

SHELTON PLANNING & ZONING COMMISSION

April 8, 2014

The Shelton Planning and Zoning Commission held a Regular Meeting on Tuesday, April 8, 2014, Shelton City Hall, Room 303, 7:00 p.m., 54 Hill Street, Shelton, CT 06484.

Commissioners Present: Chairperson Ruth Parkins
 Commissioner Nancy Dickal
 Comm. Virginia Harger
 Comm. Thomas McGorty
 Commissioner Frank Osak (alternate)
 Commissioner Anthony Pogoda
 Commissioner Jim Tickey (arrived 7:01 p.m.)

Staff Present: Richard Schultz, P&Z Administrator
 Anthony Panico, P&Z Consultant (via conference phone)
 Karin Tuke, Recording Secretary

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

CALL TO ORDER/PLEDGE OF ALLEGIANCE & ROLL CALL

Chair Parkins called the regular meeting of the P&Z Commission to order at 7:00 p.m. in Room 303, Shelton City Hall with the Pledge of Allegiance and a roll call of members present. She indicated that Tony Panico, P&Z Consultant would be in attendance via conference phone and Comm. Pogoda was present in person.

Comm. Tickey arrived (7:01 p.m.)

Chair Parkins indicated that there would be some additional items added to the agenda for tonight under Old Business/Applications for Certificate of Zoning Compliance including Separate #6829, Separate #6832 and Separate #6828. Also, under New Business they would be adding Application #14-9. She asked for a motion to accept the agenda add-ons.

AGENDA ADD-ONS

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

Old Business/Applications for Certificate of Zoning Compliance

- Separate #6829: YaYa Natural Spa, 194 Leavenworth Road, business
- Separate #6832: Monaco Construction, 20 Todd Road, Temporary Sales/Stockpile
- Separate #6828: Matt Calandro, 100 Center Street, outdoor patio

New Business

- Application #14-9: Wonder Years Learning Center, Special Exception Site Plan Approval (Child Daycare Center), 60 Todd Road, accept and schedule public hearing

OLD BUSINESS

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

SEPARATE #426: BUILDING BLOCKS EARLY LEARNING CENTER, LLC, 1079 BPT. AVENUE, FENCE

Chair Parkins commented that this application was tabled at the last meeting.

Mr. Schultz responded that was correct and added that the Applicant went back to the drawing board. He distributed a revised version for their fence plan and indicated that the Applicant would be making a presentation. This location is at Huntington Point, Exit 11, the old Opel mansion. This is for the new owners of the child daycare center and their objective is to enlarge the outdoor play area facing the building from the point to the left side, the Huntington Street side.

Comm. Harger asked if this hand-out was the same as the one that he emailed to them.

Mr. Schultz responded yes, it is the email he sent them.

Atty. Burt Hoffman, Hoffman & Hoffman, 1234 Summer Street, Stamford, CT 06905 addressed the Commission. Atty. Hoffman indicated that he was present on behalf of Building Blocks Early Center which is a family enterprise. He added that his oldest son is the essential owner and his background is in education; he has set up a model, and this is very critical that they understand, that this is an educational center as opposed to a babysitting center.

Atty. Hoffman began by first thanking the Board for opening up certain issues to them for them to pay attention and go back to the proverbial “drawing board.” He stated that after taking a look at it, they ended up having something that makes significantly more sense for their needs and also the aesthetics of the property. Atty. Hoffman commented that he knows that, and rightfully so, everyone is concerned, as they should be, especially at that focal point of the Shelton highway/traffic pattern, that this building is visible. He indicated that what they found is very interesting; they found some older photos. He added that Scott Lawrence is present on behalf of the owner of the building. He stated that they found one older photo showing the large tree in front in full bloom commenting that you can’t even see the building. Mr. Lawrence informed him that the tree is a “sacred cow” in this community.

Mr. Scott Lawrence, representing the owner of Building Blocks Learning Center, addressed the Commission. Mr. Lawrence clarified that this was a well-recognized tree.

Atty. Hoffman added that the tree is going to stay there. He indicated that he wanted to talk about was an issue brought up about vehicular traffic and the possible danger to the children. He stated that they did a study on this, first looking at the present owners, the predecessors, the authorities and so forth. Historically, there haven’t been any traffic problems there or vehicles encroaching upon the property. On a site drawing, he referenced the roadway turns and commented that if a car was speeding around this turn, then they aren’t going to come into this building so maybe some fencing should be placed there. He reiterated that cars wouldn’t come speeding around and end up in their building. Atty. Hoffman stated that from their own standpoint, they are comfortable with the type of facility they would run, that is a great safety factor. He commented that was the issue regarding the traffic pattern.

