

**SHELTON PLANNING & ZONING COMMISSION**

**APRIL 9, 2013**

The Shelton Planning and Zoning Commission held a regular meeting on Tuesday, April 9, 2013 at the Shelton City Hall, Room #303/Room 208, 7:00 p.m., 54 Hill Street, Shelton, CT 06484. The Chairperson reserves the right to take items out of sequence.

Commissioners Present:                      Chairperson Ruth Parkins  
    Commissioner Joan Flannery  
    Commissioner Virginia Harger  
    Commissioner Elaine Matto  
    Commissioner Ned Miller (alternate for Anthony Pogoda)  
    Commissioner Thomas McGorty

Staff Present:                                      Richard Schultz, P&Z Administrator  
    Patricia Garguilo, Court Stenographer  
    Karin Tuke, Recording Secretary

Tapes (1), correspondence and attachments on file in the City/Town Clerk's Office and the Planning and Zoning Office and on the City of Shelton Website [www.cityofshelton.org](http://www.cityofshelton.org).

**CALL TO ORDER**

Chairperson Ruth Parkins called the regular Shelton Planning & Zoning Meeting to order at 7:00 p.m. in City Hall, Room 303. She asked for a motion to move the meeting/public hearings downstairs to Room 208.

**On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to change the meeting venue from Room 303 to Room 208 in City Hall to accommodate public attendees.**

**PLEDGE OF ALLEGIANCE/ROLL CALL**

Chair Parkins reconvened the meeting in Room 208 at 7:06 p.m. with the Pledge of Allegiance and a roll call of members present. She indicated that Commissioner Ned Miller would be acting as an alternate for Comm. Anthony Pogoda.

**PUBLIC HEARINGS**

Chair Parkins stated that the first two items on the agenda tonight would be public hearings for Application #13-3 and Application #13-4. She reviewed the procedures for public hearings and cell phone usage for those in attendance. She asked P&Z Secretary Virginia Harger to begin by reading any new correspondence for Application #13-3 received since the 3/21/13 public hearing.

**APPLICATION #13-4, BISHOP MANAGEMENT OF SHELTON FOR MODIFICATION TO BOUNDARY OF PDD #73 AND DETAILED DEVELOPMENT PLANS (GRADING PLAN), 781-785 RIVER ROAD (MAP 12, LOTS 11, 29 AND 43) CONTINUED FROM 3/21/13.**

P&Z Secretary, Virginia Harger read one piece of new correspondence from the Shelton Building Department.

**\*See attached correspondence to Ruth Parkins, P&Z Commission Chairperson from Shelton Building Department Official, Joseph Bolero dated 4/4/13.**

**Joe Grasso, Project Manager representing Bishop Management of Shelton addressed the Commission.** Mr. Grasso indicated that he would be answering some of the questions that the Commissioners asked at the last meeting. He stated that one of the questions had been about the fencing so he has brought a sample piece of the pool fencing to show the type of mesh, and how tight the mesh is. He commented that it is used around pools because it is so tight and a person can't get a foot hold into it to climb over because of the tightness of the mesh; that is a big issue

over there at this location. He reiterated that it was a sample of the type of fencing that could be used.

Chair Parkins asked what type of material it was and if it was some type of vinyl.

Mr. Grasso responded that yes, it's like the steel fence but with a vinyl coating and this particular one happens to be black in particular, which most of them are. They are available in four foot, six foot, and eight foot heights.

Comm. Harger commented that the only thing she could say would be that a large foot wouldn't fit but if they have a little child they could possibly...

Chair Parkins responded that she thinks it would have to be a baby...

Mr. Grasso indicated that this fence is designed for pools which are very attractive to children.

Comm. Harger stated that she needed some standards (inaudible)...

Chair Parkins commented that it's like a 1 inch (inaudible)...

Mr. Grasso responded that he thinks they are calling this 1 ¼". This is the standard pool fencing used to keep out children.

**James Swift, P.E. and Landscape Architect, Village Drive, Shelton addressed the Commission.** Mr. Swift stated that one of the other concerns was that the fence sunk into the ground pretty well so that they don't get anything under it.

Mr. Grasso added that during the installation, they can loop a wire through the base of it and spike it down and attach it so that the bases can't be pulled. They can install it in a fashion so that you can't get under it.

Commissioner Miller asked how high the fence would be.

Mr. Swift responded that 6 feet was the original height, but if he isn't mistaken, the Commission went to 8 feet.

Chair Parkins commented that there was a request for 8 feet but the final height hasn't been determined. She asked if 8 foot was the tallest that this fence is available in.

Mr. Grasso responded 8 foot was the tallest – that he knows of. They could look into taller. He added that with pool fencing, 48 inches is the required height for the protection of children from a pool.

Mr. Grasso commented that another issue was in regard to the decorative appearance of the wall. He brought some form liners and explained that it is something that would be applied as the wall is being constructed poured concrete. Because of the nature of it, he added that this back wall has to be poured concrete and reinforced rod. The form liners can be used to achieve the finished texture.

Mr. Grasso provided a sample of the form liner and explained that when the form is all stripped away it would be this texture on the wall. Once they strip it away and the wall has time to cure which will take between 60 and 90 days to dry out and then they'll be able to stain it. They'll use stain because it will penetrate and adhere to the concrete. Right now they are looking at using base gray to blend in with the rock and then some rust tones, brown tones to blend in with the rest of the rocks so it isn't just one big gray mass. Architecturally and artistically they will decorate it to make it appealing and blend in with the rest of the rock.

Comm. Matto asked how long that would last.

Mr. Grasso responded that without having any foot traffic on it, this stain should last for years. It's something that they can always go and maintain. They can go back 10 or 15 years from now

and reapply it. It is a good product for that, and they use it currently right now on floors. It doesn't have the wear factor with foot traffic because it's a wall so it should last quite well.

Comm. McGorty stated that it was similar to the stained concrete where they put the (inaudible) to make the (inaudible) process (02:09:20)

Mr. Grasso responded that is the product on the surface and that is done when the product is wet but they won't have the luxury of being able to do that because the concrete is in a form and you can't strip a form until it cured. This is much like a deck staining. They wait for it to be dried and cured so that it pulls the product into the concrete.

Chair Parkins asked if they had done this before or if he has ever seen it done.

Mr. Grasso responded that this particular application, no, this is a rare application but he's used the same product before.

Comm. Matto asked if he used it indoors.

Mr. Grasso responded yes, indoors.

Comm. Matto commented indoors – but not outdoors.

Chair Parkins asked if it was rated for outdoors.

Mr. Grasso responded that the product is rated for indoor and for exterior use, mainly for patios, and porches. It is a product from Sherwin-Williams. He commented that he was very confident that this product will really hold up and again, they can go back and reapply it.

Comm. McGorty stated that it is an indoor /outdoor rated product and Sherwin Williams isn't going to put their (inaudible)...

Comm. Harger asked if it this was the pattern that they were going to use.

Mr. Grasso responded yes, that was the pattern that they were going to use. It is a big rustic stone.

Comm. Flannery stated that her concern is the buffer zone and how close that wall is going to be to the property line. She asked if they were going to have it away from the property and filling in more dirt and plants. She stated that her concern is the land that is not there anymore that was supposed to be there. She asked if they were putting it back.

Mr. Grasso responded yes, they have the plan showing the new wall.

Mr. Swift showed a plan of the wall and commented that it was an accurate representation of where the excavation limits were. He showed the location where the dirt faces, the area depicted between the brown line and another line on the drawing. He explained that the wall is ...

Chair Parkins asked for clarification that the dark line at the very top was the new property line – up to include the PDD.

Mr. Swift responded yes, he showed the location of the existing PDD line and the new property that they own. He showed the location of the wall that they propose to put in, where the dirt excavation is now and the area which will be filled back in to bring it back up and level to the adjacent property.

Comm. Flannery asked if he meant that there were going to be two walls.

Mr. Swift responded no, this wall is built to support the fill that they are putting back. He showed the area again where they are going to be filling it back in.

Comm. Flannery asked what holds that fill there.

Comm. Matto responded it would be the retaining wall.

Comm. Flannery stated that she was confused by the layout and asked for clarification as to where River Road was located on the drawing. Mr. Swift showed the location of River Road.

Chair Parkins asked about the area to the right of where the wall ends.

Mr. Swift responded that was stable rock – that did extend all the way up so that they don't have that earth problem that they have in this location.

Mr. Schultz asked Joe Grasso to explain to the Commissioners that this is the color they want to match. He asked him to show them that whole color scheme.

Mr. Grasso responded that the color of the rock that they have on this side is where they are going to take the grays, beiges and rust tones and blend them so that it looks seamless.

Comm. Matto asked if that was the roughly the whole area of the wall.

Mr. Swift responded yes, that is the wall – where this marker is.

Chair Parkins asked what the approximate length was.

Mr. Swift measured and responded that it was about a 100 feet.

Chair Parkins asked if it was 100 feet total.

Mr. Swift responded yes.

Chair Parkins asked if the height was about 15 feet.

Mr. Swift responded yes, but perhaps more to the point would be, the height to the top of the wall - which is elevation 103. The elevation of the property line is somewhere around 106 - 108, so there is a gentle slope.

Comm. Matto commented that it is a 4 foot drop.

Mr. Swift responded yes, there's a slope but it is comparable to what was existing and not very steep.

Comm. Harger asked what they would be backfilling with and if it was mixture of rock and other things.

Mr. Swift responded that it would be a mixture of crushed stone immediately against the back of the wall and then, because they have a planting plan for the back, it will convert through a silt fabric separator to top with earth fill so that this line of evergreens can potentially grow.

Comm. Harger asked if they expect any issues of it settling at some point.

Mr. Swift responded no, the wall itself – and he was there this afternoon and they've got a lot of inspectors over there and he understands the point about the City Inspector but – the structural engineer who designed the wall has been up there supervising basically. He has been looking at the forms that have been set up to support that. He is inspecting the quality of the ledge that this is all sitting on and, of course, it is pinned in with metal rods – so, the wall is not going anywhere (inaudible)...

Comm. Matto commented that she thinks that Comm. Harger was talking about the soil.

Comm. Harger stated yes, the backfill.

Mr. Swift responded that the backfill was not going anywhere either.

