

SHELTON PLANNING AND ZONING COMMISSION JUNE 11, 2013

The Shelton Planning and Zoning Commission held a regular meeting on Tuesday, June 11, 2013 at Shelton City Hall, Room 303, 7:00 p.m., 54 Hill Street, Shelton, CT 06403.

Commissioners Present: Vice Chairman Anthony Pogoda (acting for
Chair Ruth Parkins)
Comm. Joan Flannery (arrived 7:18 p.m.)
Comm. Virginia Harger (arrived 7:07 p.m.)
Commissioner Elaine Matto
Comm. Thomas McGorty
Comm. Ned Miller (alternate for R. Parkins/A. Pogoda)
Comm. Nancy Dickal (alternate for J. Flannery/departed
7:19 p.m.)

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

CALL TO ORDER/PLEDGE OF ALLEGIANCE/ROLL CALL

Vice Chairman Anthony Pogoda began the June 13th Regular meeting of the P&Z Commission at 7 p.m. with the Pledge of Allegiance and a roll call of members present. He indicated that he would be acting as Chair on behalf of Chairperson Ruth Parkins who is out of town on business. He stated that Comm. Ned Miller would be acting as alternate for Chair Parkins and Comm. Nancy Dickal would be acting as alternate for Comm. Flannery until her arrival later in the meeting.

AGENDA ADD-ONS

Vice Chairman Pogoda indicated that he would need a motion to add two agenda items under Old Business and one item under New Business for tonight's meeting.

On a motion made by Thomas McGorty seconded by Ned Miller, it was unanimously voted to add the following agenda items:

Old Business/Applications for Certificate of Zoning Compliance:

- **Separate #6884, Kelly Franco, Tent for Sale of Fireworks, 472-486 River Road**
- **Separate #6999, Henry Adams, Home Business, 384 Walnut Tree Hill Road**

New Business

- **Proposal of the Shelton Planning & Zoning Commission: Moratorium on Medical Marijuana Growing/Dispensing**

OLD BUSINESS

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

SEPARATE #6529: TONY DELLAMONICA, 5 WHITE STREET, SIGN

Mr. Schultz stated that Staff requests that this item be withdrawn because it has been on the agenda and it has been tabled for the last three months. He requested a motion to accept the withdrawal until the Applicant is prepared with their final signage.

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to accept the withdrawal for Separate #6529.

SEPARATE #6957: DRIVER EDUCATION STATION, HUNTINGTON PLAZA, SIGN

Mr. Schultz stated that the Commission approved this business at the last regular meeting and this is for the sign. He indicated that the Applicant was not present tonight; he requested a motion to table.

Mr. Schultz asked if any of the Commissioners had been over to this building where the restaurant is located.

Vice Chairman Pogoda indicated that he had been to the restaurant but hadn't seen anything and doesn't know if he's done anything yet.

Mr. Schultz stated that he would coordinate this because the Applicant indicated that he would be putting up a temporary banner to show the size of the proposed sign.

Comm. McGorty asked if it was up. Mr. Schultz responded yes but he didn't know if it has withstood all of this bad weather.

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to table Separate #6957 for signage.

SEPARATE #6896: CONSTANZA ERCOLE, 250 RIVER ROAD, BUSINESS

Mr. Schultz stated that the Applicant was present and asked her if this included the related application below it on the agenda for a dance studio.

The Applicant, Constanza Ercole asked if that was at the same location because they bought the building. She added that they only had this one proposal – not a dance studio.

Mr. Schultz indicated that he would take Separate #6896 off of the agenda then because many times when a piece of property is for sale, applicants rush in to apply for zoning certificates first.

Vice Chairman Pogoda stated that Separate #6896 would be removed then.

Mr. Schultz stated that this is the former Little Academy and Step by Step Dance Academy on River Road – Catlin Place – that has been unoccupied. It has a parking lot and it is accessed from Catlin for those who haven't noticed it. It is a 2,200 square foot building with a new owner who is present in the audience and they are proposing a pre-school/daycare. Formerly, this daycare took up to 45 children and tonight this applicant is proposing up to 36 children.

Vice Chairman Pogoda asked how many children there were previously.

Mr. Schultz responded 45. The State of Connecticut issued a permit for up to 45 children but now it is 36.

Comm. McGorty asked if it had been a daycare center after being the Little Academy.

Mr. Schultz responded yes. He added that this is one of the few sites that has onsite parking. He asked the Applicant if the paving and striping had been completed.

Ms. Constanza Ercole, Applicant/Owner of 250 River Road, Shelton addressed the Commission. Ms. Ercole stated that they are working on the paving right now.

Comm. Virginia Harger arrived at 7:07 p.m.

Mr. Schultz indicated that the current owner is gutting it and bringing it up to Code. They are paving it because it was really never paved, it was gravel – he asked Ms. Ercole if that was correct.

Ms. Ercole responded it was paved but not maintained.

Mr. Schultz asked if they would also be striping it.

Ms. Ercole responded yes and there will be total of 10 parking spaces.

Mr. Schultz commented 10 parking spaces – for those that aren't familiar with the site, this has onsite parking with 10 spaces, 6 employees. He asked if that would be full time or full time and part time.

Ms. Ercole responded that it would be full time and part time – it would be (inaudible) full time and (inaudible) part time. She added that there would be only 6 employees in the building at any given time.

Mr. Schultz indicated that would leave a total of four spaces for parents to drop off their children.

Ms. Ercole responded no, the way that Valley Paving is doing it for them is so that there is space on the sides for the teachers so that they have all ten spaces available for the parents. The teachers would also be able to park on the property.

Mr. Schultz asked if that would be a condition that they could live with, if the Commission imposes that there be no parking on River Road.

Ms. Ercole responded yes – that is exactly what they want too.

Mr. Schultz commented that they did that for the future (inaudible) – he summarized that the Applicant would be reformatting the onsite parking and reducing the enrollment because when it was at 45 children, there was parking on River Road and that is something that the Commission does not want to see.

Vice Chairman Pogoda asked if there was ever a problem there before.

Mr. Schultz responded that some of the neighbors would call if the lot wasn't plowed out fully – like if they have a really heavy snow.

Comm. McGorty asked if that happened with the previous owners.

Mr. Schultz responded yes.

Ms. Ercole commented that they have known about the site since 2012.

Mr. Schultz commented that it has been unoccupied for so long so it will be good to get it back up to Code which is a benefit to the neighborhood. It is lawfully pre-existing, non-conforming and there is a net reduction in the number of children.

Comm. Harger asked if this is the one in the little house.

Mr. Schultz responded yes, on River and Catlin.

Comm. McGorty stated that he can remember his own kids being there about 15 years ago when it was The Little Academy and it was never an issue then.

Mr. Schultz added that it grew, then it got neglected, and then they sold it off.

Comm. McGorty agreed that after they sold, the next owners of it didn't keep it up.

Mr. Schultz stated that Staff would like to recommend approval with the condition that parking be provided on site at all times.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6896 for business occupancy with the condition that there is no parking on River Road.

Ms. Ercole provided a rendering of the graphics that they would like to use for the signage. She was told that she could bring it here tonight.

Mr. Schultz indicated that they'll have to formalize that.

Ms. Ercole stated that the larger drawing is the one that they would like to put on, well she doesn't know if the top is a 3' x 5' or 4' x 4' on the top in the front.

Comm. McGorty asked Rick Schultz if that was supposed to be done tonight or later on.

Mr. Schultz responded that this was just brought in tonight.

Vice Chairman Pogoda asked if the sign was on the agenda for tonight.

Mr. Schultz responded not unless they want to add it. He asked if they want to give it some thought. He asked Ms. Ercole if this was a solid sign and what the materials for the sign would be.

Ms. Ercole responded yes, it would be solid.

Comm. McGorty commented that they really need to have all the dimensions and other things to get an idea. They can't just blindly visualize it.

Mr. Schultz agreed, and commented then they'll table it.

Vice Chairman Pogoda stated that she would need to discuss the sign with Staff and Staff will give them dimensions and stuff like that.

Ms. Ercole commented that (inaudible) the dimensions.

Comm. McGorty stated that Rick can give her all that information to guide her towards what she really needs to do for the sign.

Ms. Ercole responded OK, thank you; she really just wanted them to see that it would be a clean looking without a lot of stuff on it.