Atty. Hoffman indicated that very scientifically in order for these children, especially the youngsters that are – he added that this daycare is from 6 weeks to 6 years, it is a pre-school program also – in order for these children, especially 3 years and above, they need to play, they need some area to throw a ball, have good instruction and not just have a confined area. As a point of reference, he showed a photo of the existing the play area which is quite confining. He added that is exactly why they felt that a child daycare facility needs to have the appropriate type of play area. At the suggestion of the Board about not encroaching on the entire front of the building, they took the same square footage of the play area, consolidating the (inaudible) to this concept to show the revised play area. The rendering depicted the proposed play area confined to the front corner and not all the way across.

Atty. Hoffman added that it was also behind the area of the tree. He showed a photo of the large tree in the front during autumn and commented that these photos were included in the hand-out. He referenced their initial proposal with the play area going all the across the front bay window and noted that now it would be confined to the northwest side of the property. He commented that the fencing material would be compatible to what exists there. It would be a good quality fence, as opposed to a chain link or something of that nature. He provided a sample panel of the proposed wooden lattice fencing.

Atty. Hoffman showed an aerial site rendering of the proposed and previously proposed location of the play area and the large tree in the front of the site. He commented that thanks to the Board’s comments, they think it is a much better plan and they feel it was worthwhile to wait and worth the expense to get there. The gross area for the play area is important to the children, their health and related aspects of their program.

Chair Parkins if their plan was to take down either one of the trees. She specified the tree to the left of the front and asked if it would remain.

Mr. Lawrence responded that they would be staying but there are two small trees about 10 to 15 feet, 3 to 4 inches in diameter that are inside the play area that would probably have to be taken out for safety reasons. The big trees are staying.

Chair Parkins asked how far that new proposed fence was from the tree. She commented that she sees that it is coming right up to the front doorway or the front porch.

Mr. Lawrence responded that from his knowledge of scale, it is at least 10 to 15 feet. There is only one branch of that tree which actually shoots up but most of the tree is centered in the circular drawn area.

Chair Parkins commented that branch may have to be trimmed off.

Mr. Lawrence reiterated that the tree was about 10 to 15 feet from the front area. He added that they actually wanted, on Rick Schultz's advice, to soften the transition between the landscaping, the curb and the fence. They have added a little bit of buffer landscaping, added some bushes that are going to be similar to the bush in the island which is also similar to the bushes already in the front of the house. Therefore, your eyes wouldn't be drawn to the fence and also to break things up, they've planned to add some reed grass that is similar to what exists on the island. It seems like a coherent approach to the fence so that you wouldn't be looking at just the fence but the entire island, not being drawn to the line of the fence.

Atty. Hoffman commented that was a very good point and they talked about this. The type of material that they want to use, or that the building owner wants to use that they would encourage is that eventually this grows to a point where this fence can't even be seen.

Chair Parkins asked if he means as it gets gray.

Atty. Hoffman responded no, as the bushes grow.

Chair Parkins commented that she is more concerned about the fence- the cedar is nice looking when it is new but it gets to look old and tattered looking...

Atty. Hoffman disagreed.

Chair Parkins responded yes it does and referenced the look of their existing fence.

Atty. Hoffman commented that isn't their fence. He commented that they would maintain their fence.

Chair Parkins stated that it is weathered so unless they are going to paint it then they aren't going to be able to maintain it.

Mr. Lawrence stated they could continue to stain it if that is what ...

Chair Parkins referenced their picture of the existing fence and commented that it is not...it really doesn't add any character to that beautiful home.

Atty. Hoffman stated that he doesn't like it himself but they would have it stained and maintained of a certain color.

Comm. McGorty asked what the distance was from that corner closest curb line there. He commented that they show the depth but not the dimension of the width. It has 36 feet in the corner that juts out toward the curb line. He asked what that distance would be.

Mr. Lawrence, using the site drawing, asked if he wanted to know the distance between there and the road.

Comm. McGorty responded yes, correct.

Mr. Lawrence responded that there is a gigantic shrub beyond mature there so it would be hard for any vehicle to get through there. Also he pointed out the dotted line on the plan representing a row of trees. He referenced the location of the storm drain and commented that the road would be another ½ to 1 foot beyond that. He guessed that it might be about 20 feet.