Chair Parkins asked if they were proposing to put the fence on their [the Applicant's] property.

Mr. Swift responded that they would work with the neighbors. The fence could either go on the property line and ... (inaudible)

Mr. Swift presented a different site rendering and he explained that he is showing the fence on the property because he thinks that is more appropriate but they do have a double line of evergreens if they would prefer to have the fence on the other side. He added that it works so it's not a problem but they are showing the fence on the property line coming all the way down.

Chair Parkins clarified that it is on their property line so it is their fence.

Mr. Swift responded yes, it is their fence.

Chair Parkins commented that she thinks that they discussed that the trees should be on the opposite side of the fence so that they can't be used to climb up and over the fence.

Comm. Matto asked for clarification that with this retaining wall the amount of buffer would be the same as what the original application stated or if they are losing some of it.

Mr. Swift responded that the issue to consider is that land swap that they had, so their buffer to their property line is the same but the property line has moved.

Comm. Matto commented that she understands that.

Mr. Swift responded yes, the buffer is comparable.

Comm. Flannery asked if the parking lot was the same size or would it be bigger or smaller.

Mr. Swift responded that the parking lot is exactly the same size. The parking and the building are the same size and neither the parking nor the building nor any physical improvements like lighting poles moves off of the area of the original PDD. He shows the line of the original PDD on the site plan and explained that all site improvements remain on the original PDD property.

Comm. Matto asked how tall the building would be and if it was two-stories.

Mr. Swift responded that it was one-story.

Comm. Matto commented OK, she thought if it was bigger than they wouldn't even see that much of the wall but she guesses that they will.

Mr. Swift commented that from the street it is going to hide it, but as he said before, he can't stand here and say that you'll never see it but yes, the building will certainly ...

Mr. Grasso added that the base of this building starts higher off the street level.

Mr. Swift indicated that the building would be about 6 feet above River Road.

Chair Parkins asked if the Commissioners had any other questions. She stated that because there is new information presented, she is going to offer this up to the public again. She asked if there is anyone from the public who would like to speak on the new information that has been presented this evening.

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby CT representing John Wardowski of 21 Turner Road, addressed the Commission.** Atty. Thomas stated that he has only been involved in this for approximately a couple of days and he's had to educate himself by reading the Commission's minutes and he has not had the opportunity to go back and look at the original approved PDD and the plans. Atty. Thomas stated that his client, Mr. Wardowski came to him after attempting to handle a lot of this himself, including dealings with the insurance company, the blasters and everything like that so he is advising him on a myriad of issues.

Atty. Thomas stated the Mr. Wardowski seems to feel that in looking at the site, that the amount of buffer even if the rock cut is not what was proposed at the original PDD. Atty. Thomas commented that it took him a while to read through everything and understand what was being proposed. He indicated that he took a ride up there today and took photographs of the form that is being done. He added that he was out there just as they were leaving today and he took pictures of the form for the footing. It shows what they are doing in the area.

Atty. Thomas indicated that one of the concerns that he has had, and again he only had the benefit of this very brief Atlantic Consulting & Engineering three paragraph statement declaring that his client's property and his house were on sound footing despite what had happened. He commented that he doesn't purport to be a structural engineer or a geologist. He indicated that he took pictures of the rock cliff from three different angles which he now understands is going to remain where it is. He provided these photos to the Commission. He indicated that his client's concern is the structural integrity of his house. His client has had some conversations with the blasting company's insurance company which haven't been successful at this point. Additionally, he has other issues related to diminution of property value and things of that nature. Atty. Thomas stated that his client's discussion with him was whether or not, and Comm. Matto also asked this, if it was going to be restored to the original level. He indicated that he couldn't comment on that tonight because he didn't have time to go over the original plans and take a look at them.

Atty. Thomas referenced one of the photographs taken from Mr. Wardowski's deck at an angle looking down to the point where the retaining wall is going in, in other words, the dirt area that is going to be built out.

Atty. Thomas showed another picture taken – and he pointed out a tree to match it up with other pictures – right at the top of the rock ledge. The property line, so that they understand it, as best as he can determine from looking at the stakes, is inside that fence, in other words, on the other side of that fence. The fence that is up there that they see in the pictures is apparently on his client's property.

Chair Parkins commented that she doesn't see a fence.

Comm. Matto showed her a different photo which showed the fence .

Atty. Thomas stated that it is shown on a couple of the photos – it is a grayish, metal fence.

Chair Parkins commented it's a construction security fence.

Atty. Thomas stated that what they are here about tonight and what they were here about the last time is an application to extend the boundary of the PDD and within that framework they are attempting to appropriately protect the integrity of the site and the integrity of his client's property. He has discussed with Mr. Wardowski the hiring of a Zone Engineer and his client was very happy to hear that the town was hiring its own independent engineer to verify it. He noted from reading the minutes, the test "pits" (incorrectly called test "bits"), or borings were not done and as the Commission might know, he has a tad of experience in blasting and rock walls in the 30 some-odd years he's been doing this. As was stated by the Applicant, it is something that should have been done and it might have then resulted in appropriate types of measures to make sure that you don't have to build a retaining wall.

His main concern in looking at it is whether or not even the ledge, which he now understands will stay exactly the way it is, is stable because it has a slight overburden on it. Atty. Thomas questioned whether anybody had done borings into the ledge to determine whether or not it is stable where it is. He commented that it may very well be. They haven't had an independent engineer and he's sure that the engineer hired by the town also would be able to look into that because it is a very important consideration.

Atty. Thomas indicated that the other thing he looked at, obviously, was every possible option that could be entertained with respect to this and some of them do not present themselves to this hearing, so he can't really bring them up at this hearing. Certainly, tonight he made a very

preliminary 15 second contact with the Applicant and would certainly be willing to sit down with them and he would hope, as always, P&Z Staff would assist them if they were going to sit down and look at it.

Atty. Thomas indicated that he wanted to get in touch with the Applicant because his goal is to avoid litigation and the goal is to resolve it. There are other options than what is before the Commission; however, what is before them is simply, if this is the solution to move the PDD line to the end of the property that the Applicant owns. It is a line. He was asked by someone if that means the development could go right to the end of the line and the answer, of course, is no. There are setbacks that they could impose and other things they can impose. Atty. Thomas stated that his main concern on behalf of his client, besides issues related to his property values and everything else, is the fact that the buffer that was proposed for the original PDD be restored as to what it was proposed at that point with an appropriate planting.

His client made the comment to him that symbolizes it, but it's something that maybe went away at the time of the PDD – he said that he could stand on his deck and look out into a treed area, now he looks out onto the Dump. He commented that he doesn't think that they are going to propose that the Applicant plant the trees on the Dump so that it looks like a treed area at this point because they probably wouldn't grow. Atty. Thomas indicated that Mr. Wardowski said that when this was originally proposed and this strip was a treed area, so he expected a buffer and the Commission required a further buffer. He would hope that even if they close the public hearing tonight with respect to those areas that they permit Staff to insure that the buffer is the same as what was proposed in (inaudible)...

Atty. Thomas referenced the last picture which he took aimed toward the tree right on top of the rock cut. He commented that in looking at another picture with that same tree, and if you flip it around to see the fence... He said the property line, if he is reading the stakes correctly, is about 18 inches to 2 feet on the other side of the fence because that is where the stakes were. He doesn't think you can see any of the stakes in the picture so there is really only apparent to him, about a good 10 foot, maybe a little bit longer from there to the edge of the overburden and then it appears to drop severely down. He just wants to make sure that is the case. He added that he hopes they would authorize Staff if it becomes necessary to meet with him, his client and the Applicant in order to see if there are other options to resolve it which don't impact upon your approval of the PDD. All they are doing is moving the PDD line, there is nothing else here so he can't discuss any other issues with them because it isn't relevant to this area. Atty. Thomas indicated that his client is present if they have any questions.

Chair Parkins commented that she just wanted to clarify something more for herself than him, that her understanding is that for the original PDD property line there was another land owner who owned a strip of land in between that PDD and this gentleman's property so she wasn't quite sure how to phrase what she wanted to say. Chair Parkins stated that his property line really ended where the other person's property line had gone in.

Atty. Thomas responded that the understanding of the PDD was that there would be this strip which his client has told him is approximately 20 feet at River Road expanding up to 25 feet as it goes up the hill - and that was the strip of land for the property to the rear – one of the properties that he believes was accessed off of Evergreen. He commented that he should know that because he did a subdivision for that so it is up there. There was approximately 16 feet or so from his property line to his deck.

Chair Parkins stated that she wasn't sure and her question, because she is certainly not an engineer or involved in construction, but she doesn't know if it is physically possible to restore it back to what it was because it is no longer there. His property line - and this is what she is having a hard time grasping because ...

Atty. Thomas referenced Mr. Swift's site map to locate his client's property on Turner Road and showed the buffer areas his client had when this was proposed. He added that he hasn't seen those plans and he doesn't know whether or not along the edge of this property there was a proposal, he would assume there was because there is going to be a cut, for a fence and plantings along the property for the original plan. OK, if they are doing it that way, that would mean, well there is no measurement on this map, but his client tells him it's about 20 feet – so let's say 22 or

23 feet, 16 + 20 so that's 30 – 40 feet potentially, that would have been from his property to there and it's not there now. So looking at where his property line is, it looks to be 10 feet and he has to say that it varies and you have to go up there and walk it. It goes from very close to where the dirt area is and then it bends out a little bit more. If they look at that picture, it is still relatively close in this relative area here. He pointed out the area on the photo to the Commissioners.

Atty. Thomas commented that was his client's concern, is there any way to return it to that amount with the appropriate buffer and he can't answer that question right now. He added that he hasn't seen the original plans and he has only been involved for a couple of days. He hasn't had a chance to see the plans, measure it out and he's been discussing with his client the possibility that he may have to hire a Zone Engineer to look at these things but that is an expense he'd like to avoid.

Comm. Harger asked if there was any concern with an encroachment on his client's property.

