, he thought it would be better if somebody didn’t reside there but that is not what their Zoning Regulations require.

He provided a narrative of the regulation 33.16.1 A “the person or persons conducting such use shall reside in the dwelling unit...” He commented that it does not say “homeowner,” or “owner.” It says “the person or persons...” which by the way, implies that there may be more than one person so depending upon the residency – it doesn’t say ownership and doesn’t require ownership. The reason for this is because it isn’t most important whether someone resides there or rents – the person conducting it is going to live there and will live there because that is what is required and that is what is in the application and that is what should be required in their site plan approval. Absolutely.

Comm. Flannery asked who that person is. She asked who is living there.

Atty. Anthony asked Ms. Ulrich.

Ms. Ulrich responded (inaudible)

Atty. Anthony added that at this time nobody is living there because they don’t have approval but it is going to be the person who is running the business. Ms. Ulrich is certainly part of the business but she will not be conducting the business at that property because she doesn’t have to. It says “the person or persons conducting such...” It is not required to be the property owner. But, why do you really require it to be operative where there is a dwelling unit and why? Because of just what they said. Because this is what you want – this is what they want to drive by and look at. People point out that they should go by and look at Apple Tree Daycare, look at that - it is lit up like Yankee Stadium. He commented that Apple Tree Daycare is in an LIP zone. Part of the pun is comparing apples to well –to this. It is not a comparison.

Comm. Flannery asked which one was about the residence.

Chair Parkins stated that it was 33.16.1A.

Comm. Flannery stated OK.

Atty. Anthony stated that they should also notice that it says – and if they read the second half and read it consistently “there shall be no more than two non-resident persons engaged in the conduct of such use.” He added that it doesn’t say non-owners or non-homeowners but non-residents. So it requires that you have a person residing, an operator, a person conducting it and two non-residents. The sentence is very clear and the regulation is very clear.

Comm. Flannery commented that they don’t have that person yet. She added that they don’t know who is living there.

Chair Parkins stated that the person living there will be the person to take out the license from the State. The person who is living in the house will be the person to take out the license.

Comm. McGorty says it sounds like the employee of the business not the license holder.

Atty. Anthony commented that the person conducting the business will be residing there.

Comm. Flannery indicated that is why this is confusing.

Atty. Anthony commented that at first, and he’ll be honest, it was his opinion that it didn’t make sense to have someone there . But now that it is required to be there; perhaps that isn’t such a bad thing because many of us who are parents all know that there is that you are supposed to go and get your daughter at 6 o’clock, and you are trying to get there and it is 6:10 p.m. – so maybe it is not such a bad thing that the person conducting the business also lives there because they aren’t complaining that they don’t get to go home.

Atty. Anthony commented that there was a question about the square footage but he doesn’t want to belabor that point. The square footage is what is listed there. As they heard, the square footage that they heard that you need is 35 square feet per child. They have approx. 40 square feet. They are actually below the State maximum because Ms. Ulrich expects what is

appropriate there in the facility and he's willing to defer to her opinion because they heard from Alderman Anglace what a wonderful job she does and how good she is at running this business.

Atty. Anthony commented that he appreciates everyone's time.

Chair Parkins stated that they had a specific question regarding summer programs.

Atty. Anthony responded that he would address that because it actually addresses a question the Chair Parkins brought up about how many people will attend and how many will be enrolled. Because of that specific question, they are really limited to 20 children and here's why. It is because if you try to jam – 20 in the morning, 20 in the afternoon, 20 different... – and they are right – what happens when there is a snow day because the 20 people in the morning are expected to be serviced and the 20 in the afternoon. Just by the sheer practicality they've really limited enrollment so that they can provide services. If they can't provide services to the people, you can't. Atty. Anthony stated that, in that it addresses the day off from school - there are no Saturdays and no Sundays.

He added that summer use would be limited because; unfortunately, because as the year goes on they don't have much summer anymore but some weeks in July and some weeks in August. Obviously, those are times when families and children take vacations but certainly the facility would be available for those people at those times as well with the limitations that they've placed here as to the number of children.