Mr. Schultz indicated that hopefully, there won't be a problem with that bumble bee graphic. He informed the Applicant that she could come in tomorrow for her permit.

Comm. Matto advised her that they don't use any phone numbers on it.

SEPARATE #6897: STEPHANIE ROSE, 250 RIVER ROAD, BUSINESS

Mr. Schultz reiterated that #6897 would be withdrawn.

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to approval the withdrawal of Separate #6897.

SEPARATE #6888: SHELTON OIL & HEATING, LLC, 80 HUNTINGTON STREET, BUSINESS/SIGN

Katherine Blakeman addressed the Commission and provided photos of the building #80 on Huntington Street. She indicated that right now it has Century 21 Enterprise right across from the Fire House. Ms. Blakeman indicated that she had two tenants in there and then she had one tenant, the real estate and they decided that they didn't want the whole space. She added that she needs to have two tenants for the top floor of the building. Ms. Blakeman indicated that they would only occupy three parking spaces, 689 square feet, and 3 employees.

Ms. Blakeman stated that the people that are leasing it are the Shelton Oil & Heating Company. They are local people who used to have a home office in their house for 15 years. She added that she was just given this sign rendering today but she has no sign dimensions right now. She brought these pictures in to show the signs that they had on the property.

Comm. McGorty asked if this was the same building as Latrell, the mortgage company.

Ms. Blakeman responded yes, they are downstairs.

Mr. Schultz indicated that they have a big parking lot on the left side there.

Comm. McGorty asked if they were still there.

Ms. Blakeman responded yes, she has about 19 spaces.

Comm. McGorty asked Rick Schultz if there were any issues with the parking situation there.

Mr. Schultz responded no.

Mr. Panico asked if there would be any trucks parked there.

Ms. Blakeman responded no, absolutely not.

Mr. Schultz stated that would be a condition of approval.

Ms. Blakeman responded yes, that is what she said to them too – no oil trucks and no delivery vehicles. They have vans and she showed them a photograph. She added that their sign would be similar to what is on their trucks, just “Shelton Oil & Heating, Heating & Cooling, phone number and their small ...Right now the sign there is 24” x 30”.

Comm. McGorty stated that Rick has all the information regarding the sign regulations so this way they can deal with that...

Ms. Blakeman indicated that they have two wrought iron hangers there. She asked if she should bring it back to Rick Schultz.

Comm. McGorty responded yes, that part of it, yes.

Ms. Blakeman indicated that she has almost exactly the same sign that is there now with a lightweight material and she thinks it will be white.

Comm. McGorty commented that once they get it figured out, including the size, then they come back in and it will be easier for them.

Comm. Harger asked if they would be approving the business but tabling the sign.

Mr. Schultz responded yes, Staff is recommending approval for the occupancy.

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to approve the business occupancy and table the signage for Separate #6888.

SEPARATE #6944: LIZZY LOLLICAUS, 188 LEAVENWORTH RD., BUSINESS

Mr. Schultz stated that this is at the Oronoque Farms south of White Hills Shopping Center. This is a pre-existing, non-conforming and added that years ago it was a landscaping company, the Willow Tree Nursery and then it was the pies/gift shop. Whenever there is a pre-existing, non-conforming situation and a new occupant goes in, or there is a change of circumstances it is scrutinized by this Commission.

Mr. Schultz indicated that there is a woman who wants to participate and use part of the kitchen area there to make cake pops.

Comm. Miller asked what a cake pop was.

Comm. Harger responded that it was sort of like a donut hole-thing on a stick.

Mr. Schultz added that Shelton will now have cake pops and the chocolate pizzas next to St. Joseph's. The applicant will not be creating any new space but occupying the existing space there.

Comm. Harger asked if they would be selling there. Mr. Schultz responded yes. Comm. Harger commented that it would be for retail.

Mr. Schultz stated that if they haven't been up there, the amount of activity there is very low. They are seeing businesses across the State trying to come up with new ideas such as the chocolate pizza. Hopefully, things will move forward.

Comm. Harger asked if the pies and gift shop are still there and if this was just an addition.

Vice Chairman Pogoda asked if it would be using all of their facilities.

Mr. Schultz responded yes and as in the past, the Commission directs Staff to monitor it but the amount of activity there is so low.

Comm. McGorty agreed yes, it is very low.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6944.

SEPARATE #6891: MGM HUNTINGTON ASSOCIATES, 5 COMMERCE DR., BUSINESS

Mr. Schultz stated that this is the converted Bridgeport Hydraulic Garage and they have a new tenant going in there who will be occupying 150 square feet. The building overall is 6,000 square feet. It is a one-person Real Estate Academy and as the Commission is aware, because they use Commerce Drive quite a bit, the property has been maintained. It is a highly visible site and sufficient on-site parking has been maintained for the last 10 years. He added that the landscaping has come in nicely there.

Mr. Schultz indicated that Staff still has an issue with the corner sign that he is dealing with but Staff recommends approval for this PDD.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6891.

SEPARATE #6943: DENYS ROCCO BRITO, 450B HOWE AVENUE, BUSINESS

Mr. Schultz indicated that this is Ralph Matto's building on Howe Avenue. The Dollar Store is being changed to the Dollar Chest. Everything else is the same.

Vice Chairman Pogoda asked if it was the same tenant and everything.

Comm. Harger responded that it was a different owner, the ownership changed.

Vice Chairman Pogoda asked if the name was the only thing that changed, basically.

Comm. Harger commented yes, and the owner.

Mr. Schultz added that this is just for the occupancy. The signage down there has been consistent.

On a motion made by Nancy Dickal seconded by Virginia Harger, it was unanimously voted to approve Separate #6943.

**Comm. Flannery arrived at 7:18 p.m.
Comm. Dickal departed at 7:19 p.m.**

SEPARATE #6584: R. D. SCINTO, 100 BEARD SAWMILL RD., BUSINESS

Mr. Schultz stated that this is the building on east side of Route 8 by the old Richardson-Vicks facility.

Comm. Harger asked if it was Health-Net's old building. Mr. Schultz responded correct.

Mr. Schultz indicated that the lease space was 4,876 square feet with 30 employees, hours of operation Monday through Friday, 8 a.m. to 5 p.m. He added that there is plenty of parking there.

Comm. Harger asked what the nature of the business would be.

Mr. Schultz responded internet networking. Staff recommends approval.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6584.

SEPARATE #6577: R. D. SCINTO, 100 BEARD SAWMILL RD., BUSINESS

Mr. Schultz indicated that the lease area is 7,984 square feet at the same location as the previous application. There will be 30 employees for IT support. Staff recommends approval.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6577.

SEPARATE #6887: SHELTON CROSS FIT, 23 BRIDGEPORT AVENUE, SIGNS

Mr. Schultz stated that the Commission approved the re-use of the storage building from Quick-Pick. He showed the building without signage and with the proposed signage for Cross Fit. He added that there is also a ground sign where Hopeline is located and the Applicant would like to add an additional sign.

Comm. Harger asked if the ground sign would be taking the whole space of Hopeline.

The Applicant (unidentified) responded that Hopeline will still be there on the top.

Comm. Harger asked if there was a street number anywhere on the sign renderings.

Vice Chairman Pogoda indicated that there was no street number shown on the building sign.

The Applicant responded that the street number is 23.

Vice Chairman Pogoda asked if he could get a street number on the sign.

The Applicant responded yes, they can.

Vice Chairman Pogoda stated that they need that – the Fire Department would appreciate it.

Comm. Harger indicated that sometimes the street number is separate and centered above the sign in an oval or something artistic.

The Applicant indicated that the street number is on the ground sign with Hopeline.

Comm. McGorty responded yes, there is a 23 on the top of it.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6887 for the signage with the condition that the Street Number be included on the signs.

SEPARATE #6546: CROSSFIT OF SHELTON (HOUSATONIC VALLEY CROSSFIT), 917 BRIDGEPORT AVE., SIGN

Mr. Schultz asked if the Applicant from the other Cross Fit was present. He added that the Commission approved two different Cross Fit businesses and they have similar names. He stated that they don't get involved in the trade names because the State of Connecticut does that but Staff would like to recommend tabling this.