Atty. Thomas stated that certainly, at some point if this were to be going to litigation- down that road- he would have to have his client hire a surveyor. Trusting the survey that was done, he could show them one stake, he has often been taught ( frankly by Mr. Swift and others) you can't just look at a stake that has a flag on it and assume that is the boundary line. It could say five feet to the south, east, and west, whatever. He showed a photo and said that if they look at this photo, they'll see a yellow stake to the right over by the row of fence there is other...and unfortunately, way down here at the end where the orange fence is, there is a tree that has a pink ribbon and a yellow ribbon. So if they are looking at it and looking at the other stakes that they see up there, that is what he is telling them, it appears to be...

Atty. Thomas finds another photo and indicates that if they look carefully between the pine tree and the next little tree there is another stake. He commented that is what he was basing it off of and the only thing he saw written on one post – and he wasn't going to walk around to the other side because he has a fear of heights – he was able to identify one stake that said “5 feet to the fence,” but the wind was blowing the flag and flag kept going in front of it but that is all he can base it on. He stated that it appeared to be inside, those were the property lines and it clearly did not appear to be 20 feet away from the edge.

Chair Parkins stated that her point is that she doesn't know whether it can be restored to what it was originally as a result of what happened. She indicated that if a fence was to be put up on the property line which is the property line that existed prior to this happening, the fence and trees were to be put up on that side of the property line.

Atty. Thomas indicated that his client can't – there are still issues that remain that do not directly involve the P&Z Commission. These are issues related to the damage, diminution of property values and other elements; obviously, a fence and a cliff that is 40 feet away versus a fence and a cliff that is 16 feet away, there is a substantial perception even though it is a fence and trees but it's understood that if it can't be done, then it can't be done. He commented that he can't answer that right now.

Chair Parkins commented that there is only so much that they can do.

Atty. Thomas stated that there may be other options with respect to his client and he is certainly willing to engage the Applicant, the Commission and Staff in those and he wants to do so in such a fashion that the Applicant does not in any way expend any unnecessary funds.

Chair Parkins asked if there was anyone else who would like to speak about the information presented for this application.

**Howard Soffan, principal of Bishop Management of Shelton addressed the Commission.**

Mr. Soffan indicated that he wanted to address a couple of issues. The first issue is this property line has not changed. Atty. Thomas has acknowledged that and they've acknowledged that and they've hired the best and brightest land surveyors, engineers and land planners here. He takes offense to the thought that they've encroached on the property when there was a buffer and they had this property surveyed, they've had it engineered, literally, countless times. Mr. Soffan

indicated that they understand the issue at hand. They understand the need for the wall and they are responsible for it and they take that seriously.

Mr. Soffan stated that the second issue is that they have dealt with properties similar to this. They have built a building at 865 River Road and if they go by that property, there is very big retention wall. They spent a considerable amount of money to do it right and do it well. They have also built the Rinks at Shelton. They've gone through the blasting phase; they've gone through the detailed elements of construction to make sure that it is right. In terms of maintenance of this property, whether they go to the Sports Center or 865 River Road, they will see that they maintain their properties impeccably and they are proud to do that. They certainly did not aim to create this scenario though they recognize the responsibility to deal with this but at the same time they understand where the property line is and they respect where that property line is and to cast dispersions to surveyors or Mr. Swift that is just not the case. The professionals are on the staff working and they are working with their professionals. They are thrilled by the fact that the City is bringing an engineer into this process. He thanked the Commission.

Chair Parkins asked if there was anyone else wishing to speak in regard to this Application.

**Dave Graham, Burchbank Road, Shelton addressed the Commission.** Mr. Graham commented that as an observer, he drives by there all the time, and if this were his house and one minute it is there in the woods and the next minute it's there looking over a cliff... This is huge damage to his property value. He doesn't know if this Board can handle that or not but he doesn't know where that would take place. This guy can't sell his house for what it was worth before and they are responsible for that. They caused that problem and that is his comment.

Chair Parkins thanked him for his comment and asked if there was anyone else wishing to speak. There was no one else wishing to speak. She asked for a motion to close this public hearing and direct Staff to work with the Applicant and the Landowner's Attorney as part of the process of getting the wall up and dealing with the safety aspects of it. After further discussion, they can vote on the extension of the PDD specifics that would apply to that.

Comm. Matto asked about the land line and asked again if they were restoring it to the original condition in the original application - that still seems to be up in the air.

Chair Parkins commented that they purchased an additional strip between their property and (inaudible)...

Comm. Matto asked if they were saying that it is not going to go back to what was there originally. It is going to go to this new line.

Mr. Swift responded correct.

Chair Parkins commented that it would be comparable to what it was from their property line to (inaudible)...but not to what it was. She asked Jim Swift if that was correct.

Mr. Swift responded yes.

Chair Parkins requested a motion to close the public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #13-4 and direct Staff to work with the Applicant and the Landowner's Attorney regarding the construction of the retaining wall and other safety issues.**

**APPLICATION #13-6 GARY DEWOLF FOR MODIFICATION OF SPECIAL EXCEPTION/SITE PLAN APPROVAL (MEDICAL OFFICES ON UPPER FLOOR), 887 BRIDGEPORT AVENUE (MAP 8, LOT 20), IA-2 DISTRICT**

P&Z Secretary, Virginia Harger read the call of the hearing and two pieces of correspondence for Application #13-6.

**\*See attached correspondence to Richard Schultz, P&Z Administrator from James Tortora, Fire Marshal dated 4/9/13.**

**\*See attached correspondence to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer dated 4/9/13.**

**Gary DeWolfe, principal of Gary DeWolfe Architects, 319 Peck Street, New Haven addressed the Commission representing the Applicant.**

Mr. DeWolfe submitted the receipts for the registered mail and the notices. He indicated that this is an existing building at 887 Bridgeport Avenue which is right next to the Duchess diner and it's been there for about 10 years or so.

He presented a site map and showed the location of Bridgeport Avenue, the circular drive that comes into a parking lot in the front with the building in the rear of the property. Presently, it is the home of Bridgeport Hospital's Urgent Care Facility and there are two individual practitioners in the front and the rear of the building itself. The application that they are looking for tonight is for the existing building, which they weren't architects for, but they did the interior changes for Bridgeport Hospital on the lower floor.

Mr. DeWolfe explained that the second floor is an area above the first floor under the roof of the existing building. There is a large area up there about 3200 square feet that essentially holds two mechanical rooms and then there is an open floor area. There are no windows presently up there; it is just open attic space. A good majority of the 3200 square feet has at least an 8 foot ceiling height so there is developable space up there. There is about 2100 square feet of net useable space that could be converted to lease space with the introduction of some skylights and windows.

Mr. DeWolfe stated that the parking lot right now is 28 parking spaces. They have planned for 2 additional spaces to be put on the left side in the front. He showed the location of those two spaces on the site plan. He indicated that they are not seeking to change the use of the building, the building will remain medical. The second floor would primarily be used for medical office spaces for the small practitioner and not large traffic producers. They would be looking for someone like a psychologist, a psychiatrist, a speech pathologist so it would be a very low volume individual practice. These are leased spaces that are about 700 square feet in total which would have a small reception area and an office so that would limit what someone could do as a practicing physician or someone in a related medical field.

Mr. DeWolfe showed a floor plan and explained that on the first floor, there is a two story lobby space now. Bridgeport Urgent Care is on one side of the building and the other side of the building has a tenant in the front and a tenant in the back. The intent to get upstairs is to basically carve out 120 square feet of space from the ground floor tenant in the front and create a stair and elevator access to the upper floor that will allow visiting public to come in. He added that is really all the work that is encompassed on the ground floor – the introduction of a new staircase and an elevator.

Mr. DeWolfe showed a floor plan of the second floor with the boundary of the existing space now that is actually useable net space that could be developed. He indicated that it was never part of the original application but in hindsight, there is a lot of space that could be utilized quite easily because it does already have a floor. There are two existing mechanical rooms up there that handle the equipment (a/c, computers) for each half of the building. They can easily provide the staircase and elevator access up to that space. Essentially, under the eaves of the existing building is where the space exists and they've created three spaces. It may be three spaces; two or one depending upon how it is leased. The maximum amount of space is about 2100 square feet.

Mr. DeWolfe indicated that once they develop that space they would like to - because now it is all under the roof and there is no daylight, it is literally fluorescents only. From a code perspective that is not an issue but from a leased building standpoint it certainly is. They are looking at actually introducing some flat skylights into the roofline that will allow a penetration of daylight into that upper space and it would be like a European garret. The low point of the skylight it is about 4 ½ feet or the wall is 4 ½ feet on the ground and it slopes up to about 9 feet.

Somewhere centered in that space would be a series of skylights that would allow sunlight to get in. Technically, anyone who is 5 ½ feet or taller you would be able to look out of those windows because the window sill itself would probably be about 4 ½ to 5 feet in height.

Mr. DeWolfe stated that because they can introduce light in a very gentle manner, the building itself doesn't really change at all in its aesthetic. He showed a rendering of the front of the building as it is presently built and he indicated that it would remain that way. He showed another rendering of the side of the building that faces the driveway and goes up to the office building that is beyond it. The only disturbance in the roofline is just the introduction of these eight flat skylights against the roof itself. There are no dormers and no additional construction whatsoever other than to allow the introduction of natural light.

Mr. DeWolfe showed another rendering of the rear of the building where they will introduce two skylights there and the side that faces Duchess diner would have four skylights on the other side. There is minimal disturbance to the existing aesthetic of the building but it is wonderful in allowing them to have some light penetration into the upper space itself.

Mr. DeWolfe stated that they ran some calculations on parking ratios and number of spaces and what is happening with the entire project. He explained that what they end up with is, using the net square footage of space to calculate the number of persons that would be on site and if all were to arrive at the same time. The first floor, the ground floor space, although it is 5900 + square feet gross, it's actual net lease area is more like 4700 because areas such as hallways, corridors, janitor's closets don't really factor into the building department as a calculation of what the actual occupancy, or the Fire Department for that matter, what they would actually place as a load on the building. This ground floor space will net 48 people total - if they were all there at the same time.

Mr. DeWolfe continued that if they take the second floor space and do exactly the same thing, the 3200 square feet of space provides a useable amount of that space is about 2100 square feet because of neither the two mechanical closets nor the elevator or corridor area wouldn't factor into the equation. He showed three spaces with one area having 661 square feet, the second area having 713 square feet and the third with 776 square feet. He commented that they are very small office spaces in terms of this building. The net value - if all those people on the second floor were to arrive at the same time - would be 22 people based upon occupancy. Mr. DeWolfe indicated that the total occupancy load of the building is 70 people with this proposal.