Comm. McGorty stated OK, it is about 20 feet off the road. He commented that the shrub isn't going to stop a car that is going at a good rate of speed. To their point, his concern isn't about a car taking a right around the turn and straight into the fence but cars coming from the Route 8 direction up the road toward Trap Falls. He added that would be where a car would be going at a good clip and if anybody lost control of their car it could careen right across the lawn. He reiterated that a shrub wouldn't stop a car. He asked if there were any bollards or other reinforcements to a wooden fence that they would have there. He stated that he didn't know what the State requirements would be but that is right in a line of traffic that could go off the road – it is pretty close to the road.

Chair Parkins asked Rick Schultz what the setback requirement was.

Mr. Schultz responded that 6 feet they allow – right up to the property line. Over six feet...

Comm. McGorty asked if that was for a play area on a road like that.

Mr. Schultz responded that they have to remember that this is a Planned Development District (PDD) and the Commission has complete control on the placement of any structure so it is their judgment call.

Comm. McGorty commented that for the fence, which is essentially the play area, which is pretty close to the road, he stated that 20 feet wasn't that far...He asked if a car potentially lost control what would stop it from going through a wooden fence.

Mr. Schultz added that normally, in any zone, you can have a fence on the property line.

Comm. McGorty reiterated that it seems close to the road – although in looking at the drawing, the other situation...

Atty. Hoffman stated that was an excellent idea...about the bollards.

Comm. McGorty responded that every once in a while he has a good idea...

Atty. Hoffman continued to comment about putting up bollards, although historically there have been no vehicular traffic issues there which is great. He added that foresee ably it probably won't happen but as a preventive measure they could put bollards at strategic points as a deterrent.

Comm. Harger asked what the square footage of the existing play area and proposed play areas were.

Mr. Lawrence responded that the proposed was about 2300 square feet and the existing is about 1600 but he isn't absolutely certain.

Atty. Hoffman commented that he thought it was more like 1000.

Comm. McGorty asked again about the dimension – the width because this only shows the depth.

Mr. Lawrence responded that it was on the other plan; it is basically a square – probably about 36 feet.

Chair Parkins commented that their existing (inaudible) is that close to the road on that.

Comm. McGorty agreed and indicated that he noticed that – not that it is worse than it is. In looking at it over on the side of the building, it is pretty close but he thinks that those big pines come into play to kind of block... The existing versus the new which is very exposed if they look it – it is exposed.

Mr. Lawrence reiterated that they have a 2 to 3 foot elevation, signs, a gigantic bush and several pine trees and then the island stops before the Stop sign. It is not exactly a clear path; you would have to (inaudible)...

Comm. McGorty stated that other than a little bit of elevation and some shrubs, it is a fairly clear path for a car doing about 50 mph or so there, trying to get through a turning red light ...he added that he has seen cars travel through there pretty quick. He isn't really hung up on the aesthetics. It isn't optimal or what he'd like to see but it is somewhat of a safety issue with just a wooden fence there. He reiterated that in looking at it, it isn't very far from the road with a small incline. He's been by there many times and for a car traveling at a high rate of speed...historically, it is great that there haven't been any issues but one is too many with kids playing out there.

Atty. Hoffman agreed.

Comm. McGorty restated that was his biggest concern that it was fairly close to the road where with the other one they had the luxury of having those pine trees there which probably shielded it. He added that cars come flying the other way as well.

Mr. Lawrence stated that there is a high embankment on which the pine trees stand so it would be relatively difficult to veer into it – you would have to hit it at a 90° angle.

Comm. Harger asked about the 2nd or 3rd page of the handout entitled “Proposed Expansion.” She asked if they would be planning to keep the existing area and add to it and not replacing one with another.

Mr. Lawrence responded no but for certain bushes inside of there that exist, they will be moved anyway because they aren't edible for children. The bushes would be behind the fence and not seen.

Comm. McGorty commented that they are probably edible but not poisonous.

Chair Parkins asked if they were proposing any type of play apparatus for in there.

Atty. Hoffman responded yes.

Chair Parkins asked if it would be visible over the fence.

Atty. Hoffman responded no, it is a 6 foot fence.

Chair Parkins stated that some of the play scapes can be pretty tall.

Atty. Hoffman responded that isn't the model that Mitch uses. It is more of a low-rising, climbing, physical fitness type of thing. He is very concerned about too much height with the children falling, being pushed or being injured. He will use a certain surface on the play area that has been approved by the National Association of Childcare facilities.

Chair Parkins asked the other commissioners about using a white vinyl fencing that would be more attractive with bollards because it is taller, decorative, low maintenance and continues to look nice. She added that they could put bollards on the inside of it.