The Separate #6887 (previous) applicant from the Shelton Cross Fit at 23 Bpt Avenue indicated that it is his understanding is that the other Cross Fit at 917 Bpt Ave will be called Housatonic Valley Cross Fit.

Mr. Schultz thanked him for that information.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table Separate #6546.

SEPARATE #457: MPH ENGINEERING, 1 CONTROLS DRIVE, GENERATOR

Mr. Schultz indicated that the Applicant for this is present and he provided a site drawing of the subject location of MPH Engineering at Controls Drive off of Long Hill Cross Road. and the location of the proposed generator. He stated that last year the Commission approved a firm going into the subject location and as with many companies in town, the need for a backup generator is necessary. They are proposing a gas powered back-up generator, natural gas.

Mr. Schultz pointed out the location on the site map in the corner of the site. He added that it is in the rear of the building and completely screened from Controls Drive. He indicated that the dimensions of the pad are 6' x 16'. He asked the Applicant the dimensions of the generator.

The Applicant (unidentified) responded that they are in the (inaudible) but it is one foot over on the (inaudible) so it is one foot less so it is (inaudible) on each side. The generator cut is included in the submission.

Mr. Schultz stated if natural gas would be the fuel so they don't have to deal with any of the tanks.

Comm. Harger asked how far away the neighboring businesses were.

Mr. Schultz commented that it is all woods and he showed the area on the site plan – over 700 feet and the vegetation is very dense there. He added that the Commission usually asks about the generator testing sequence. He asked if the Applicant if it would be once a month.

The Applicant responded yes, once a month.

Mr. Schultz stated that he believes that the manufacturers of these generators have come a long way with the noise. The noise has been an issue – it was an issue a while back but they have toned down the noise level and tried to comply with local ordinances.

The Applicant stated that they are also putting in the Enclosure #1 with the sound attenuating enclosure as well.

Comm. Matto asked what time of day the test would be conducted at how long the test would be.

The Applicant responded (inaudible, recorder covered)...

Mr. Panico asked if it would be visible from Controls Drive.

Mr. Schultz indicated that it is an interior lot at the end – Controls Drive at the end. It is very dense.

Comm. Harger added that it is the very last lot on the left side where Anton Bauer used to be.

Vice Chairman Pogoda commented OK, yes, that is way in the back – yes that is in the woods there.

Mr. Schultz added that they have wetlands in that area so the vegetation is always very dense.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #457.

SEPARATE #499: CHRISTOPHER PAQUETTE, 345 NICHOLS AVENUE, IN-LAW

Mr. Schultz asked if the applicant was present but they were not. He provided a location map with the area highlighted in yellow. He indicated that it is an existing two-story colonial on Nichols Avenue right before Canfield Drive.

Vice Chairman Pogoda asked if it was on the right or on the left.

Mr. Schultz responded on the right, the same side as Canfield Drive.

Comm. Harger commented that it was right past the soccer fields.

Mr. Schultz responded yes, correct.

Vice Chairman Pogoda asked if it was the rear lot or the one after it.

Mr. Schultz responded no not the rear lot, it is large lot. When you face the house...

Mr. Panico asked if there were any additions.

Mr. Schultz responded no, this is a conversion within on the first floor. He provided the floor plan. It will be located on the right side of the house (when facing the house), occupying a bedroom, bathroom, dining room and kitchen area for a combined area of 784 square feet. He added that there are no exterior changes.

Mr. Panico asked if they would be sharing the same entrance.

Mr. Schultz responded yes. No exterior changes just an interior set-up which is obviously for a relative and he has the affidavit for that.

Comm. Harger asked about the floor plan and the location of the entrance.

Mr. Panico asked if the drawing was just of the in-law unit or is it the part of the main floor that is devoted to the unit.

Mr. Shultz responded that it was kind of a combination of both. He commented that if they look at the footprint of the house, the drawing depicts the area to the right side.

Mr. Panico asked if this entrance also serves the main house.

Mr. Schultz responded yes.

Mr. Panico asked how they get to it.

Mr. Schultz responded that he can't answer that question but it is all internal.

Mr. Panico stated that it doesn't look like it.

Comm. Harger commented that she thought it would be a good idea to get a front elevation.

Mr. Panico stated that if Rick is saying that they are using the same existing entrance than that is one thing but if this is another entrance then...

Mr. Schultz responded no, there's no other; he knows that for a fact.

Mr. Panico responded OK.

Vice Chairman Pogoda asked if there were no modifications then.

Mr. Schultz responded no, no exterior.

Mr. Panico asked if there would be another exit that would be added for them.

Mr. Schultz responded that there has to be two exits.

Comm. Harger asked where it was.

Mr. Panico indicated that it isn't shown on the drawing. He commented that those details should really be provided.

Comm. Harger agreed.

Vice Chairman Pogoda asked if the Commission feels comfortable without looking for a second exit.

Comm. Harger responded no.

Vice Chairman Pogoda asked if they would like to table this until they can bring some more information.

Mr. Panico stated that if Rick is assured of it than there is no need to table it. They can go ahead and act on it.

Mr. Schultz responded that if the Commission acts on it, he will send the Commissioners an e-mail to follow up about it.

Comm. McGorty commented about the amount of "detail" on the drawing provided.

Mr. Schultz agreed that obviously, they were in a rush.

Comm. McGorty responded that it looks like it took 10 minutes.

Mr. Schultz summarized that it is a converted – from within.

Comm. Harger asked if there was a family living there now and other family members will be occupying it.

Mr. Schultz responded yes and because the house is large enough, they are able to corner off...

Mr. Panico stated that part of it is fine and it is totally in concert with the intent of those regulations as long as everything else is OK and they aren't bringing in another front door.

Mr. Schultz responded no they aren't.

Mr. Panico stated that it sure looks like it though.

Mr. Schultz responded that if they act on it, he'll have to (inaudible) and if not they can revoke it at the next meeting.

Comm. Harger commented that the drawing does not show the entire house (inaudible)...

Comm. Flannery asked what was in the area before.

Mr. Schultz responded that it had been livable area but now they are making it into an apartment with a kitchen which is the big thing.

Comm. Harger asked where the rest of the house would be located off of that diagram.

Mr. Schultz responded all to the left, it is a long house which is two levels.

Mr. Panico commented that he does not know why the original house would have had its only entrance on the extreme right-hand wall of the house.

Mr. Schultz stated that he has relayed to Staff the details that the Commission wants to have but this came in late and that is why it is at the end of the agenda.

Vice Chairman Pogoda asked for a motion.

Comm. McGorty motioned to approve and Comm. Miller seconded.

Vice Chairman Pogoda asked if there were any conditions on the approval.

Comm. Flannery made a condition that there be enough entrances and exits.

Mr. Schultz added that there should also be no other modifications to the house either.

Mr. Panico stated that it was also subject to Rick's confirmation.

On a motion made by Thomas McGorty seconded by Ned Miller, it was voted 5-1 to approve Separate #499 for an in-law with the conditions discussed. Comm. Harger voted in opposition.

SEPARATE #6884: KELLY FRANCO, 472-486 RIVER ROAD, TEMP. TENT FOR SALE OF FIREWORKS

Mr. Schultz commented that this is the first add-on and it is actually the same operator that occupied a store front last year.

Comm. McGorty responded yes, next to the restaurant. He asked if he wants a tent now.

Mr. Schultz responded yes and read a letter addressed to the Commission from Oakdale Storage granting permission to New England Fireworks to set up a temporary 20' x 30' tent for the sale of fireworks at 486 River Road.

Mr. Schultz indicated that the Applicant came in today for assistance because July 4th is before the next regular meeting. He added that the Fire Marshal did review this and is authorizing a permit subject to P&Z Commission approval tonight.

Mr. Panico asked how long the tent would be there – the duration.

Mr. Schultz responded June 26th through July 7th.

Comm. Harger asked if this was across the street and not by Lia's Pizza.

Mr. Schultz responded no, it is not by Lia's Pizza and it will not interfere with the church revival that is scheduled either.

Comm. McGorty asked if it was across the street in the field there.

Comm. Harger responded yes, by Oakdale Storage.

Comm. McGorty asked if they lock it up at night.

Mr. Schultz responded yes.

Comm. Flannery asked how you can lock up a tent.