Mr. DeWolfe indicated that if they take that versus the relationship of the number of parking spaces that they have now at 28 spaces, without the addition of their two spaces, that basically nets a ratio 1.7 parking spaces per person. He indicated that is what is the ratio is of what is there now on a purely occupant load basis. If they add an additional space up on top, it becomes 2.3. So it goes from 1.7 to 2.3 per person provided that everyone arrives at the same time. He added that nobody ever arrives at the same time.

Mr. DeWolfe stated that the parking lot, the multiple times that he has been there in the past month, half of the lot is empty. These are all doctors, by appointment, particularly the second floor spaces, smaller tenants where there will be a doctor and a patient at various hours. Traffic increase or parking space increase is not going to be substantial by being able to lease out or by being approved for this 2100 square feet of space on the second floor. He concluded that was really the entire application and he'll be happy to answer any questions that they have. It is pretty straightforward and they aren't altering anything with the existing building. It is all very nice and neat and fits underneath and it is already basically there. It has a floor, it's there and it's just empty. He added that with the economy the way that it is, his client would like to be able to utilize it if they can.

Chair Parkins asked about the deriving of the parking space ratio of 48 and 22 people and if it included the staff people as well.

Mr. DeWolfe responded that is the overall occupancy of the building meaning that the Building Department will establish a number of people whether they are visiting, working there or whatever - that is the number of people that can be in the building at any one given period of time.

Chair Parkins responded OK, it's based upon the square footage.

Mr. DeWolfe responded yes, correct.

Comm. Matto commented that he's saying that there are 70 people in the building.

Mr. DeWolfe responded yes, if they were all there at the same time.

Comm. Matto stated that there are only 28 parking spaces. She added that she doesn't see how that would work.

Mr. DeWolfe responded yes, that's correct.

Chair Parkins stated that 70 people are the maximum amount of people that the building can hold.

Mr. DeWolfe added that right now they have 48 people that can be on that site with 28 parking spaces.

Comm. Matto commented that she understands that but she's never seen a medical situation where there's been an excess of parking.

Mr. DeWolfe responded that he has been surprised that there has been empty space here. In every time that he's gone there, although he doesn't know the hours that the physicians that are there have – whether it is satellite offices for these doctors. Perhaps they aren't there every day and only see a few patients a day over the course of a work day. It is an unusual circumstance on the medical side.

Comm. Flannery asked what their regulations were.

Mr. Schultz responded that normally it is five parking spaces per 1000 and that would require 34 spaces and 30 are being provided. He added that what they are saying is that they have a track record but there is land which the Applicant will convey to the Commission to provide more parking if it is ever required. Mr. Schultz stated for the record that Staff has received an As Built; the City's Engineer's report was based on what was submitted. An As Built has been submitted so that would be clarified.

Mr. DeWolfe responded thank you. He was going to mention that as well but forgot to mention it. This morning they did receive an As Built that essentially corroborates the information that is on this drawing that is a part of the application package. Once the Engineer has a chance to look at that document, they should, in fact, match. The Fire Marshal's comments are more or less the standard comments that they have to deal with anyway. They have to provide a full set of documents that provide all of the information that he and the Building Department are satisfied with in going forward to obtain a Building Permit, ultimately a Certificate of Occupancy to use the space.

Comm. Flannery stated that she thinks that they should require the 34 spaces up front because if they are short of parking they are going to go into Duchess and walk over and that isn't fair to the business next door.

Mr. Schultz responded that just like they did it this way, two were deferred and they were not needed so they can add deferred parking.

Comm. McGorty asked how many extra parking spaces were possible.

Mr. Schultz responded that they could satisfy the 34 spaces.

Comm. Flannery stated that she thinks that they should do that.

Mr. Schultz commented that it is such well maintained ...

Comm. McGorty indicated that he would rather not pave stuff if they don't need it.

Mr. DeWolfe commented that they are adding two additional spaces to the existing 28 parking spaces that are there right now. This area right now has a landscaped area that is quite nicely landscaped that they would just relocate that landscaping, but they are giving back to right away because they were pre-existing but never utilized so they might as well use them while they can.

Chair Parkins asked where the extra four spaces are located.

Mr. DeWolfe responded that he had no idea.

Mr. Schultz responded down by the front, closer to Bridgeport Avenue. Staff looked at that but they really prefer not to because it is such a nice (inaudible)...

Comm. McGorty commented that he just wants to know that they have an out and they aren't backed into a corner.

Mr. Schultz stated that they can show that on the plan if they are to act favorably on it.

Chair Parkins stated they could indicate that it is deferred parking.

Comm. McGorty asked if that would meet their regs.

Mr. Schultz responded yes, the owner has an effect on it too.

**Sally DeSousa addressed the Commission.** Ms. DeSousa clarified that in regard to the medical, they aren't putting an internal medicine doctor in there. It is a major difference, for example, her daughter is a speech pathologist, so that would be one person and one child. They aren't doing this to load up the place and have it be very, very busy. It would be something very limited ...if any attorney wanted the space to do closings, etc. She just wanted to clarify that this isn't adding another whole medical practice in like a dermatologist who books people every 15 minutes. Ms. Sousa indicated that was not the purpose of doing this.

Mr. DeWolfe added that is why the office spaces are the size that they are. Even if you took the entire space, they aren't conducive to a large practice that would have a lot of traffic.

Chair Parkins stated that they appreciate that but that is its current use but from their standpoint, they have to make sure and interpret that their regulations are being followed because if that building is sold and it is approved for that, than something else could go in there. She added that if there is deferred parking that is available and it can be indicated on the drawings as such, in the event that it is needed, that would be preferable.

Comm. Flannery stated that the first thing she thought of putting upstairs would be an aerobic dance studio.

Mr. DeWolfe commented that is kind of a medical use, sort of. He's certain that the structure of the building could accommodate that.

Chair Parkins stated that there are some that would try to argue that. With no other questions from the Commission, she asked if there was anyone from the public wishing to speak for or against this proposal. There were no public comments. She asked for a motion to close this public hearing.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #13-6.**

**OLD BUSINESS**

**ADD-ONS**

Chair Parkins requested a motion for the two add-ons under Old Business – Applications for Certificate of Zoning Compliance.

**On a motion made by Ned Miller seconded by Thomas McGorty, it was unanimously voted to approve the addition of two Agenda items under Old Business – Applications for Certificate of Zoning Compliance:**

1. **Separate #6600: Dave & Dave's Ice Cream Parlor, 507 Howe Avenue, Request for Wall Signage.**
2. **Application #10-16: 405-407 Bridgeport Avenue (former Crabtree Dealership), Request for Time Extension on Final Site Plan Development.**

**APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE**

**SEPARATE #6550: CURTIS-RYAN HONDA, 12 NELLS ROCK ROAD, TEMPORARY PARKING.**

Chair Parkins indicated that this was tabled from the last meeting. Mr. Schultz responded yes, the Commission tabled it until the proper Jersey barrier was placed and some signage was removed.

Chair Parkins indicated that she was satisfied.

Mr. Schultz commented that Staff recommends approval and again, this is for 100 vehicles. He asked if they wanted to impose a one year period and have them renew it each year.

Chair Parkins responded yes.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve temporary parking for Separate #6550 with the condition of one year with annual renewal required.**

**SEPARATE #6590: PT. JORGE GARCIA, 472 RIVER ROAD, TENT REVIVAL**

Mr. Schultz indicated that this at the old A&P site where the storage complex is. For the new members, they allow this temporary tent for a church organization for two weeks, August 4<sup>th</sup> – August 18<sup>th</sup>. They have had no issues with signage or loudness for the event.

Comm. Matto indicated that she never even noticed it and she goes by there all the time.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6590 for the period of August 4<sup>th</sup> – August 18<sup>th</sup>.**

**SEPARATE # 6568: IN TOUCH, 64 HUNTINGTON STREET, FENCE/BUSINESS/SIGN**

Chair Parkins asked for a motion to withdraw at the request of the applicant.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to withdraw Separate #6568 at the request of the Applicant.**

**SEPARATE #6589: SHELTON CROSS FIT, 23 BRIDGEPORT AVENUE, BUSINESS**

Chair Parkins commented that she thought that they already approved this.

Mr. Schultz responded no, this is a new one and the Applicant is present tonight. This is the old Quick Pick Crane site on Bridgeport Avenue. The Commission has always been suggesting that Quick Pick find another site because whenever they had to enter and leave, the cranes would hold up the traffic. He stated that Quick Pick has since left the site and this is for the re-use of the site.

Chair Parkins asked if all of their cranes are gone.

Mr. Schultz responded yes.

Comm. Flannery asked where they've gone to.

Mr. Schultz responded in west Derby by Route 34.

The Applicant (unidentified) indicated that they built a place, by the old ? construction site. It is still registered in the City of Shelton, so you can still collect the taxes until October.

Comm. Harger asked if there weren't still some items on the driveway there though.

The Applicant responded that there is a container there that is going to be removed and it's the only thing left on the site.

Mr. Schultz indicated that Shelton Cross Fit, a personal fitness facility is proposing to lease 2,000 square feet, hours of operation 5 a.m. – 7 a.m., 12 p.m. – 3 p.m. and then 5 p.m. to 7 p.m., Monday through Friday.

Another applicant (unidentified) indicated that on Saturday and Sunday they would have shorter hours, and maybe a few classes. He explained that it is a class based gym; the classes would run in one hour increments and there would be between 10 and 15 member in each class.

Chair Parkins asked about the parking.

Mr. Schultz responded that they need 10 spaces.

Chair Parkins asked if that would be enough for a class of 15 people.

The Applicant #1 responded that they have 28 parking spots.

Applicant #2 stated that there are 20 spots available for the cars up there.

Comm. Harger asked where the site was exactly and asked the location on Bridgeport Avenue.

Mr. Schultz responded that it was across from Pioneer – the corner of John Street.

Comm. Harger asked which facility, which building they were going to use.

Applicant #1 stated that they were using 23 Bridgeport Avenue on the corner of John Street.