Chair Parkins stated that then it is no longer a before and after school program.

Comm. Flannery agreed and commented "correct."

Atty. Anthony stated that if the Commission decided to review that and make it a condition, then so be it, but they have to understand that the use is setup, it is designed for before school and after school. He commented that they need to remember that before and after school for kindergarteners is ...

Comm. Flannery stated that is all day because they have some morning kindergarten and some afternoon kindergarten – so that is all day.

Atty. Anthony responded no, but when you talk about who is coming in, there is a pick up in the morning and a pick up in the afternoon. But it is not a traditional daycare where they are going to be there all day long, all year round, 5 days a week, 52 weeks a year.

Atty. Anthony stated that lastly, he wanted to point out of the regulations part, he is glad that he made the checklist because they are all able to go through it and if they go through the checklist and look at the criteria that they've laid out, you can check each one off because they have met each criteria whether it was square footage of the floor, square footage per child. They talk about State Regulations and that is fine because the State regulations go to State Licensing and certainly it will be addressed when she applies for her license to make sure that those regulations are complied with. They are going to be complied with, the plan that they have here and the application the State of Connecticut does comply with the regulations – but that is for them to review and decide.

Atty. Anthony indicated that the hour is late and he thanked the Commission for their time. He added that he would answer any questions.

Comm. Flannery commented that she did. She asked how many trees were cut down on public property – and she would like a number.

Atty. Anthony responded that when she asks how many trees were cut down on public property perhaps the question should be how many trees that were cut down in the City right-of-way were cut down with the City's permission.

Comm. Flannery stated no, she just wants to know the number of trees.

Chair Parkins commented (inaudible)

Ms. Ulrich responded (inaudible)

Comm. McGorty stated that wasn't their purview, it is for the town (inaudible)...

Chair Parkins added that it was irrelevant.

Comm. Flannery stated that she thinks it is because she wants to check on how many were.

Chair Parkins stated that it has nothing to do with this Application and what they are applying for. It may be a separate issue that she may want to pursue with the Tree Warden and that's her prerogative.

Comm. McGorty commented that she should talk to that department and have them go out and inspect it. He can get back to you.

Chair Parkins restated that it is a question for the Tree Warden.

Comm. Flannery asked if they just have a general idea how many.

Atty. Anthony stated that he doesn't have a general idea. He wasn't there but from what he hears less than five.

Comm. Flannery asked if the person who resides in the basement going to be paying rent.

Atty. Anthony responded well, he isn't sure how that could be germane, but certainly they'd like to be as transparent as they can with the application but he thinks that would be a consideration of the compensation for the work done conducting the business.

Comm. Flannery stated that she just wanted to know if they would be renting out the space in addition to the people working there.

Atty. Anthony responded no. He's not sure if he understands her question. The renting of rooms is allowed in the R-1 district that is not what they are seeking to do here today. It is the person conducting the business who resides there.

Comm. Flannery stated that she was wondering because there is a bedroom upstairs also.

Atty. Anthony commented that was trying to make use of the facility and the use that is there because unfortunately they couldn't use that room for children so they had to leave it as such. He supposes that they could have entitled it as a study or library but it is part of the living quarters for the person conducting the business.

Comm. Flannery asked why the driveway was not made to go onto Long Hill because of all the traffic that is on Platt Road.

Atty. Anthony responded that for a variety of reasons he would point out. Number one...

Comm. Flannery commented that she was just saying that someone mentioned how the children were going to have to cross Platt Road to get to that driveway in the way that the buses go.

Atty. Anthony stated that was a question that might better be addressed to Mr. Ruggio who handles it but Ms. Ulrich has told him that at her facility which is on Long Hill Crossroads, the bus will loop around to make sure that he comes up on the side that drops the children off there. He knows that there are plenty of examples because a long time ago his father was involved with the buses and people would complain that their child has to cross River Road...that happens. It is an issue that will be addressed by the City of Shelton, by the Bus Company, etc. but it has been Ms. Ulrich's experience that the bus comes around to drop off. Either way, she has already that there is going to be a staff member meeting the children at the bus here.