Mr. Schultz responded that they will be bringing the goods inside to Oakdale Storage. Oakdale just couldn't give them the space.

Comm. McGorty asked if it was OK to store them inside at Oakdale.

Mr. Schultz responded yes, that is why the Fire Marshal had to inspect the tent and the storage area.

Comm. Harger asked if the timeframe would be about 2 ½ weeks.

Mr. Schultz responded yes.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted 5-1 to approve Separate #6884. Comm. Flannery voted in opposition.

SEPARATE #6999: HENRY ADAMS, 384 WALNUT TREE HILL ROAD, HOME OFFICE

Mr. Schultz indicated that this is the application that requires ATF approval. Staff reported on it a few months ago and then the Applicant was away so there was a delay in processing it. The Applicant was told that the Planning & Zoning Commission needed to act on it.

Mr. Schultz indicated that the Applicant, Mr. Adams, the property owner, needed to contact the abutting property owners. Mr. Adams is present to share this confirmation. The square footage of this home office is 300 square feet and the name of the business is Henry's Tactical Supply. This is for buying and selling of firearms via the Internet. Mr. Schultz indicated that the ATF contacted him and there are shipments to this home. He asked Mr. Adams to explain that to the Commission.

Henry Adams, 384 Walnut Tree Hill Road, Shelton addressed the Commission. Mr. Adams indicated that there was no retail involved. It is basically just the shipment of firearms and ammunitions. A signature is required at delivery and it is not just left there. It is two days a week during during certain time frames and it is never when no one is home. He stated that the house is totally secured with an alarm system, panic buttons, and there are three safes on the property. Mr. Adams reiterated that there was no retail so no one is coming in and out.

Comm. Matto asked if when he came to the first meeting he didn't say that he would have people coming to the house.

Mr. Adams responded that he never came to any other meeting, he was away on vacation.

Mr. Panico asked if the material comes in and then you deliver it.

Comm. McGorty responded that he sells via the Internet. He receives it in and stores it in a safe. As he gets Internet orders, he fills them and ships him out.

Comm. Harger commented that she thinks that was another applicant. It was different...

Mr. Adams stated that this is completely Internet-based. There is never anyone coming to his house.

Comm. Flannery asked if they need licenses.

Mr. Schultz responded that is the ATF's oversight.

Mr. Adams stated that ATF came to his house, inspected it, looked at the locked rooms, and inspected the alarm system and the safes. He was given the thumbs up by them so far.

Mr. Schultz added that the ATF is waiting to hear from P&Z now.

Mr. Panico commented that this is part of this use because (inaudible)...

Comm. Matto asked how the Connecticut State Law affects background checks for Internet sales.

Mr. Adams responded that right now if somebody buys a firearm, say they buy it from him, he has to ship it to their local federal firearms licensed dealer and they would do their local protocol to whoever they purchased it from them.

Comm. Matto commented that they would not have (inaudible)...

Mr. Adams responded no, they would have, they (inaudible)...

Comm. Matto commented that most states don't have background checks for Internet sales.

Mr. Adams responded that each state has their own way of...because he can't personally sell a firearm to her. If she buys something from him, it has to be shipped to her local federal licensed firearm dealer so it would be going from his hands to a dealer's hands. He added that that dealer in that specific state, for whatever criteria that state has, would then turn it over, if she met those criteria.

Comm. McGorty stated that he doesn't sell it directly to the end user. It goes through an intermediary such as the gun shop or whatever.

Mr. Adams responded no direct sales to any individuals over the Internet. It would be dealer to dealer and then from that dealer to the individual.

Comm. Miller commented that is what he thinks the Housatonic Boy Scouts did recently on their Fire Clay Shoot where they were donated rifles and so on that came from the manufacturer to the dealer, in this case in Monroe, and they had to clear everything through him before taking possession of the firearms.

Mr. Adams stated that he's been doing business constantly with Rick at Valley Firearms and he would be the middleman or Mike and Ivan at Grayson Firearms in Milford. It would just be him doing his own thing but no retail or anyone coming back and forth. It is strictly an office in his house with some stuff getting shipped but nothing is just left there and all deliveries have to be signed for during certain hours.

Vice Chairman Pogoda asked if he has been approved contingent upon ...

Mr. Adams responded that what happened was some sort of misunderstanding in the office when he originally came in. Mr. Dingle signed off on it and gave him authorization so he went forward to the ATF and everything was fine until the ATF called Rick Schultz.

Mr. Schultz indicated that he got involved and Staff was unaware that ATF was involved. The thing that threw off Staff was that they didn't know that there were any deliveries to the home. There was a miscommunication or a misinterpretation by Staff. Mr. Shultz indicated that he contacted the Applicant, ATF contacted his office, and he indicated that the Commission needs to act on this.

Comm. Harger asked why it is necessary that he receives the goods if it is Internet and it has to go to a dealer. She asked why it can't just be delivered directly to the dealer.

Mr. Adams responded that he buys them from distributors listed on certain sites and then it is sold into dealership.

Mr. Panico commented that in other words, you buy it in bulk and then transfer/ship it on a unit basis.

Comm. Harger responded OK, then, in effect, you have a little warehouse.

Mr. Adams commented that technically they already have a warehouse there but it is just done through a third party so it is nothing different now then...

Comm. Harger asked if he was storing the firearms and whatever other supplies are necessary at his home and when they sell on the Internet, he ships them back out again.

Mr. Adams responded yes, correct.

Comm. Harger commented OK.

Mr. Schultz stated that he thinks that it is important for the Commission to state for the record that for activities of this nature, that they have a right to revoke a zoning permit if the need arises. He added that if for some reason the neighborhood needs to address the P&Z Commission and there is a perceived issue that affects property values, well-being, etc. then the Commission has the right to revoke the license; but obviously, the Applicant has the right to challenge it. However, it is important that the Applicant understand that. The P&Z Commission is here to protect the property values and the well-being of the neighborhood. Mr. Schultz added that this goes for any home office – if it impacts the neighborhood, the neighbors come to the Commission and it is real as determined by the six members, the zoning permit can be revoked.

Comm. Harger asked if the neighbors were notified ahead of time.

Mr. Schultz responded that they were.

Comm. Harger responded OK that is what the letter was for.

Mr. Adams indicated that he didn't mail the letter, he went around and put it in everyone's mailboxes.

Mr. Panico asked if there was any response to the letter.

Mr. Schultz responded no.

Comm. Harger asked when the letter went out.

Mr. Adams responded April 4th. He was supposed to come to the last meeting but had to go out of town so he missed it.

Comm. Flannery asked what would happen if people get wind of this, try to stake you out and rob the people when they are delivering it to your house.

Mr. Adams responded that would be no different than a retail shop being robbed.

Comm. McGorty added that he guesses he runs the risk of that.

Comm. Matto commented that at least that would be in a retail area not a residential area.

Comm. Flannery agreed that there wouldn't be as many cops, cameras, etc.

Comm. Harger stated that there is another place in town already that does this.

Mr. Adams responded exactly, there are other people that do the same business.

Mr. Schultz stated that they haven't had any problems but that is why he wanted to get it on the record about revocation.

Mr. Panico commented that theoretically if somebody wanted to rip off the UPS driver for anything that he was delivering, then they could do that anywhere, anyplace, anytime.

Comm. McGorty agreed that they could do it anyway.

Vice Chairman Pogoda added yes, if they know a delivery is coming.

Mr. Schultz commented that as the Commission knows, this is a privilege because every town doesn't allow an office out of your house for profit or gain. He added that he knows the town of Orange does not and hasn't been tested so it is a privilege but this Commission and Staff are here to protect the property values and the public safety of that neighborhood as you would expect because you live in a residential neighborhood. He indicated that Staff recommends approval with those notations and they will monitor it.

Comm. Harger asked how often they would monitor it. she asked if it would be weekly.

Mr. Schultz responded more of an as need basis. He added that they are blessed in his department because they have two qualified police officers. Mr. Tizzi and Mr. Dingle are both certified – with firearms.

Vice Chairman Pogoda stated that if there were no further questions, he'd like a motion.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was voted (4-2) to approve Separate #6999. Commissioner Flannery and Commissioner Matto voted in opposition.

Mr. Schultz acknowledged that Application #10-16 on the agenda was an oversight. The Commission already acted on that extension. He indicated that it would be stricken from the record.