Comm. Harger asked if they were using the house, the inside of the house.

Applicant #1 responded that there was a house on the front of the lot and in the rear there is a 3,000 square foot pre-engineered building with a parking lot.

Comm. Harger asked if this was the house with the Hope Line sign.

Applicant #1 responded yes.

Chair Parkins asked where the Cross Fit business was going to be.

Applicant #1 responded in the back of the Hope Line house, in the back of the lot there is a 3000 square foot pre-engineered building.

Comm. Harger asked who was going into the house.

The Applicant responded that there was a tenant in there.

Comm. Harger stated that there is a large paved area there.

Mr. Schultz stated that the Commission wants to know the maximum parking needs and asked if they said that there would be 15 clients per class.

Applicant #2 responded yes, 15 clients at a time and two trainers so there would probably be 17 at the most.

Mr. Schultz stated OK, 17 and they have 20 spaces.

Applicant #1 stated that they have 20 parking spaces in the rear and on the side they could park 8 cars and 12 cars down below in the big lot.

Comm. Flannery asked if there would be new people coming in while there are some people still inside exercising. She asked if there would be a lapse in time between the classes.

Applicant #2 responded yes typically but not usually. There is small buffer so for example, in another Cross Fit Gym where he worked, they have limited parking and when you are pulling in, most of the other people are gone already. They've never had a parking situation there so they don't anticipate that becoming a problem here. He added that they will see some people leaving but there won't really be a lack of spaces. Their class cap is going to be ideally around 12 but they will allow up to 15 if somebody brings a guest.

Chair Parkins asked if they would only have one class at a time.

Applicant #2 responded yes, one class at a time.

Comm. Flannery asked how much time there would be between classes.

Applicant #2 responded that there would be about 15 minutes or so.

Chair Parkins indicated that they may want to consider ½ hour space between classes because Center Street/Bridgeport Avenue is very busy and that was one of the issues with the cranes. They would stop traffic and back things up. It is a very busy area and you don't want to have it congested with people waiting, trying to get in and get out. She added that it was a recommendation for his business because clients will get annoyed if they have to deal with it.

Mr. Schultz stated that they have 20 spaces and asked them to clarify the class times.

Applicant #2 indicated that he wasn't looking at the exact class schedule, he was just looking at the range of time they would have classes during the day.

Mr. Schultz responded that it was imperative that none of their clients park on the town road and that is what concerns the Commission.

Applicant #2 responded OK, he understands that.

Comm. Harger asked what type of interior or exterior changes they would be making to the building.

Applicant #2 responded that there were no exterior changes and inside they were going to put in a couple bathrooms and a couple showers. It would be a large open space with some weights, barbells and the floor would be a rubber matting to reduce noise and protect their equipment from dropping. They would have a floor standing pull up rig.

Comm. Harger asked if there were overhead doors there.

Applicant #2 responded yes.

Comm. Harger asked how many bays.

Applicant #2 responded three.

Chair Parkins asked if the equipment that they are going to have is specifically for the classes or will they have gym equipment available in addition to having people take the classes.

Applicant #2 responded no, it would be equipment just for the classes. Everything is structured and they won't have people coming in while they are teaching a class to use the equipment.

Chair Parkins commented that another one of these gyms just opened up on the other side of Bridgeport Avenue.

Applicant #2 asked if it was a Cross Fit.

Chair Parkins responded yes, it's called Cross Fit, they just approved that one a couple of weeks ago – that was why she asked if they hadn't just approved this.

Mr. Schultz added that it was off of Exit 12.

Applicant #2 responded that he'll check it out. Cross Fit is very community oriented so it is not necessarily (inaudible)...

Comm. Harger asked if they have given any thought to signage.

Applicant #2 responded that they've thought about it. There is a small sign in front of the building right now – there's a "For Rent" sign there right now that they would probably just replace it.

Comm. Harger stated that they have to come back to the Commission for that.

Chair Parkins recommended a motion to approve with the condition that class size does not exceed 15 people, only one class at a time and no street parking.

Mr. Schultz indicated that they are just approving the business, no signage at this time.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6589 with the condition of only one class at a time with maximum of 15 people per class and no on the street parking.**

**SEPARATE #6591: NANCY'S TREE, 112 BRIDGEPORT AVENUE, SIGN**

Mr. Schultz stated that Nancy's Tree is further up the road (Bpt. Ave.) on the opposite side. He recommended that they table this because the State right-of-way is very wide there and he was looking for help putting it within the right-of-way. He added that the Commission cannot do that; the State DOT has to do that. He showed them a rendering of the proposed sign so that they could see the direction that they are going in with it. The rendering was an attractive painted sign (inaudible)...He suggested tabling this and bringing it the DSC. In some instances the right-of-way is very wide.

**On a motion made by Ned Miller seconded by Virginia Harger, it was unanimously voted to table Separate #6591 and refer it to the Downtown Subcommittee.**

**SEPARATE #6596: FOCACCIA'S CAFÉ, 702 BRIDGEPORT AVENUE, SIGN**

Mr. Schultz indicated that this is at Split Rock. For the proposed signage, there is a Plan A and Plan B for the proposed sign for this - one with the word "Café" and one without the word "Café." He presented the two renderings.

After discussion (inaudible) the decision was made to go without the word "Café."

**On a motion made by Joan Flannery seconded by Thomas McGorty, it was unanimously voted to approve the selected signage for Separate #6596.**

**SEPARATE #348: EDRICK AGOSTO, 29 NATURE LANE, IN-LAW**

Mr. Schultz indicated that this was located at the end of Nature Lane off of Old Coram Road/River Road. He showed the floor plan and indicated that it was an interior lot. It is a conversion of the lower floor area, just the basement so there is no change. The house was recently sold. The in-law is 846 square feet and this is a large home – these are large homes that were built up there. This is a full basement to a large, two-story colonial home. Staff recommends approval.

Comm. Harger asked if there were any comments from the neighbors.

Mr. Schultz responded no, this is totally secluded, a conversion in the basement area.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #348.**

**SEPARATE #6592: ATTY. DOMINICK THOMAS, 6 ARMSTRONG ROAD, BUSINESS/GENERATOR**

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, addressed the Commission representing the Applicant.** He indicated that all had a copy of an 11x17 drawing, a Statement of Use, and the Application for Certificate of Zoning Compliance for an office use which is a Disaster Recovery Site related to generators and HVAC units. He indicated that the owner of the property is MCP6 Armstrong LLC; they were recently before Commission for parking. He stated that to explain what will done, they have a representative from Tighe & Bond. He indicated that the tenant is Graham Capital who have provided their Statement of Use. He added that Graham Capital Management LP, the general partner is KJT Inc. and as they can see from the Statement of Use, this is for a disaster recovery site.

**Kurt Mason, Tighe & Bond addressed the Commission.** He presented a site plan of the Armstrong Road campus and pointed out #6 Armstrong Road, the building, and its relationship to Bridgeport Avenue and Route 8. He referenced the building, highlighted in yellow on the site drawing and the proposed location for the HVAC units and the standby generator for the sites. Mr. Mason provided a site plan of the building, and indicated that the parking lot was about 45 feet off the property line which is Route 8, the generator, A/C units and some other equipment which he explained would be on concrete pads. In between the pads would be (inaudible) with a fence around the area.

Chair Parkins asked about the fence and if it would be a screening fence.

Mr. Mason responded that it would be a chain-link fence, aluminum.

Atty. Thomas added that it would be black aluminum, the kind that look like wrought iron but they are black coated aluminum.

Mr. Mason continued but his comments were inaudible. He referenced the location of other equipment, a gate and locations for trees.

Comm. Miller asked about the diesel generator and if there was a tank with it.

Mr. Mason responded yes, it is a diesel generator with tank.

Comm. Miller asked if it was underground.

Bruce Leahy, Blackman ? Design Associates responded no, it was above ground but underneath it is (inaudible)...

Chair Parkins commented that the generator was up high and asked what the total height of the generator would be if the generator was on top of the tank

Mr. Leahy responded 168.

Chair Parkins asked if there was some sort of spill containment.

Mr. Leahy responded that it was a UL listed double-walled tank, it has containment in the tank , so it is like a tank within a tank.

Comm. Miller asked if it was all one unit.

Mr. Leahy responded yes, it is pretty typical (inaudible)...

Chair Parkins asked the Applicant to go back to the site plan and show where the building was located in relationship to (inaudible)...

Mr. Mason pointed out the location of the building.

Chair Parkins asked if there were any residences close by or where the closest residence was located.

Atty. Thomas indicated that it is Route 8, the closest residence would be the Fairchild Mobile Home Park which is on the other side of the parking lot. In a prior application he provided an aerial and he's not sure if the aerial view ...

Chair Parkins stated that she just wants to make sure that there are no homes nearby.

Atty. Thomas responded no, there are none (inaudible)...

Mr. Leahy responded that this is provided with a level 2 sound floater and they did run a sound calculation and it is minimal. It meets Shelton's requirement for weekday and weekend noise levels. In the (inaudible)....

Chair Parkins commented that you have to test them.

Mr. Leahy responded yes, you have to test them but it meets the Zoning requirements for that. There is an emittance requirement that they have and it is stricter on weekends.

Chair Parkins commented that she works in a building that overlooks a generator and when they test it, she's up of the 6<sup>th</sup> floor and it (inaudible)...

Mr. Mason asked if it was older one.

Chair Parkins responded no, it's a brand new generator.

Mr. Leahy stated that this is a Level 2 enclosure and this is the quietest you can buy. They don't want the noise as much as anyone else does because it is backed up to their space.

Comm. Miller asked how often they test them.

Mr. Leahy responded monthly. He typically likes to test them on a Saturday afternoon when people are out running around.

Chair Parkins indicated that their generator is on for like a half an hour.

Mr. Leahy responded yes, a ½ hour.

Mr. Leahy responded that they don't want to do it night and they don't want to do it in the morning and they want to do it when people are out; hopefully, have a balance(inaudible)...

Chair Parkins stated that they've been known to lose power quite a bit here in Shelton.

Atty. Thomas stated obviously, they've done noise testing and it is about 500 feet to the mobile homes, more than that, and it's on the side of the building. Anything that reflects off of the side of the building is going to be drowned out by the traffic on Route 8. It is right next to Route 8.