Comm. Flannery asked where the shuttle bus would be parked and if there would be a turnaround for it.

Atty. Anthony commented that the shuttle is currently – it is not a 60 foot bus, it is a small van which takes up an individual parking space. He has already said that they have more parking based upon the layout here. He commented that it could be parked here or at the other facility but again they anticipate that the van would make two trips a day.

Atty. Anthony asked if there were any other questions he could address. He added that they appreciated their time, the review and as they have said, this is not an unknown use to the area. It is a use that is permitted, a special approval, site plan approval and they are more than happy to review it at the site level. They have tried to take some of the comments already received and move everything away into Platt Road away from the residential neighborhood. He appreciates the comments that the neighbors have made throughout the process here. They've done their best to try to accommodate some of them that were brought out. He thanked them for their consideration.

Comm. Flannery stated that she had one more question. Someone brought up about the 1/3 livable space and they wanted to make sure that didn't include the stairs and items like that.

Mr. Mingoello responded that the calculations that they arrived at based upon net livable area and the stairs are a part of the livable area. The stairs are how you ask one level to the next.

Chair Parkins requested a motion to close the public hearing if there are no further questions.

Comm. Flannery asked if they would ever consider having only 12 children – limiting it to 12 children instead of 20.

Atty. Anthony responded that the numbers that they reached was not based upon greed, use or profit. The number was reached upon State of Connecticut regulations and they have already pointed out that they are below that. He indicated that they were below that number. They were not at 35 square feet per child but a little over 40 square feet per child. That believe that this is an appropriate size and an appropriate use, because remember they aren't sure that they are ever going to have the maximum number of children at any one time.

There was a lot of noise from people leaving and Chair Parkins stated that the meeting had not yet adjourned and requested that people take their conversations outside for recording purposes.

Atty. Anthony continued that the number that was reached was reached upon that rational basis based upon the Zoning Regulations that they set forth and based upon State of Connecticut regulations. He added that what they have done is keep it beneath that as best as they can and they believe it is appropriate for the site use that they have.

Comm. Flannery asked what the letter was that people are referring to which states that you can't have more than 12. She added that Mr. Anglace referred to it and Ms. Waters.

Chair Parkins responded that it is just a discrepancy between their Regulations and the State Regulations. She added that their Zoning Regulation is a hybrid version of the State Regulation and that is where the number differences come in.

Comm. Flannery apologized for asking so many questions now but she was told that she had to do it know before the public hearing is closed.

Chair Parkins responded yes, you do, but if she read the regulations and the State Statutes then she would understand the difference between the two.

Comm. Flannery indicated that she was just wondering why people are bringing it up.

Chair Parkins responded because they've done their homework.

Comm. Flannery asked why he was saying no, that they are wrong.

Chair Parkins responded that he is going by their regulations and what is stipulated what is in their regulations.

Comm. Flannery asked if their regulations were contrary to the State regulations.

Chair Parkins responded yes, slightly.

Comm. Flannery asked if their regulations were wrong.

Chair Parkins responded no, not necessarily.

Atty. Anthony indicated that he would add that the application is based upon their regulations and their interpretation of the State Regulations. He would disagree that the State Regulations require any less and it doesn't prohibit or mar or do anything but that is an issue which will come up with the State licensing. If the State feels that this is not appropriate then the State has the ability in their licensing but they have complied with the City of Shelton licensing requirements. The next step also would be not only to comply with their licensing requirements but to also comply with the State licensing requirements.

Chair Parkins requested a motion and a second to close the public hearing.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Application #13-1.

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to adjourn the meeting at 10:27 p.m.

Respectfully Submitted,

Karin Tuke

P&Z Recording Secretary