End of Tape 1A, 7:40 p.m.

Comm. Harger asked questions about some of the Staff Approved Separates. Mr. Shultz indicated that they were all standard applications meeting regulations.

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) (PUBLIC HEARING CLOSED ON 4/9/13)

Mr. Schultz stated that, as the Commission is aware, the Applicant has ongoing discussions with the property owner to the north. He received a letter today, addressed to himself dated June 11th from James Swift, P.E. granting a 30-day extension for consideration of the proposed application.

Mr. Schultz indicated that the information he received today is that they are very close to a resolution and he can't go into detail because it is not public information yet. The Commission will be made aware of it at the July meeting. This 30-day extension is needed because this application and review period will expire in three days.

Mr. Panico commented that he assumes that if they've been successful in the acquisition of those other properties this is going to become moot because they will file another application for the expansion of that project.

Mr. Schultz responded yes and he wanted to note that under New Business, Application #13-101 will involve another application for the extension of the retaining wall which they will get to later.

Comm. Harger asked if they were tabling this.

Mr. Schultz stated that the Commission needs to accept the 30-day extension.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept the 30 day extension for Application #13-4.

APPLICATION #13-5 PETITION OF HAWKS RIDGE OF SHELTON, LLC FOR PDD ZONE CHANGE AND INITIAL DEVELOPMENT CONCEPT PLAN, (PHASE 1, 60 SINGLE FAMILY DEVELOPMENT AND 80 UNIT MULTI-FAMILY DEVELOPMENT), LONG HILL CROSS ROAD AND BEARD SAWMILL ROAD (MAP 39, LOTS 14 AND 17 AND MAP 51, LOT 7), LIP DISTRICT (PUBLIC HEARING CLOSED ON 5/22/13)

Vice Chairman Pogoda indicated that Chairperson Parkins is out of town on business and is not present. She requested that he hold off on any discussion of this application because she would like to be present at the time that they go into a broad discussion. She also requested that if any of the Commission members to ask any questions that they may have come up with after the public hearing that they would like Staff to address or obtain information about for this application.

Comm. Flannery stated that she had a question. She commented that because of the WPCA speech, she questioned why this wasn't immediately put into one acre, R-1 zoning with septic and wells for all the housing. She asked why that wasn't – she added that she knows it is LIP, but instead of an LIP to a PDD, why not going to R-1 because it is next to R-1 housing. She added that then they would have their own septic and well, solving the WPCA problem.

Mr. Panico commented that he didn't think that they should try to second guess the WPCA. He added that he thinks the Commissioners need to do their job and it requires approval or authorizations of the WPCA and they can either grant them or not grant them.

Comm. Flannery responded that he said he had to, whether he wanted to or not, basically.

Mr. Panico stated that he wasn't sure he understands the comment that he made.

Comm. Matto indicated that she didn't understand it either.

Comm. Flannery stated that he said he physically couldn't do it, but if they approved it he had to do it and he would have to find a way.

Mr. Panico responded that his question to him, if they were across the table would be, what if they had a proposal before them for a major office building or a major corporate center and it demanded utility service. He asked if he would provide it or not.

Comm. Flannery stated that it isn't the same with all of the bathrooms and whatever.

Comm. Matto commented that it could be.

Mr. Panico stated that he doesn't know because he doesn't have that other proposal – that is an imaginary proposal so he doesn't know what its demands would be but there will be some other form of development under the existing zoning that will have a demand for sewer service.

Comm. Flannery indicated that she didn't think it would require 140 bathrooms.

Mr. Panico responded that he didn't know that and he isn't going to speculate because he doesn't know the answer.

Comm. Flannery stated that she just thinks it would make more sense to have it as an R-1 zone.

Comm. Matto asked if they have the final authority and if they can reject the project based upon the WPCA.

Mr. Panico responded that they have to be sure that they can, in fact, provide the service. Comm. Matto commented that he was equivocal in his statement – they weren't sure what he would (inaudible)...

Mr. Panico responded that he made a very complex presentation at the public hearing and quite frankly, he did not take the time to try and sit down and review it and digest it because...the decision is going to be in his court. No matter what you put up there, it is going to require some form of sanitary sewage service. He added that with all due respect to Comm. Flannery, he thinks that the concept of changing that area to single family residential from a planner's point of view makes absolutely no sense whatsoever.

Comm. Flannery asked why.

Mr. Panico responded that it was not conducive to it; it is in the middle of an economic growth area, and it is not in the middle of a residential area.

Comm. Flannery stated that it is right near her house.

Mr. Panico responded that does not make it the middle of a residential area. It's bounded by industrial or economic development-type of zoning all around it across the highway.

Comm. Flannery stated that then they shouldn't have any apartments then or single-family houses then.

Mr. Panico responded that he did not say that but he's just telling her his feelings in terms of the potential alternative use for single family R-1 development. He added that it does not make any planning sense at all.

Comm. Flannery commented that she disagrees with him.

Mr. Panico responded OK, she has that right.

Vice Chairman Pogoda indicated that, as he mentioned before, this discussion is more about questions for Staff on particular issues. He added that he thinks that this is something that Comm. Flannery has brought out that can be put on the table for discussion when Chair Parkins returns and they really get into the discussion of it.

Comm. Matto agreed.

Comm. Flannery stated that she just wanted to know how you make something an R-1, basically, that was her question.

Comm. Matto responded that she guesses that if they came in and requested a zone change to R-1 then that would be the topic of discussion but that isn't what they are asking for.

Mr. Panico stated that's right, and if R-1 was the logical long range planning proposal for that area then he would assume that the long range plan of development would have recognized that.

Comm. Flannery responded that it didn't recognize all of these little houses.

Comm. Matto commented that they were asking for a zone change.

Comm. Flannery stated that she thinks that when they are talking about how the 2006 POCD is outdated, it is only a few years. So if they want to wait a few more years until it is updated, then they can wait until then.

Mr. Panico responded that as they have discussed many times, irrespective of what our documents, rules, or regulations say, any citizen of the City is entitled to bring a proposal before this Commission and try to argue the merits of the proposal in order to, hopefully, bring it to a successful conclusion. He added that the Commission has the obligation to accept, process and

evaluate those proposals even though your initial blush might be “no way in Hell,” they still have the obligation to process it and follow the rules.

Comm. Flannery stated that 2016 is the new plan which is only three years away.

Comm. Matto commented OK, she’s happy with waiting until Ruth returns for a full discussion if that is what’s on the table. She added that the other thing on the table is any technical questions that we might direct to Tony or Rick right now.

Vice Chairman Pogoda responded yes, anything additional that they’d like – because the public hearing is closed – that’s correct.

Mr. Panico added that Staff is ready if any Commissioners have a specific question because normally you can go to the Applicant, but you can’t so you have to go to Staff and they’ll try to dig up the information that they think the Commission wants.

Comm. Harger stated that she would like to see a little bit of a comparison between some current properties in Shelton that could be comparable to get an idea...

Comm. Flannery responded that there isn’t any.

Comm. Harger stated no, they’ve got plenty of condo complexes.

Mr. Panico asked what she’d like a comparison between.

Comm. Harger responded between (inaudible)...

Comm. Flannery stated that they’ve got 60 single-family houses and 80 multi-family units – there is nothing like that in Shelton.

Comm. Harger commented not necessarily of similar density just the fact that – they have Country Walk on Buddington Road and they have other places that (inaudible)...

Mr. Panico responded to Comm. Flannery, with all due respect, they have a lot of illustrations in town where they have clusters of single family homes and they have lots of illustrations where they have multi-family developments.

Comm. Flannery commented yes, but not jammed onto one property.

Mr. Panico responded that it doesn’t mean that they can’t evaluate the impacts of each and put them together.

Comm. Harger commented that they have Olive Hill off of Meadow Street (inaudible)...

Comm. Matto commented about Olive Hill, because Ralph did it and she’s very familiar with it, and stated that it is cluster in the sense that she understands a “cluster” – that you apply a zoning formula to it such as this is R-1 zoning, then you lay it out as if you would do typical one acre zoning and figure out how many houses you could get on that property (taking out roads, conservation and everything that you have to take out...) and then you say this is about 41 acres. So maybe you’d fit about 25 houses then you would cluster them and that would save the developer some development and maintenance costs - so everybody gets something. There is a lot of open space. She added that is what “cluster” means to her so when this is described as cluster it isn’t adding up to that.