Chair Parkins asked if there were offices in the building next to that.

Mr. Leahy responded yes, when they are occupied (inaudible)...

Chair Parkins responded OK, then they'll have to put up with their own noise.

Comm. Harger asked if there were any plantings that were going to be removed.

Mr. Mason responded no, there is a little bit of scrub brush (comments about trees inaudible)...

Atty Thomas made comments (inaudible) about it being the view from Armstrong Road, the tree side with the two sycamore trees.

Comm. Harger indicated that she walks on that site and there is a nice path there.

Mr. Schultz stated that this is a combination of occupancy and for the back-up generator.

Atty. Thomas added that it was HVAC also.

Comm. Miller asked if there require a series of batteries inside also between the trip-off and (inaudible)...

Mr. Leahy asked if he meant like a UPS system, yes there will be a UPS system inside.

Comm. Miller asked if there was some kind of battery system in there.

Mr. Leahy responded that it was built into the UPS. Other comments inaudible about the UPS system and batteries...51:34

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6592.**

**SEPARATE #6600: DAVE & DAVE'S ICE CREAM PARLOR, 507 HOWE AVENUE, WALL SIGNAGE**

Mr. Schultz provided renderings of the projected sign and the wall sign for Dave & Dave's Ice Cream Parlor.

Comm. Flannery asked if there was parking.

The Applicant (unidentified) responded curbside.

Chair Parkins added that it's Downtown – there is no required parking, you have to find your own.

David (last name not provided), Dave & Dave's Ice Cream Parlor, 507 Howe Avenue, addressed the Commission.

Chair Parkins asked about the stand, which is just an illustration, it looks a little flimsy, she assumes the wrought iron coming off is going to be sturdy.

The Applicant commented yes, it is sturdy.

Mr. Schultz asked the Applicant if he was considering any table outside.

The Applicant responded yes, there will be tables outside. He added that he just picked them up at the Christmas Tree Shop.

Mr. Schultz indicated that the Aldermen still have to tackle that issue because that is their call.

Comm. Matto stated that they have to approve that.

The Applicant asked if he had to go before them too.

Mr. Schultz stated that it is something that they've always asked the Commission but it is a liability issue.

Chair Parkins added that it is City right-of-way so they aren't (inaudible)...

The Applicant stated OK, they've got them on either side of it though.

Mr. Schultz indicated that they've been pretty loose about allowing the businesses to do it but it has to work especially if it obstructs anything. There was a business down on Center Street that obstructed and they sent him down there to work out a solution.

The Applicant indicated that they are open this Saturday at 11:00 a.m.

Chair Parkins indicated that they are going to have a pink and white awning.

The Applicant stated it was really raspberry. He added that they are going with the Ben & Jerry's style of colors. He indicated that the inside is really beautiful.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve signage for Separate #6600.**

**APPLICATION #10-16: REQUEST FOR EXTENSION OF TIME TO FILE FINAL SITE DEVELOPMENT PLANS FOR 405-407 BRIDGEPORT AVENUE PROPERTY (FORMER CRABTREE DEALERSHIP).**

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT representing 714 LLC addressed the Commission.** Atty. Thomas indicated that obviously they have been waiting for the State to finally approve the purchase of Access Road. The town took its step over a year ago. They got everything to the State, the maps had to be tweaked. Beginning in May or June, he got a letter dated March 29, 2013 and that is when when it was finally approved. By approved, he means that the deeds then have to go to OMB to Property Management to the Attorney General's Office. He added that it finally went through everybody; it took them four months to get it off of the desk at OMB; they actually had to call the Director of OMB because it was delayed by the budget and then a month came, and then it was the fourth period. It was very unfortunate (inaudible)...He added that it was in the middle of OMB when 12/14 hit and basically for about 2-3 weeks the State budget stopped even OMB.

Atty Thomas indicated that they finally got it moving again, got all the maps and things approved and they thought ...well, in December they found mistakes in one of the deeds and they had to go back to square one and (inaudible)...

Chair Parkins commented Oh my God...Comm. McGorty indicated that it sounds like the DMV – get to the back of the line.

Atty. Thomas stated that they finally got it done and he apologized for not getting the request in on time. The owners are communicating with some tenants right now but nobody really wanted to talk until everything was owned. Obviously they couldn't submit an application until they had everything owned even though they knew they were going to own it. The money is actually set aside, the money is being held in escrow by a bank, that wasn't the issue and now they just have to complete the transaction.

Chair Parkins asked if when he talks about tenants if he is talking about the existing buildings, he's talking about the shopping center that's (inaudible).

Atty. Thomas indicated that he's been having some discussions with people but it has been very difficult to entertain people when you had to tell them that you still didn't own Access Road. He indicated that he has requested two years and added that at the very least in one year he could come back.

Chair Parkins asked Atty. Thomas to thank his client for finally putting up those Jersey barriers.

Atty. Thomas responded that it was actually one of the new tenants there who moved them. Chair Parkins commented that all she cares about is that it is finally blocked.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve the Request for an Extension of Time (2 years) to file Final Site Development Plans for 405-407 Bridgeport Avenue property (former Crabtree Dealership).**

**APPLICATION #13-2 KIDS ZONE REALTY LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CHILD DAY CENTER WITHIN DWELLING UNIT), 7 PLATT ROAD (MAP 65, LOT 8), R-1 DISTRICT (PUBLIC HEARING CLOSED ON 2/27/13).**

Chair Parkins indicated that they received a memo from Corporation Counsel on this.

Mr. Schultz responded yes, Staff has prepared a package for the Commissioners with the Assistant Corporation Counsel's legal opinion. Together with that are the Zoning Regulations which he highlighted that the Commission has to make findings on such as traffic, neighborhood impact, etc. He added that he included the reports from the Police Chief, City Engineer and Fire Marshal. He commented that the Police Chief was one of the only reports from the Department that recommended unfavorable on it. He listed his reasons for them.

Mr. Schultz referenced the package on Page 2, where they have General Considerations – there are seven. He asked the Commissioners to read those.

Comm. Flannery asked if they were all going to be read into the record.

Mr. Schultz responded that all of them have to ...

Chair Parkins commented that they have all been read into the record numerous times.

Mr. Schultz stated that all of the Commissioners now have to individually and collectively determine ...

Comm. McGorty indicated that his package wasn't complete. He was given a new package.

Comm. Flannery commented that she thought this was a new one.

Chair Parkins indicated that this is not correspondence received from the public hearing, it is what the Commission had requested from Corporation Counsel.

Comm. Flannery responded OK that is what he question was – does it have to be read into the record?

Mr. Schultz responded no. Chair Parkins added that they had asked for a legal opinion from the attorney. She assumes that everyone received it in their packages tonight. She added that they already had everything else.

Mr. Schultz stated that one of the biggest deficiencies is the lot area. The Applicant, as they know from the hearing, said that the lot is lawfully pre-existing, non-conforming. It is approx. 29,000 square feet; R-1 would require 40,000 square feet. He stated that it is the opinion of Asst. Corporation Counsel that the Applicant has not fulfilled that requirement. Obviously, if the Commission concurs, that is a major flaw of the Application. Mr. Schultz indicated that is one of them that they have to consider. Obviously, they should start with that one because it is a major flaw.

Mr. Schultz asked if they all agree with that then they can move on to the other issues. He asked if they were all in agreement on that point.

Chair Parkins commented that she thinks that was stated pretty clearly. It is under Item #4. All Commissioners present agreed (Comm. Harger, Comm. McGorty, Comm. Flannery, Comm. Matto, Comm. Miller and the Chair).

Chair Parkins added that it was a strict interpretation of the regulations and commented that would be the first one. She added that they asked for an opinion on 1-5 under 3.33.16. The 1<sup>st</sup> one, and one that they've had a lot of discussion about this, as to who is conducting the business. She added that she doesn't think that their regulations really specify the definition of "conducting." There are those Commissioners who feel that "conducting" is the person who owns the business but it doesn't stipulate that in their regulations that ownership is required. She asked if it was conducting the business day to day or conducting the business as a whole. She added that she wasn't quite sure of that.

Mr. Schultz stated that they all heard from Mr. Panico, P&Z Consultant, who has been with this Commission for decades.

Chair Parkins indicated that he commented about the intent.

Mr. Schultz responded that he has always felt, and they heard him at the last meeting, that the Applicant, the decision goes with the Applicant but as the Chair just indicated, it is very ambiguous. This is a regulation that has never been tested. This regulation came into effect in the mid 1980's when there was an increase in the student population. They had a Commissioner at that time that wanted to provide more opportunities throughout the community. This is the first time they've used this regulation for this size facility in a residential district. So that is an issue.

Chair Parkins stated that she just feels that it could be debated.

Comm. McGorty commented that "conducting" the business - is a principle of somebody conducting the business, in that conducting is all-encompassing and not just watching the children for 8 hours during the day because that is just one aspect of the business. His feeling is that conducting the business is all-encompassing where you'd be responsible for everything.

Chair Parkins added that she conducts these meetings but she doesn't have the responsibility of the Planning & Zoning Department but she conducts the committee meetings. She added that she thinks that this is an area that is very ambiguous.

Comm. McGorty stated that he doesn't know if that is a fair comparison of what conducting – that is a little bit different situation when you are appointed a position of conducting a meeting.

Comm. Matto commented about something which she was bothered about this whole issue here. She stated that if they didn't worry about who was conducting it and they bought the idea that the person who is there daily is also going to agree to live in the basement and the Commission is OK with that. She asked how they would even monitor something like that. Let's say, if they were to accept their argument that they will meet this Zoning Requirement by having the person who works there also live there, what happens if that person decides to just quit and they can't find anybody else who is willing to both live and work there? She asked who would monitor that because they shouldn't have any responsibility for that.

Comm. McGorty stated that it is essentially it is a daycare center with a rental income – it is basically an apartment.

Comm. Matto indicated that she doesn't really think that they can say that they are really going to meet that or what they said about doing it that way. She doesn't think that they can say that would happen. She doesn't think this Commission or review would have any authority over ...

Mr. Schultz commented that the Chief of Police raises that concern about lack of oversight compliance if it is approved.

Comm. Flannery agreed.