Comm. Pogoda commented that they could even put the bollards on the inside of this but he's concerned about the sun. You'd have to redo it about once a year.

Chair Parkins asked if they thought the white would look better.

Comm. Pogoda responded that it would stand out more and be more visible.

Comm. McGorty commented that not a stark white but maybe a beige or earth tone. They have vinyl earth tones.

Comm. Dickal suggested something the same color as the building.

Comm. McGorty agreed and commented that white would be very stark.

Chair Parkins told the Applicant that the Commissioner was discussing of the possibility of, rather than the cedar, using a vinyl type fence that blends in more with the color of the building like a cream color.

Comm. Pogoda commented that it would be less maintenance.

Mr. Lawrence stated that the cedar sample was untreated and unpainted – they could paint it.

Chair Parkins responded that it is going to weather and once it weathers it is just not going to look right.

Comm. McGorty added about the sunlight.

Atty. Hoffman responded that he knows the kind of product that they are talking about.

Chair Parkins added that to address the concerns about safety they could put bollards on the inside of the fence. They don't want it on the outside. They could be painted candy colors or decorative for the children.

Atty. Hoffman stated that vinyl is a product that he is familiar with and they could get the manufacturer to match the cream color of the house so it would really blend in.

Chair Parkins asked if they could come back with some kind of a plan showing where the bollards would be placed and a sample of the fence material.

Atty. Hoffman responded come back (inaudible)...

Comm. Harger asked, regarding one of her initial concerns which she expressed in an email, about this looking like a compound with the high solid stockade fence. She knows that they are doing it will the lattice...

Chair Parkins commented that they could do the vinyl with a lattice treatment as well.

Comm. Harger asked if there was some type of scalloping or something...

Atty. Hoffman commented that in other words, she would like to see a decorative top.

Chair Parkins agreed that it should be something decorative.

Comm. Harger indicated something that makes it seem less like a stockade for a compound.

Comm. Dickal added that it should be something that compliments the house.

Chair Parkins added that the vinyl would be maintenance free; they might have to power wash it once in a while though.

Atty. Hoffman asked if they could move on this with the condition that they come forward with that.

Chair Parkins responded no, she thinks that the Commission is going to want to see the fence that they are proposing.

Atty. Hoffman commented OK, no problem.

Chair Parkins indicated that she thinks that the Commission is already hesitant with allowing it to begin with.

Atty. Hoffman stated that they will of course do what the Commission wants.

Chair Parkins indicated that she is speaking for herself and doesn't want to misguide the Applicant. She asked the other Commissioners if they agreed with this direction.

Comm. Dickal commented about the tree and that she knows that it has been there forever. She asked if the tree was healthy.

Chair Parkins indicated that it might need to be pruned a little.

Mr. Lawrence stated that parts of it didn't make it so well through the last winter. The outer shoots, the newest ones in particular but for the most part it is healthy.

Comm. Harger asked about the tall fir tree.

Comm. Dickal commented that was the tree she was talking about too. It is the tree that she is most concerned about because of what replaces that tree if it ever comes down. She reiterated that if it is a healthy tree, OK fine, but if there is a severe storm...

Mr. Lawrence responded OK.

Chair Parkins stated that naturally, they are going to have to prune it so that the branches aren't going to fall into the playground or on the children.

Mr. Lawrence responded yes, that's true but off the top of his head he can't recall that they ever had to do anything to that tree. He assumes that it is a healthy tree but he can (inaudible)...

Chair Parkins commented that they should prune it carefully so that it maintains its (inaudible)...

Atty. Hoffman stated that his understanding is for them to come back to the Commission for its meeting on 5/13. They will bring it to Staff's attention and come back with an alternative product which would blend in better with the house and possibly be of the vinyl type material which requires less maintenance.

Chair Parkins stated yes, a decorative vinyl fence that is going to compliment the colors of the house.

Comm. McGorty asked if he could bring it to Rick Schultz before the 13th.

Atty. Hoffman responded yes, absolutely.

Chair Parkins commented a sample unless he can get pictures or photos and send it in an email.

Comm. McGorty stated that it is pretty basic; they just have to blend it the best they can with the house color.

Comm. Dickal asked if they could see a picture of the play structure so that they have an idea of what the children are playing on.

Chair Parkins added yes, or at the height of the play structure.

Comm. Pogoda asked for a view of how the bollards would be placed on the inside.

Atty. Hoffman responded yes, sure.

Comm. Pogoda commented that there is going to have to be more than one.

Atty. Hoffman responded yes, strategically placed.