Mr. Panico responded that cluster is different things to different (inaudible)...

Comm. Matto stated yes, apparently, cluster is a loose term.

Mr. Panico responded that the pure cluster is exactly what she is relating but they also talk about it as density zoning – a piece of property has a density eligibility for “x” number of units and

whether you put them on as single-family, individual lots or you put them on as attached housing in a confined area and keep the rest open.

Comm. Matto commented right, whether they are spread out or attached.

Mr. Schultz commented to Comm. Harger that they will put something together for her.

Comm. Harger responded yes, something as to the Plan of Development, how many acres it is on, how many units it is, what kind of unit – she thinks that she doesn't think that there is anything like that included in all of this material. She added that it would help her.

Comm. Matto asked for clarification as to what she was asking for.

Comm. Harger responded that she wanted to have a little bit of a comparison between developments, locations in town, number of acres, number of units there, to get a feeling for what other things have taken place in town.

Comm. Matto asked if they needed a motion on this.

Vice Chairman responded no motion necessary for this – they will get into the discussion at the next meeting.

Mr. Schultz stated that the next meeting would be July 9th.

NEW BUSINESS

APPLICATION #13-9: CT COMMERCIAL INVESTORS, LLC FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS AND DETAILED DEVELOPMENT PLANS FOR PDD #22 (3,060 SQ. FT. COMMERCIAL BLDG), 705 – 711 BRIDGEPORT AVENUE (MAP 28, LOT 22): ACCEPT AND SCHEDULE A PUBLIC HEARING

Mr. Schultz indicated that all of the Commissioners received a packet on this tonight regarding this application which came in late last week. He indicated that this was the Sears Hardware site and there are three buildings on the site – Sikorsky Federal Credit Union in the back, the Copy Center in the front, and Sears Hardware in the middle. This will be going on the hotel side, the right side facing the building so this will be the fourth building on that site.

Comm. Harger asked if they were putting in a new building.

Mr. Schultz responded yes, free-standing, 3000 (inaudible)...

Mr. Panico asked whereabouts – and if it was between them or ...

Mr. Schultz responded no, right on the hotel line (inaudible)...

Mr. Panico commented that it's the front right-hand corner, when looking at it, front right hand corner of the site.

Comm. Harger responded OK, so it's on the (inaudible)...

Comm. Matto commented that it is running this way on Bridgeport Avenue and it would kind of be facing in (inaudible)...

Multiple conversations (inaudible comments)...

Mr. Schultz indicated that they need to accept it and schedule a public hearing. Staff recommends July 9th.

Comm. Matto asked if it was a retail space that they are going for.

Mr. Shultz responded yes, retail.

Vice Chairman Pogoda requested a motion to accept and schedule for 7/9.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #13-9 and schedule a public hearing for July 9, 2013.

Mr. Schultz reminded the Commissioners that they are only meeting three times in the summer—June, July and August. He asked them to let Staff know if something comes up because schedules change instantly when family matters come up so the next meetings will be July 9th and August 13th. He added that they are going to be recommending public hearings tonight for both of those dates.

APPLICATION #13-10: BISHOP MANAGEMENT OF SHELTON FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #73 (EXTENSION OF RETAINING WALL/GRADING), 781-785 RIVER ROAD (MAP 12, LOTS 11, 29 AND 43): ACCEPT, DISCUSSION AND POSSIBLE ACTION

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #13-10.

Mr. Schultz presented a site drawing and stated that the applicant, Joe Grasso is present to answer any questions. He stated that after additional grading took place after the Commission authorized the retaining wall, they found more soft spots along the westerly slope area. There is a dire need to extend that wall in the southerly direction along the westerly side immediately – 242 feet additional.

Comm. Matto commented that is right to the boundary.

Mr. Schultz stated that they were blasting and breaking away the rock and then they came to a soft pocket. He commented that obviously the Commission is aware of the style of the retaining wall and the color because they approved it.

Mr. Panico asked Rick if he remembered the point at which the existing wall was approved too.

Mr. Schultz referenced the site drawings and pointed out the area where it jogs in and indicated that it is above there.

Mr. Panico commented OK, all the way to here so this whole area turned out to be...

Mr. Schultz stated that this has to be done because it is a safety issue and it is for site stabilization. He has a (inaudible)...

Mr. Panico commented that they could just have easily come in with a wall there if they had anticipated up front.

Comm. McGorty agreed.

Mr. Schultz stated that he put together a draft resolution. There are no comments from the Fire Marshal or the City Engineer because this is an on-site matter. He received a Special Inspection Report from the Applicant's Engineer that he read.

***See attached correspondence dated June 6, 2013 addressed to Richard Schultz, P&Z Administrator from James E. Quill, P.E.**

(microphone covered) inaudible comments...

Mr. Panico asked if he knew that he doesn't have to put a return on the wall.

Mr. Schultz responded that the Applicant is here to address that.

Mr. Panico asked if they are going to be able to get a clean rock cut there so that the retaining wall can just die into the rock here or does the wall have to be turned.

Joe Grasso, representing Bishop Management of Shelton addressed the Commission. Mr. Grasso responded to the question – yes, it can go right into a cavity of the wall which will absorb the end from (inaudible)...

Mr. Panico asked if from this point they can go, it can hold (inaudible)...

Mr. Grasso responded yes, they can go right into the existing rock and yes, it will hold. The Engineer has looked at it and is fine with the stabilization of the end of the wall.

Mr. Schultz stated that the City also hired a Consultant which the Applicant is paying for and that has been done. They will be receiving a report but it was important to get a report into the record – it is the Applicant's engineer.

Comm. McGorty asked if aesthetically this will be the same wall, a continuation – not higher or lower, and will it continue along the same line.

Mr. Grasso responded that it is going to be a continuation of the same line, well actually, it will jump up higher but this section starts out higher. They didn't start as low as the section that is against John Wardowski's property.

Vice Chairman Pogoda asked how much higher the new section would be.

Mr. Grasso responded that the footings are put up a little bit higher, it's probably about three feet higher and then it will probably, because of the grading of the back of the lot, it will taper up, level off, but it will drop down again. He added that they are only going up as high as needed just to meet the existing grades. There will still be slopes in there, they aren't taking it as high. They are building it only to what they need to make stable slopes on the backside of the wall.

Comm. McGorty commented that it is not even going to be linear.

Mr. Grasso responded yes, it is going to have, right, exactly, it is not just going to be a straight wall.

Mr. Panico stated that this is another good reason why, when they have extensive cuts like this, they have to demand the boring information up front.

Mr. Grasso responded that, to be honest, they did, they uncovered the entire lot. They pulled the top soil off of the entire lot and they all drilled but they didn't go beyond their blasting area. They were instructed to test where they were blasting. They had no knowledge that just outside of their blasting area there was no rock.

Mr. Panico stated that they did not have sufficient geotechnical information up front.

Mr. Grasso responded that in hindsight, yes, with additional, going out onto the edge of John's property and test that, higher on the hill...

Mr. Panico commented that the buck falls out of their pocket.

Mr. Grasso responded yes, believe him, at the end of the day, this is ... a fudge, yes, they would love to see it has just been a rock. They are dealing with it the best that they can and as fast as they can to stabilize the property, the neighbors and everything. Once they are done with this wall, they will be onto the landscaping. They will have the wall constructed by the end of this week and the landscaping along John Wardowski's property by the end of the following week and it will be completed.

Vice Chairman Pogoda asked if they had started this yet.

Mr. Panico stated that a piece of this wall that is in (inaudible)...

Mr. Grasso responded no but they move very fast.

Mr. Schultz stated that the Commission needs to act on this tonight because it is a safety issue.

Comm. McGorty commented that it is a no-brainer, there isn't an option.

Mr. Panico indicated that it is the least of their concern - if they need it then it has to be put in.

Mr. Grasso commented yes, they are following the same design as what was approved for John Wardowski's side – same design.

Mr. Panico stated that this very well could have been part of the original site plan and they would have approved it because that was the way they had to maintain the slope back there.

Comm. McGorty commented that he has no issues – it is what it is.