Comm. Matto asked who would have responsibility over that, they wouldn't have any recourse for that or authority over it. She added that it doesn't make any sense to her.

Chair Parkins commented that again, strictly looking at their regulations, that could come back to...

Comm. Flannery stated that with the regulations, it is not a family home anymore if you are knocking everything down – the kitchen, the bedroom walls and the whole upper floor is not a family home anymore.

Comm. McGorty indicated that you could basically do that to any one R-1 neighborhood once you do it and that you can allow the person not owning the house or residing there that isn't running the business. She is going to rent it out. He went back to his interpretation of "conduct."

Chair Parkins stated that she is trying to be the Devil's Advocate here so (inaudible)...the regulations (inaudible)...

Comm. McGorty responded yes, that's fine but as a business owner, he conducts the business for his business. He has people who work for him but they conduct small aspects or things of my business but they aren't conducting the business - to him that is the person who is in charge of that business and responsible for everything.

Chair Parkins stated that it would be like if you have another satellite office and they manage that satellite office, you would be conducting the business even though they run the show over there. Again, she just thinks that...

Comm. Miller stated that he belongs for a larger organization in which he runs and manages the whole thing in his office here but he is totally responsible for it.

Chair Parkins stated exactly, who is conducting the business, you or (inaudible)...

Comm. McGorty stated that again, he thinks that is a little bit different than this situation.

Comm. Matto asked if they really can't think about what the intent was.

Comm. McGorty commented that he thinks the intent is clear.

Chair Parkins indicated that she thinks the intent was based upon their regulations.

Comm. McGorty responded yes, that's right, you can't just...

Mr. Schultz stated that this is an unused regulation. He is basing it on Special Exception Applications that he has processed in the past. This is the very first test case for this provision.

Comm. Harger asked if there was no other daycare center in the City of Shelton that exists.

Mr. Schultz responded not under this regulation when it is conducted in the home. They just opened that door in the 80's. He recalled that the Greater Bridgeport said don't do it because they would be opening the doors...

Comm. Harger indicated that what they have in downtown Shelton, the owner of the business is the occupant of the house. The business is a separate situation (inaudible) that's the gray area.

Mr. Schultz stated that there are three levels that the State regulates. There is Family Daycare (up to 6 or 7), Group Daycare (up to 12) and more than 12 is a Group Daycare Center.

Chair Parkins commented that they should move on to 33.16 Paragraph B that requires that they study the evidence and if they decide that the use impairs the residential character of the premises, not the neighborhood, then they may deny the Application.

Chair Parkins stated that the 9 car parking lot alone with handicapped striping impairs residential character.

Comm. Matto indicated that she would play Devil's Advocate too maybe. If this use is allowed and they need meet all the criteria, then any business that fits that model would have that parking plan. They would have to have a parking lot. If there is a zoning category that says that you can do this in a residential house as long as it doesn't impair then they would always have to have that parking.

Chair Parkins clarified that it is because of the ratio. They are asking for 20 children and that is what is making more commercial than home daycare.

Comm. Matto asked if that isn't what the law allows.

Mr. Schultz indicated that is if the Commission determines that it doesn't impair the premises. So they have a judgment call there.

Comm. Matto stated it is a Catch-22.

Comm. Harger asked what the difference was between a parking lot like this or someone who has a house with a huge driveway and it is not just (inaudible)...

Comm. McGorty stated that it wouldn't be lined with handicapped parking spaces and it doesn't take away from the residential character.

Mr. Schultz commented that they also have a dumpster there too.

Comm. Harger indicated that the dumpster is in the back.

Comm. McGorty commented that commercial striping and handicapped spaces and whatever else...that's not residential character.

Comm. Matto commented that what she was saying so in artfully is that it would happen anywhere you did this and if it is allowed then they also have this parking requirement.

Chair Parkins stated that if they only have 10 children, then you don't need all those spaces – it would be 4 spaces compared to 9.

Comm. Matto stated that they are going for 20 – but that is what is allowed though – by the State.

Comm. McGorty commented that it's not in a normal situation.

Chair Parkins responded yes, and that is the problem with the ones in the Regs that were rewritten, the State regulations weren't included into their Regs and that is where the (inaudible)...

Comm. Matto stated that's less difficult than Number 1 about the lot size. They would probably buffer it our disguise the parking lot.

Chair Parkins commented that she doesn't know how they could buffer it.

Comm. Flannery agreed and commented that they took down all the trees.

Comm. Matto commented that she doesn't think that is as strong – if they have stronger objections with other items.

Chair Parkins stated that Paragraph C is basically the square footage. She isn't quite sure what the attorney is referring to here that it should be guided by the amount of square footage under this Paragraph and State Regulations and not the configuration because the overall configuration was not stated (inaudible). She stated that she thinks that gets back to living in the basement and having the daycare up on top. They can't make the decision based upon that – just because they don't think that someone shouldn't be living in the basement.

Comm. Matto responded no, that wasn't it. She indicated that she doesn't think that they can guarantee that they would living there on site or have someone willing to live there and work there. They aren't always going to find someone who wants that kind of situation.

Comm. Harger commented that the thing on the regulations that says the floor area shall not exceed 1/3 of the finished floor area.

Chair Parkins commented that they've indicated that they configured the property to meet their requirements, basically and (inaudible) so she doesn't really think that meets the (inaudible) ...She continued that the last one is Paragraph E which is the Commission can look to whether the play apparatus is appropriately fenced and screened with foliage and due consideration. She stated that they've indicated that there is no play apparatus to be installed and it is just a field in a closed area in the back where children are going to be involved with nature. She doesn't think that Paragraph E is going to (inaudible)...

Comm. Harger stated that Paragraphs G & H (inaudible)...

Chair Parkins responded that is pretty (inaudible)...

Mr. Schultz added that water supply and sanitary sewer is not applicable in this instance. He added that they also have the General Considerations on Page 2, 33.4.1 the size and intensity of the proposed use, 33.4.2 the effect of the proposed use on the Comprehensive Plan of Development for the City. He added that was really not applicable. Section 33.4.3 the capacity of adjacent feeder streets to accommodate peak traffic flows and any hazards created by the use. He stated that this was something that the Commission needs to discuss. The Chief of Police is recommending unfavorable because of the potential impact.

Comm. Flannery agreed, that's correct.

Mr. Schultz stated that they have to discuss this and if you concur then that would be a finding. He referenced the next page with Section 33.4.4 and the effect on property values. He added that they heard from the neighbor to the south who is quite concerned that this will have a negative effect on his property values.

Mr. Schultz commented on Section 33.4.5 the number, location and arrangement of off-street parking. They have talked about that. Section 33.4.6 regards fire and police protection needs and 33.4.7 water supply and public water. Several of these are not applicable and several of them are and essentially the Commission has to come to a consensus. He added that they've already come to a consensus it appears, on the lot area. A unanimous consensus (inaudible)...

Chair Parkins stated that the site intensity of the proposed use. She thinks that if they were coming in for a daycare for 4 or 5 children, this wouldn't be an issue that it is. Twenty children is just too much.

Mr. Schultz asked if there was a unanimous consensus on that. The Commissioners agreed.

Comm. Matto commented that going back to this conducting business issue, the owner is the person who hires and fires anyone on the site and to her, that constitutes the person who is conducting the business. In her mind that is pretty clear.

Chair Parkins stated that she struggles with it and there is (inaudible). She doesn't feel as though the person who is renting is fully conducting the business. They are conducting the day to day taking care of the children but...

Comm. McGorty agreed and commented that it was only one aspect of the business.

Comm. Flannery agreed that they weren't in charge of the business.

Chair Parkins added ...but because their regulations are ambiguous, she isn't sure if it would stand up.

Comm. Matto stated that they are an employee.

Mr. Schultz indicated that he has provided a draft resolution if they are prepared for him to read it.

Comm. Miller asked that just on that point, if it is owned by a corporation then how would it be interpreted because a corporation has shareholders.

Chair Parkins stated that the property is owned by the corporation, the property is not owned by the business, not an individual.

Comm. Miller responded that he thinks that number one is that it could be anybody employed because there is not an owner in a corporation, there are shareholders.

Comm. McGorty asked if it was an LLC.

Mr. Schultz responded yes.

Comm. McGorty commented that there are members, OK, again, an employee is not a principal in the company and they are conducting one aspect of the business and not conducting the business. Those principals are responsible for the business meeting the members. It may not be one person, it's an LLC but those people are still the members and owners of the business.

Comm. Miller indicated that he understands his point.

Chair Parkins indicated that they agree on the size and intensity of the proposed use, the traffic, the police report, Paragraph B the non-conformance.

Mr. Schultz indicated that it is imperative when they go through these findings, any conditions that they've imposed, that they need to come to a consensus here. They have six members here, a 4-2 is a consensus of the Commission, not a consensus of individuals, but a consensus of the Commission. He read the Draft Resolution for Application #13-2 dated 4/9/13.

**\*See Attached Draft Resolution for Application #13-2 dated April 9, 2013, regarding Kid's Zone Realty, LLC for Special Exception/Site Plan Approval for a child daycare center within a single family dwelling unit on 7 Platt Road, R-1 District.**

After reading the draft report, he indicated that a motion would be in order to deny Application #13-2 for following reasons:

1. The Application does not comply with Section 33.16.1A as it was determined that the Applicant and the Operator of the Child Daycare Center are not the same and are in violation of the residency requirement.
2. The Application does not comply with Section 33.16.1B as the outdoor play area, as designed interferes with the residential character of the neighborhood.
3. The Application does not comply with Section 33.16.1D as the lot does not comply with the 40,000 square foot minimum lot area for the Residence R-1 district. The lot contains 29,742 square feet. He added that in this instance, the lawfully pre-existing, non-conforming lot is not applicable.

As a side note, Mr. Schultz added that for in-law apartments, the lot size has to comply with the zone. It can't just be said that it is a pre-existing, non-conforming lot for an R-1 zone; it must be 40,000 square feet.

4. The application does not comply with Section 33.16.1E as the proposed play area will impact the privacy of the adjoining neighbor.
5. The application does not comply with Section 33.4.1 would generate unacceptable traffic flows to the local street system and Section 33.4.3 would have a negative impact to property values Section 33.4.3.