Chair Parkins stated that she didn't think that they would need more than four.

Atty. Hoffman commented that he recalls seeing bollards where he gets his coffee and newspaper in the morning; he believes that they are placed about every four to six feet, in other words, the width of a car can't get through it.

Chair Parkins responded yes and they are usually about 3 feet high or so.

Comm. McGorty commented that it gives them an additional layer of defense.

Comm. Harger asked if they would have wood chips in that play area.

Atty. Hoffman responded no, they have to use a special surface – it is a playground material.

Comm. McGorty commented that there is a certain standard that they have to meet for that.

Comm. Pogoda asked if he was talking about the rubberized material.

Atty. Hoffman stated that it was different than the rubberized because it was for the childcare industry and approved by the National Association so if a child falls on it, it would be like falling on a bouncy area. He added that it was a specialized material.

Chair Parkins stated yes, so they won't get skinned knees, etc.

Comm. Harger asked if wind or anything would whip it around.

Atty. Hoffman responded no and added that it was at their nearest facility in Wilton.

Comm. Harger commented that if they have a facility in Wilton then they would have access to a sample of it to bring in.

Chair Parkins stated that they don't have purview over that.

Comm. McGorty indicated that the State controls that.

Atty. Hoffman indicated that they have to first get through this process but the real acid test is the State. The State comes down and goes through the interior facility and their inspection process is amazing and the playground gets tested, goes to a lab...

Chair Parkins stated that they are just going to worry about the fence and the bollards. She asked them to come back with a decorative, vinyl 6 foot fence that is going to complement the colors of the house and show them the placement of the bollards. They are still going to require landscaping in the front but then they will be all set.

Comm. Harger indicated that one of the reasons that she brought up the issue of the play area ground surface was because Rick said this was a PDD, meaning that the Commission controls all aspects of it.

Chair Parkins responded yes, the structures but not the ground cover.

Comm. McGorty added that there are stringent requirements on how much that ground stuff gives when the children fall on it and...

Mr. Schultz agreed and added that they could have a public hearing on this if they wanted to bring it to that level.

Atty. Hoffman indicated that the specs on this playground are unbelievable.

Mr. Schultz clarified that they could do that if the Applicant was unable to find a reasonable solution but the Applicant is able to.

Atty. Hoffman thanked the Commission for their time.

Chair Parkins asked for a motion to table this application. She reminded the Applicant that the Commission does not allow any signs on the outside of the fence. She added that occasionally she has seen signs there from the previous tenant in the past in regard to enrollments, now accepting children, etc.

Atty. Hoffman responded OK, they don't want signs there either.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to table Separate #426.

SEPARATE #6845: ACCENT SIGNS, 100 TRAP FALLS ROAD EXT., SIGN

Mr. Schultz indicated that this is the first sign proposal for the old W.E. Bassett building on Trap Falls Road. He provided a rendering for Comet Technologies; it would be channel letters. Staff recommends approval.

Comm. Tickey commented that it looked very nice and clean.

Comm. Harger asked about the location.

Mr. Schultz responded in the left corner over the canopy.

Comm. McGorty stated that the location is shown on the other picture.

Chair Parkins asked if there was going to be a monument sign.

Mr. Schultz responded not yet, it is going to be multiple tenants so it will come later.

Comm. McGorty asked if it would be channel letters internally illuminated.

Mr. Schultz responded yes.

Comm. McGorty asked when the sign would be turned off.

Mr. Schultz responded it would be off after 10 p.m. They are going to be aware of the residential across the street.

Comm. McGorty agreed that it shouldn't be on.

On a motion made by Jim Tickey seconded by Thomas McGorty, it was unanimously voted to approve signage for Separate #6845.

SEPARATE #6751: DAVID KIM, 515 BPT. AVENUE, SIGN

Mr. Schultz stated that Mr. Kim has returned with signage for the Shelton Cleaners on Bpt. Avenue by Curves.

Chair Parkins commented that Curves isn't there anymore.

Comm. Pogoda indicated that Quest Labs is there.

Mr. Schultz indicated that the Applicant is here for a second sign and they will see his proposed location. Their regulations state that the Commission can permit up to two wall signs. He stated that the Applicant is going to try to convince the Commission that he needs this for his business for exposure. The existing sign faces Bridgeport Avenue and he would like this one on the side of the building. He reiterated that the Commission may permit up to two signs.

The Applicant provided a rendering of the sign location on a drawing of the building exterior.

Comm. Harger asked if there wasn't a sign there right now.