Mr. Schultz stated that the one blessing is that there are no springs.

Mr. Grasso responded why, do they want water springs? He concurred that yes, there is no water.

Comm. McGorty commented that a water feature would be nice there though.

Mr. Schultz stated that it could have been there - and they have seen that happen too.

Mr. Grasso indicated that they didn't discover this problem in the back line until they started the excavation work for John's and it is a blessing that they spotted it. They were digging away and realized that they were seeing rock on their side but it wasn't deep and with the seasonal frosting and thawing, over a couple years that would have become very loose. He thinks that they were very fortunate, he knows it will cost them more, but to find out this way instead of four year from now that there was no rock there.

Comm. Matto commented that she wasn't here for all this in the beginning, she asked where the City Engineer was on this and did he sign off on it.

Mr. Schultz responded that he didn't support it. This is a private (inaudible)....

Comm. Matto commented (inaudible)...

Mr. Schultz read the draft resolution with conditions that he prepared for P&Z Application #13-10.

***See attached Report Resolution for P&Z Application #13-10 (Supplement to Application #13-4 pending) for Bishop Management of Shelton for Minor Modification of Detailed Development Plans for PDD #73, 781-784 River Road dated June 11, 2013.**

Mr. Panico asked if the details of safety and fencing along the wall will be as was approved for the portion of the wall that is already up.

Mr. Schultz responded yes, correct.

Vice Chairman Pogoda asked for a motion and a roll call vote.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was roll call voted (5-1) to approve Application #13-10. Comm. Flannery voted in opposition.

Comm. Flannery stated that she would rather have all the dirt put back instead (inaudible)...

PROPOSAL OF SHELTON PLANNING & ZONING COMMISSION: RE-WRITE OF SECTION 42 – OFF STREET PARKING AND LOADING REGULATIONS – ACCEPT AND SCHEDULE A PUBLIC HEARING

Mr. Schultz indicated that Staff recommends August 13th and commented that he has to do all the Counsels of Government and Coastal Area Management. Staff also recommends that the moratorium that they are going to talk about later on about medical marijuana dispensary and growing also be held on August 13th.

Mr. Schultz stated that this is an off shoot of the Zoning Subcommittee. They prepared the final draft and he has copies that he'll distribute to them later. He requested the Commissioners to take a look at it.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept the Proposal of the Shelton Planning & Zoning Commission for the Re-Write of Section 42: Off-Street Parking and Loading Regulations and schedule a public hearing for August 13, 2013.

Mr. Pogoda stated that as Rick said about the Subcommittee, there is a lot of information on the handouts that he'll be distributing. Much of the information is about numbers and locations but he asked everyone to please look at as they did with the Sign Regs. There is a lot to digest but hopefully, this is something that is needed and the Subcommittee has been working hard trying to finalize this with Staff. He asked them to take a look at it over the next couple of months.

Comm. Matto asked if this was coming up because there were issues and problems or is this routine maintenance.

Vice Chairman Pogoda responded that it is a little bit of both.

Mr. Panico added that it is routine maintenance but they've encountered situations over the years where their existing regulations don't give them enough ammunition for example, bar-type activities and places where you can get a lot of crowds. They aren't really addressed very well.

Mr. Schultz commented about Madison's Restaurant and how it caught them off guard. There were three people deep at the bar, driving separately and cars all over the place. He added that now they have different types of multi-family apartments, one-bedroom, two-bedrooms, visitor parking, etc.

Multiple conversations (inaudible)...

Comm. Matto commented OK, she guesses she was focusing on the loading term and not parking in general.

Vice Chairman Pogoda indicated that Comm. McGorty brought up a good point – when they are looking at it, if they have any questions or additions to be considered, mark them up in red for discussion at the July meeting so they aren't behind the eight ball if a lot of this comes up before the August meeting.

Comm. McGorty stated that Rick can be the point man and they can talk to him about it because they've been having these conversations on this.

Mr. Schultz commented that he and the Chairman went to the Chamber of Commerce about the signs. They had a meeting with them and talked to the business community. He indicated that this affects everyone, businesses and developers so he will be talking to the Valley Chamber as well as the Shelton Building Association with Atty. Bellis.

PROPOSAL OF SHELTON PLANNING & ZONING COMMISSION: MORATORIUM ON MEDICAL MARIJUANA GROWING AND DISPENSING – ACCEPT AND SCHEDULE A PUBLIC HEARING

Comm. Matto asked where this came from – with the moratorium.

Mr. Panico responded that the State passed legislation that legalized the production and sale of marijuana. Regulations are being drawn up as they speak by the Department of Consumer Protection. Once those regulations are in place, they in turn have to have their own regulations so that they (inaudible)...

Mr. Schultz added that they can't just say "no."

Comm. McGorty indicated that there have been some inquiries on that.

Comm. Matto asked if they can say that they are having a moratorium on it.

Mr. Schultz responded yes, to give them time ...

Comm. McGorty added to give them time to understand what it is and ...

Mr. Panico indicated that they don't know how far the proposed standards and regulations of the State are going to be. They may find that they are very thorough and apply to them 100% and they don't need to do much at all to recognize the use or they may find that they are much too lax for them if they want to strengthen them. He stated that their proposal would be that they need a period of time; otherwise, the day after those regulations go into effect, somebody can come in to P&Z looking for a permit and they have (inaudible)...

Comm. Matto asked who suggested the moratorium.

Mr. Schultz responded Corporation Counsel – to be proactive.

Mr. Panico added that the purpose of the moratorium is to give them a minimum of six months from the effective date of the new regulations to develop their own regulations.

Comm. McGorty commented that they would hate to, down the road, do something and have it be wrong. There are plenty of towns that have done that already.

Mr. Panico stated that it give them that window of opportunity to do what they need to do in concert with the State regulations to have their house in order.

Vice Chairman Pogoda stated that they can't deny – if somebody came in, the day after to put in an application. They would be behind the eight ball now without knowing what to do.

Mr. Panico indicated that somebody could come in and say this is an agricultural process and this is a zone in which you can have agriculture; therefore, you should approve my permit to grow marijuana.

Comm. Matto agreed and indicated that she just wanted to know who suggested it.

Mr. Schultz commented that they should be aware that the State is only going to issue "X" number of permits and it is not a lot for growing. It isn't like this is going to affect all 169 towns; it is a small amount.

Mr. Panico added that it would be not less than three but more than ten.

Multiple conversations (inaudible)...

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to accept the Proposal of the Shelton Planning & Zoning Commission for a Moratorium on Medical Marijuana Growing and Dispensing and schedule a public hearing for August 13, 2013.

PUBLIC PORTION

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

Ralph Matto, 88 Audobon Lane, Shelton addressed the Commission. Mr. Matto indicated that he wanted to take Elaine (Comm. Matto) to Florida for a couple of weeks and wanted to know if there are any meetings taking place, if his wife could borrow Tony Panico's machine to call into the meeting.

Mr. Panico responded that it is called a computer and by all means, absolutely.

With no further public comments, Vice Chairman Pogoda asked for 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.

APPROVAL OF THE MINUTES: 4/24/13 AND 5/14/13

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table the approval of the minutes for 4/24/13 and 5/14/13.

SILVER OAK SUBDIVISION (LONG HILL AVENUE): REQUEST FOR RELEASE OF PERFORMANCE BOND

Atty. Steven Bellis, representing the Silver Oak Subdivision addressed the Commission.

Atty. Bellis stated that this is the three lot subdivision on lower Long Hill Avenue. He indicated that they just needed to do the monuments and he received word from his engineer that they got installed.

Vice Chairman Pogoda responded that it looks good, it came out good for that piece. He was very surprised. They did a nice job and it looks like they are keeping it up nicely. One guy down there did a lot of work and he's pleased with it.

Mr. Schultz read a letter from the Office of the City Engineer dated June 6, 2013 recommending release of the \$1000 performance surety

***See attached correspondence to Richard Schultz, P&Z Administrator, dated 6/6/13.**

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to approve the request for release of the Performance Bond for Silver Oak Subdivision on Long Hill Avenue.