Chair Parkins requested that they review #2 and #4 because it is a little confusing. The outdoor play area is really not what they discussed. In #2, it is really impairing the use, impairing the residential character of the premises – but not the outdoor play area as designed. So, you are too specific in that statement. It does impair the residential character of the premises without referencing the outdoor play area.

Chair Parkins added that just the use (inaudible)...residential character not of the neighborhood. It should state the use impairs the residential character of the neighborhood. In #4 the proposed play area will impact the privacy of the adjoining neighbor, she wasn't sure – and asked if they weren't they proposing the play area to be in the back.

Mr. Schultz responded Yes, in the back, to the right, close to the neighbor.

Comm. Miller commented about the family room of the neighbors, he went over there and (inaudible)...

Comm. Matto agreed yes twenty kids every day (inaudible)...

Comm. McGorty commented that would be a lot of noise (inaudible)...

Mr. Schultz indicated that he would remove #4.

Comm. Matto stated that she thinks if she were the neighbor she would have a problem with that.

Comm. Flannery indicated that she knows that 20 kids is a lot of kids and they would all be out there on a nice day.

With a consensus of the Commissioners, #4 was left in the resolution.

In #5, Chair Parkins did not agree with the statement about the property values and neither did Comm. Matto.

Comm. Flannery indicated that she agrees with unacceptable traffic flows.

Chair Parkins commented that she agrees with that but not about the negative impact on property values.

Comm. Matto stated that these kids are going to be from the neighborhood and have to be bused around anyway. She doesn't know if there would particularly be more traffic right at that corner.

Chair Parkins indicated that they wouldn't all be from that neighborhood.

Comm. Matto commented that she thinks most of them would be though.

Chair Parkins indicated that they are going to have a mini bus parked there or a van to provide transportation throughout Shelton.

Comm. Matto indicated that she really didn't think that would happen. She understands that children would come from other areas but she was just thinking it wouldn't occur.

Comm. Harger commented that it isn't a practical thing. If you lived in White Hills why would you come to Long Hill Avenue for daycare for a couple hours when the child would go to Elizabeth Shelton (inaudible)...

Comm. Matto agreed and said that is why she thought it would be the kids from the neighborhood, taken somewhere for child daycare and then (inaudible)...

Comm. Flannery commented about how close it is to Route 8 (inaudible)...

Chair Parkins commented that isn't an easy on off though.

Other comments about intensity of traffic on that corner were inaudible.

Mr. Schultz indicated that he would remove the negative impacts to property values and (inaudible)... too intense for the neighborhood and will generate increased traffic flows.

Chair Parkins commented that one that one there is the police report but she doesn't see how they can say that without a traffic study.

Mr. Schultz commented, OK well that's why you've eliminated (inaudible)

Chair Parkins stated that this resolution is for denial based upon four findings. She indicated that the Commission has kept one finding intact, modified two of them (33.16B as the use residential character of the premises, (other comments regarding other findings inaudible)...

**On a motion made by Joan Flannery seconded by Elaine Matto, it was unanimously roll call voted (6-0) to deny Application #13-2 for the Commission consensus of the four findings discussed.**

**APPLICATION #13-4: BISHOP MANAGEMENT OF SHELTON FOR MODIFICATION TO BOUNDARY OF PDD #73 AND DETAILED DEVELOPMENT PLANS (GRADING PLAN), 781 – 785 RIVER ROAD (MAP 12, LOTS 11, 29, AND 43).**

Chair Parkins indicated that they just closed the public hearing on this application. Mr. Schultz added that the Commission directed Staff to work with the Applicant, the neighbor and his attorney, discuss final landscaping and other applicable plans.

Comm. Flannery mentioned that she doesn't know if she was supposed to bring up that she submitted letters to the City Fire Marshal and the State Fire Marshal to look into the blasting that took place. She wanted to put it on the record that she received returned receipts from both the City and the State Marshals.

Chair Parkins asked if she did that on behalf of herself as an individual or on the behalf of Shelton Planning & Zoning.

Comm. Flannery responded that she did it on behalf of P&Z because it was in one of the e-mails she received – that if she had a question about

Mr. Schultz stated that when it is from the Commission, it has to go through the Chairperson.

Comm. McGorty commented that she could do it as a citizen.

Comm. Flannery indicated OK, then she did it as a citizen.

Chair Parkins asked how she sign the letter.

Comm. Flannery indicated that she signed it Joan Flannery, 8 Partridge Lane, Shelton, CT.

Chair Parkins stated that if she represented herself in the text of the letter as a member of the Shelton Planning & Zoning Commission than that would have been wrong. She added that without the approval of the Commission, she can't act on the Commission's behalf.

Mr. Schultz added that you as a body, you can have esparto with Staff as a body – it goes through the Chairman. She can authorize you to do it or Tom to do it, but she controls the body. So, that is for emails or letters.

Comm. Flannery responded OK, alright.

Chair Parkins stated that she was aware that a letter was sent, she hasn't seen it but she knows it was sent.

Comm. Flannery responded OK, she just wanted to make sure they knew she sent the letter.

Mr. Schultz indicated that he wants to make sure that the Commission is comfortable with the design of the wall – the form, etc.

Chair Parkins indicated that she just wants to make sure that if the City is hiring an engineer or inspectors to oversee it, that the Applicant is going to reimburse the City for those charges. She also wants to make sure that the Applicant is responsible for the maintenance of that wall, maintenance of those trees and the maintenance of the fence.

Mr. Schultz stated that Staff is going to recommend a maintenance bond.

Comm. Flannery agreed.

Mr. Schultz indicated that they would do that for the next 10, 20 years or whatever.

Chair Parkins stated forever, or for the next 100 years for whoever owns that property is responsible for it.

Comm. McGorty commented that there was discussion about the fence, the fence height and aesthetics, where the trees are. He asked if that was what the homeowner was looking for.

Mr. Schultz responded that is why they want to sit down and discuss it.

Chair Parkins indicated that Dominick Thomas is handling that and she's sure that if they can't sit down and find a resolution with the Applicant than it may become a civil matter but that is outside of their...

Mr. Schultz indicated that he's sure that they'll see revised plans.

Chair Parkins asked if this is something that they would like to hold off acting on.

Mr. Schultz responded yes, absolutely, because they have to sit down and fine tune these plans.

Comm. McGorty asked what's all the (inaudible) about the type of fence – oh ok, with litigation.

Chair Parkins stated in terms of property values and again she doesn't know if the level of that dirt can be brought up and if it can, is it stable? Her thought, and what she tried to explain to Atty. Thomas, was that the gentleman's boundary line has not changed.

Comm. McGorty agreed, yes, that is a fact.

Chair Parkins stated that if they put a fence there and they put trees up, the boundary line has not changed. The current landowner, or the former landowner, could have come in and cleared those trees too. You have the right to do that. You can never buy a piece of property or a house and think that it is never ever going to change if you don't own it. She's not saying that this is right in any way, shape or form...she is just saying in terms of the mitigation to make this a better situation than it currently is.

Comm. McGorty indicated that is really what the goal is – to the best we can.

Comm. Matto agreed and stated that is what they could require.

Other comments (inaudible)...

Mr. Schultz stated that he'll put this on the May meeting agenda – it's 65 days starting from tonight. No motion required.

**APPLICATION #13-6: GARY DEWOLFE FOR MODIFICATION OF SPECIAL EXCEPTION/SITE PLAN APPROVAL (MEDICAL OFFICES ON UPPER FLOOR), 887 BRIDGEPORT AVENUE (MAP 8, LOT 20), IA-2 DISTRICT.**

Mr. Schultz requested whether the Commission would like to direct Staff to prepare a favorable consensus.

Chair Parkins commented that she had no issues with it.

Comm. Flannery indicated that the only issue she has with it is that he isn't sure that he is going to build walls or not or if it will be one room –

Mr. Schultz responded that they will get another shot when they come in for occupancy.

Chair Parkins indicated that they don't control that, they approve (inaudible)....

Comm. McGorty added that the property, the spaces, are what they are so if they feel it is too intense for the (inaudible)...

Mr. Schultz indicated that they are going to see the revised plan incorporating the as-built conditions with the total parking spaces, some deferred.

Chair Parkins stated that as the owners of this property, and the doctors, if their clients can't park there then they are going to lose business.

Comm. Flannery commented that they are going to park in Duchess.

Comm. McGorty responded no, they won't park in Duchess. They are going to lose business.

Comm. Matto stated that she feels it will be fairly self-regulating.

Comm. Miller indicated even Duchess doesn't park in Duchess. They rent spaces from Shop Rite and walk through.

Mr. Schultz stated through the peak (inaudible)...

Comm. Flannery agreed that there isn't enough parking there.

Comm. Miller stated that they are very protective of their parking spaces. If they had to park there, they would have to go over a fence, over a wall, by the drive through – they would never do it.

Comm. McGorty agreed and stated yes, they would find another practice.

Mr. Schultz asked if the Commission would like to direct Staff to write a favorable resolution.

The Commissioners agreed. No motion required.

**NEW BUSINESS**

**APPLICATION #13-7: SA FUTURE ENDEAVORS FOR SITE PLAN APPROVAL (PARKING LOT IMPROVEMENTS), 40 OLIVER TERRACE (MAP 64, LOT 12), IA-2 DISTRICT: ACCEPT FOR REVIEW.**

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #13-7 for review.**

**PUBLIC PORTION**

Chair Parkins asked if there was anyone from the public wishing to address the Commission on any item not on the Agenda. With no comments, Chair Parkins requested a motion to close the public portion.

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

**OTHER BUSINESS**

**APPROVAL OF MINUTES: 2/27/13 AND 3/12/13**

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to table the approval of the minutes for 2/27/13 and 3/12/13.**

**PAYMENT OF BILLS**

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

**STAFF REPORT**

Mr. Schultz indicated that he would table it until the next meeting.

**COMMENTS FROM THE CHAIR/SUBCOMMITTEE CHAIRS**

No Comments.

**ADJOURNMENT**

**On a motion made by Virginia Harger seconded by Ned Miller, it was unanimously voted to adjourn the meeting at 9:20 p.m.**

Respectfully Submitted,

*Karin Tuke*  
P&Z Recording Secretary