Mr. Schultz responded yes there is one facing Bridgeport Avenue.

Comm. Pogoda asked where he wants the other one.

Mr. Schultz responded on the inside wall which is to the north.

Comm. Pogoda commented that it is really looking down the walkway which isn't really going to be visible from the street.

Mr. Schultz stated that Mr. Kim has a photograph of his store.

Mr. David Kim, owner, Shelton Cleaners, 515 Bridgeport Avenue addressed the Commission. Mr. Kim presented a photograph of his store, Shelton Cleaners and indicated that no one knows that his dry cleaning store is there and that there are parking spaces there. Mr. Kim indicated that his customers complain to him when he took over the business six months ago. His first business is in Westport now.

Chair Parkins asked if he said his customers were complaining to him.

Mr. Kim responded yes, that can't find his store. He indicated that someone called and said that they found the building #515 but couldn't locate the door. Many customers complain about not knowing where the door is.

Comm. Pogoda commented that people found the building but couldn't find the store – he added that all they had to do was get out of the car.

Comm. Harger asked to see the photograph closer.

Mr. Kim commented that he spoke to his landlord...

Comm. McGorty stated that there is nothing wrong with having signage for your business but (inaudible)...

Comm. Harger (inaudible).

Chair Parkins asked him to show the location of his entrance door on the drawing.

Comm. McGorty stated yes, it's in that corner, right...

Chair Parkins commented OK, there is a spa/salon next door...

Mr. Kim responded yes and showed the location of his proposed sign, the liquor store and massage (inaudible)...

Chair Parkins stated OK, he's proposing a sign with 11" height letters (inaudible)...

Comm. McGorty asked about the size of the sign. He added that if it is only 11" letters – on a grand scale of the size of the façade it is not really big. He asked if it would be uppercase and just like that.

Mr. Kim commented yes and that he didn't have any experience dealing with the town and taking care of these things...

Chair Parkins responded OK and asked if it scales the entire width because that would be too much.

Mr. Kim responded yes that is too much and that's why he put it over the first window just to (inaudible)...

Chair Parkins asked if he said that it would just be over the first window.

Mr. Kim responded yes right.

Comm. Tickey asked if there were any businesses in that area that have two signs.

Mr. Schultz responded no, he has the corner.

Chair Parkins asked if it had to be red because it doesn't conform to the rest of the signs there which are a pale...

Comm. Pogoda commented about the other colors because he recalled the liquor store being red, purple there...

Comm. McGorty asked if it would just be over the first window then.

Mr. Kim responded yes.

Comm. McGorty stated that his wife picks stuff up there but if you don't know where it is and haven't been there...

Comm. Harger commented that he basically has Cleaners in large letters and Shelton just has a capital S.

Mr. Kim responded yes it doesn't matter about the size. He just thought of doing 11" height but if they 8" height that's OK. The color doesn't matter either. He just thought with red it would be easier to find the cleaners (inaudible)...

Comm. Pogoda commented that the letters look big on this sheet but if you put it up on a wall, the 11" on the wall won't be that big.

Chair Parkins asked if he made this rendering to scale and if this area was 20".

Mr. Kim responded 24".

Comm. McGorty commented that if the letters are 11" - it should be half of it. He added that he just drew it on there without doing any scaling.

Comm. Pogoda asked if this was to scale.

Chair Parkins asked in regard to height – (inaudible)...

Comm. McGorty commented that it is fine; it isn't like it is taking up the whole thing...

Comm. Harger stated that his entrance is under the (inaudible)...

Comm. McGorty commented that if you were looking for this store for the first time, you would have a hard time.

Chair Parkins stated that he has almost 6" top and 6" bottom.

Comm. Pogoda stated yes, that it wasn't taking up the whole soffit.

Chair Parkins asked them to show it to the other Commissioners – Comm. Tickey and Comm. Dickal.

Chair Parkins commented that when she thinks of a Cleaner she thinks of the color blue.

Comm. McGorty added that the red would catch your eye.

Comm. Harger asked how the letters would be illuminated.

Mr. Schultz stated that they were all internally illuminated, channel letters.

Comm. Harger asked if it would be in the darker area.

Mr. Kim responded yes.

Chair Parkins added that it would end over the first window.

Comm. McGorty stated that would be 24” and the letters are 11.”

Comm. Harger asked for clarification on the drawing if it would be on the darker shade in line with the...

Mr. Kim responded yes, darker, small part, gray color

Comm. McGorty commented OK, that isn't drawn there, it is a one dimensional...it is the small portion down below...