SCENIC GROVE ESTATES SUBDIVISION (RICHARD BLVD.): REQUEST FOR RELEASE OF PERFORMANCE BOND AND ACCEPTANCE OF PUBLIC IMPROVEMENTS

Atty. Steven Bellis, representing Scenic Grove Estates Subdivision addressed the

Commission. Atty. Bellis indicated that this is Richard Boulevard, the extension of the road and the bond was originally \$390,000 and it went to \$25,000. The City Engineer wanted them to wait until the spring to see how the plantings took in the detention pond. He added that he took a look last week and it looks like they all grew and he didn't see anything that died.

Vice Chairman Pogoda asked if they've got a one year.

Atty. Bellis responded that he still has other procedures and he has to go to the BOA and ask them to accept the road and the detention pond. He filed a deed and – this is just the first step.

Mr. Schultz indicated that he had a report from the City Engineer that he'd like to read.

***See attached correspondence to Richard Schultz, P&Z Administrator from City Engineer, Robert Kulacz dated June 7, 2013.**

Mr. Schultz added that the Commission is being requested to release the Performance Bond, and then the Performance Bond will then go into a Maintenance Bond, as determined by the BOA. He added that the Commission has no say in the Maintenance Bond – the Board of Aldermen does. The Commission is also accepting all of the public improvements. The main thing besides the road, and Richard Boulevard is a through road now, is the detention basin. The City Engineer's Dept. wanted it to go up until the spring of this year and now he is satisfied.

Mr. Panico commented that he wants the extra \$5,000 in a maintenance (inaudible)...

Mr. Schultz responded yes, and that is something that the BOA ultimately will continue but they have to deal with the two and they may say yea or nay. So, that is one component, a \$5,000 bond in addition to a maintenance bond which will be \$78,000.

Mr. Schultz continued reading from the City Engineer's letter that the reason for the cash bond is the following:

1. There are several spot areas of the detention pond slope that are bare and require reseeded or additional plantings.
2. The potential for sediment washing into the detention basin from Lot #9, which is currently under construction, is high. The ground cover is not yet established at this time.
3. The requirement for once last clean-up of the accumulated sediment from the detention pond channel after the ground cover on all up gradient lots has become established.

Mr. Schultz indicated that there are two outstanding issues that need to be satisfied before the Performance Bond is released. The mylar version of the As-Built drawing must be submitted as well as a letter from the surveyor confirming that all required monuments and pins have been installed. Once these two requirements have been satisfied he will recommend the release of the performance surety subject to the following:

1. BOA formally accepting 770 feet of Richard Boulevard
2. The posting of the \$5,000 cash escrow to insure the establishment of all ground cover on Lot #9 and other parcels up gradient of the detention pond.
3. The posting of the Maintenance Bond in the amount of \$78,000 for a period of one year.

Mr. Panico asked what the time limit was on the \$5,000 cash.

Atty. Bellis responded that he posted a bond once and it has now been 20 years and he never got his \$2,000 back. It goes into a black hole.

Mr. Schultz stated that they can do one of three things – table action because the As-Built's need to be submitted and they need the surveyor's letter of confirmation on the monuments.

Comm. McGorty commented that the bond he is looking for is because of that lot and there is some possibility of erosion. He asked if they could put a time frame on it.

Mr. Panico asked Atty. Bellis what the status of that lot was (inaudible)...

Atty. Bellis responded that Doug Nolan has built the house already (inaudible)...

Mr. Panico asked if it was just a matter of finishing the landscaping and stabilizing it.

Comm. McGorty asked why they can't put a time frame on that bond.

Mr. Schultz responded six months.

Comm. McGorty asked why it couldn't be three months, if they could re-review it – if it hasn't grown by then...

Atty. Bellis agreed that Doug Nolan has the house up and (inaudible)...

Comm. McGorty suggested doing it for a three month period and then looking at it again so it won't fall into the black hole.

Atty. Bellis stated yes, as long as he knows that there is time limit on it.

Mr. Schultz asked if they wanted to move ahead on the release subject to those.

Atty. Bellis commented that he had no problem with that. At least he knows that there is a time that he could come back.

Vice Chairman Pogoda stated that they put it at three months and if they have to go longer they will. They will review it at that point.

Mr. Schultz indicated that BOA has the final say.

Vice Chairman Pogoda responded that they can give a recommendation.

Mr. Schultz stated that they are accepting the infrastructure in the name of the City. The Commission is making a planning recommendation.

Comm. McGorty indicated that they can review at the three month point.

Mr. Schultz stated that he would put that in his letter that the Planning & Zoning Commission recommends three months.

Mr. Panico asked if the cash bond was tied into the Aldermanic approval.

Mr. Schultz responded yes, it is tied in.

Comm. McGorty commented OK, but at least there is an end point to it.

Mr. Schultz stated that this is a City of Shelton piece of land and the Aldermen have the final say.

Atty. Bellis stated no, not the detention pond because that went on a lot.

Mr. Schultz responded well, the maintenance of it. It is still an Aldermanic issue.

Atty. Bellis commented yes, the maintenance and added that he tried to get the City to take the detention pond but that didn't go well (inaudible)...

Mr. Schultz stated that it's an easement and the BOA control that easement, not the P&Z Commission.

Vice Chairman Pogoda asked if he could make that recommendation from the Commission.

Atty. Bellis commented that he thinks that is fair.

Mr. Schultz summarized that the motion would be to approve the release of the Performance Bond and the acceptance of the public improvements with the following conditions: posting of the \$5000 cash escrow for a period of no more than three months to be reviewed at that point, and the posting of the \$78,000 maintenance bond.

Comm. Matto added that it would be based upon stabilization of the lot.

Atty. Bellis responded yes, Lot #9 which is adjacent to the pond. He asked who he does the \$78,000 maintenance bond with.

Mr. Schultz responded with the BOA.

Comm. Matto asked what the \$78,000 would be maintaining.

Mr. Schultz indicated that is for a one year period – in case the road, or the detention basin falls apart.

Comm. McGorty asked about Lot #9.

Atty. Bellis responded that the house is up, and he is landscaping and maybe planted and seeded.

Vice Chairman Pogoda commented that with all this rain water, it may have washed away.

Comm. Matto asked about when the (inaudible) grows in the detention pond and if that was up to the City.

Mr. Schultz responded (inaudible)...

Comm. McGorty commented that if they improve it then they'll review it in three months and if it is not acceptable at that point then they'll have to go another three months, 8 months or whatever they want but at least they can draw a line in the sand.

Mr. Schultz indicated that they needed a motion and a second.

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to approve the request for release of the Performance Bond and accept the public improvements with the conditions of posting a \$5,000 cash escrow to be reviewed after 3 months and the posting of a \$78,000 maintenance bond.

8-24 REFERRAL: CITY PURCHASE OF PROPERTY LOCATED ON YUTAKA TRAIL (ASSESSOR'S MAP 116, LOT 2)

Mr. Schultz presented a location map and read an 8-24 Referral Request from the Mayor's Office dated May 15, 2013 for property owned by Jill Harrington-Nichols and correspondence from the City Engineer endorsing the acquisition of 0.35 acres fronting Yutaka Trail and the Far Mill River.

***See attached correspondence to the P&Z Commission from City of Shelton Mayor's Office dated May 15, 2013.**

***See attached correspondence to Richard Schultz, P&Z Administrator from Robert Kulacz, City Engineer dated June 6, 2013.**

Comment [KCT1]:

With no questions, Vice Chairman Pogoda requested a favorable recommendation.

On a motion made by Thomas McGorty seconded by Virginia Harger it was unanimously voted to report favorably on 8-24 Referral for the City Purchase of property located on Yutaka Trail (Assessor's Map 116, Lot 2).

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.

End of Tape 1B 8:30 p.m.

STAFF REPORT

Mr. Schultz provided copies of the P&Z Staff Report dated June 11, 2013 including ZBA issues, CT Citing Council, Zoning Subcommittee Report, DSC Report and DSC scheduled site visits for 6/14/13 including Avalon Shelton and the Conte Building, Zoning Enforcement issues.

***See attached P&Z Staff Report from Richard Schultz, P&Z Administrator, dated June 11, 2013.**

ADJOURNMENT

On a motion made by Thomas McGorty seconded by Elaine Matto, it was unanimously voted to adjourn the meeting at 8:37 p.m.

Respectfully Submitted,

Karin Tuke

P&Z Recording Secretary