Comm. Harger stated that it would be in line with the spa or whatever is located there.

Comm. Tickey asked for clarification as to the location they just talked about.

Comm. Pogoda held up the drawing and clarified the dark area, small area where it would be in line with the other store's sign.

Comm. Dickal responded OK.

Comm. McGorty asked if it would be backlit.

Mr. Schultz responded internally illuminated.

Comm. McGorty commented OK, internally illuminated then it is in keeping with the other signs in that area.

Comm. Pogoda commented that as long as this is 24” as he says and the letters are 11” there is still almost 6” top and bottom.

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to approved signage for Separate #6751.

Chair Parkins wished Mr. Kim good luck and hoped people could find him now. Comm. Pogoda reminded him not to put signs on the road.

SEPARATE #6834: PETER BALANGER, 442 RIVER ROAD, SIGN

Mr. Peter Balanger, representing CITGO/General Equities (Food Bag) addressed the Commission. He provided copies of the proposed and existing signage for CITGO on River Road. He stated that they were looking to update the sign at the street which is outdated and with the way that the property looks now it would be great to get a renovated sign.

Mr. Schultz stated that it is a net decrease.

Mr. Balanger stated that the existing sign is 16.6 high – 16 foot. The town standards are 15 and the new sign is going to be 13.6 total. He commented that the LED is the look of the world right now compared to the old plastic numbers that were stuck up there.

Comm. Harger asked the name of the side street next to the gas station shown in the photo.

Mr. Schultz responded that he thinks it is Wright Street.

Comm. Harger commented oh, OK, right across from the deli near Sunnyside School.

Mr. Schultz stated that it was right before the Old Redwood.

Comm. Tickey asked which sign was being proposed because there is an optional sign shown.

Mr. Balanger responded that the optional sign will not be there – it was just being used to show them how the LED part would look.

Comm. Pogoda commented that it looks cleaner than the other one.

Comm. McGorty asked for clarification of what the height would be.

Mr. Balanger responded 16 – and it is in a planter so it is actually 16.6 with the ground around it. It is going to be 13.6.

Comm. McGorty asked what time the sign would go off.

Mr. Balanger responded that they close at 11 p.m. so he would have to say at that point.

Chair Parkins asked if they keep the prices on.

Mr. Balanger responded no, they can shut them down.

Comm. McGorty added yes, that is his point because LED, with the wavelength and there are houses right there.

Mr. Balanger stated that they can force them to shut it down.

Mr. Schultz added that they can make it a condition.

Comm. McGorty commented that there is no sense in it if they are closing.

Mr. Balanger stated that he didn't know if any of them had been by there but they have been shutting most of the lights on that property at night. They have a few security lights on. They have one on the building and two parking lot lights on.

Comm. McGorty responded that they did a good job. It looks good.

Mr. Balanger stated that they are concerned about safety – employees leaving and the safety of the property.

Comm. Harger asked about the colors – the blue, red and green being used and if that was for CITGO for corporate identity.

Mr. Balanger responded yes, CITGO only allows one sign. CITGO will not allow anything else.

Comm. Harger asked about the green.

Mr. Balanger responded that the green was for the diesel.

Comm. McGorty reiterated that it certainly looks much better than it had.

On a motion made by Jim Tickey seconded by Thomas McGorty, it was unanimously voted to approve signage for Separate #6834.

SEPARATE #6839: ANNA NEMEC, 29 MAPLE LANE, IN-LAW

Mr. Schultz stated that this is for a conversion within an existing house and the Applicant is present. This is located on 29 Maple Lane off of Huntington Street. He added that there is City Sewer and City Water, and the overall square footage 818 square feet. He added that their regs allow up to 900 square feet so there is no exterior modifications to the house at all. He passed the floor plan to Commissioners as well as a copy of the Assessor's Map with the location highlighted in yellow. He indicated that this in-law would be for a blood relative.

Chair Parkins asked if this was a basement or...

Mr. Schultz asked the Applicant what the style of the house was.

Ms. Nemecek responded that now it looks like a colonial but it is a ranch with an addition upstairs so upstairs they are adding the kitchen.

Chair Parkins asked if it was like a raised ranch.

Ms. Nemecek responded that honestly it was like two ranches on top of one another because it has an open staircase that goes up. It is just like one on top of the other; it isn't like a split/raised ranch.

Mr. Schultz stated that it was a hybrid colonial.

Chair Parkins asked if it had two means of egress.

Mr. Schultz responded yes, two means of egress. This was already checked out by the Building Department and the Fire Marshal.

Ms. Nemecek added yes, a modified colonial is exactly what they were calling it.

Chair Parkins asked if there were going to be two bedrooms in it.

Ms. Nemecek responded yes.

Comm. Harger asked if the in-law portion was the original lower level.

Ms. Nemecek responded that the lower level was the original and they put the addition upstairs which is when she moved in with her daughter because they were taking care of her mother at the time. Now, they are putting a kitchen in upstairs where they are now.

Comm. Harger stated that it is almost like a two family home. She asked if they were going to have a kitchen upstairs and they have a kitchen on the main level already.

Ms. Nemecek responded yes, already which will end up going out but for now that is where it is staying. She added that it is still the open staircase going up and they share the whole house.

Chair Parkins asked if there was an exit/entrance in the back stairway.

Ms. Nemecek responded yes.

Mr. Schultz commented that this was already inspected by the Building Official.

Comm. Harger commented that you usually don't see a lot of upstairs in-law because they are usually to the side or to the back.

Mr. Schultz stated yes, but this is actually a better arrangement for quality.

Comm. McGorty stated that there is a kitchen on the first, kitchen on second so if the home was sold that common hallway could be closed off and ...

Comm. Harger commented yes, that is what she was saying; now you have a two-family house.

Mr. Schultz indicated as a side note for the new commissioners, this past winter notices went out because they have to check the status of every one of these every year – annually. The homeowners send an affidavit back to them to confirm it. One way or another – some have eliminated them but others keep them but Staff has to make sure that it is being occupied by a blood relative.

Comm. McGorty responded OK, there are checks and balances.

Mr. Schultz added that most everyone has been pretty cooperative.

Chair Parkins asked if he had a right to inspect.

Mr. Schultz responded yes, it is part of the application.

Comm. Pogoda stated that was good.

Chair Parkins agreed because that way you could see if something is closed off or made into an apartment. She addressed the Applicant and commented that they know she is not going to do that but someone that buys her home might try to.

Mr. Schultz commented that they will get them sooner or later – when they go to refinance or sell – the title person comes in if they recognize it or not – they have an official list. He stated that the checks and balances are there.

Comm. McGorty commented that some of them have gone 10 years or more and they've lost that tax revenue and everything on it but he guesses that it has tightened up which is good.

Ms. Nemecek stated that they still have one gas meter, one furnace, one water tank, hot water heater, same address...She added that they just wanted to take advantage of adding on for more privacy.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to approve Separate #6839.

End of Tape 1A, 7:45 p.m.

SEPARATE #6754: WAL-MART, 465 BPT. AVENUE, 2 DAY HOUR CHANGE, GARDEN CENTER

Mr. Schultz stated that they finally got Wal-Mart to submit multiple requests.

Chair Parkins asked if they were coming in before the fact.

Comm. McGorty asked if it really hadn't happened yet.

Mr. Schultz stated no it hasn't, it's for the outside plants which happen from now, Memorial Day to July 4th. For Black Friday, November 28th...

Comm. Harger asked if they were more than one in the same thing...

Mr. Schultz recalled that the Commission said they wanted them to submit multiple dates ...

Comm. McGorty commented that they are looking for a blanket for the rest of the year which is OK.

Mr. Schultz stated that they've been asking them for that.

Chair Parkins asked what they were asking for exactly. She asked about the request for a two day hour change.

Mr. Schultz responded that was for Black Friday 24 hours.

Chair Parkins stated OK, two days for 24 hours for Black Friday. The other is for the Garden Center hours for the outdoor area.

Mr. Schultz stated that is monitored with the Fire Marshal because it is in the fire lanes. There has never been an issue.

Comm. Harger asked about the Garden Center being open now, and on July 4th and then he mentioned Memorial Day.

Mr. Schultz responded that it is now until July 4th. People aren't buying plants just yet, probably Memorial Day.

On a motion made by Virginia Harger seconded by Nancy Dickal, it was unanimously voted to approve Separate #6754.

SEPARATE #6675: CHRISTINA CHEN, 4 PARTRIDGE LANE, SINGLE FAMILY HOME (INFORMATIONAL ONLY)

Mr. Schultz stated that the Commission isn't going to see a lot of these types of applications; they received a formal complaint regarding a rooming house and they investigated it. They found that the garage was converted inappropriately and without the permits. He added that their regulations allow up to five unrelated people but there were probably closer to eight there.

Mr. Schultz stated that obviously, this was an enforcement issue. The garage was returned back to a garage which was attached. Ironically, the person that was living in there illegally made the complaint because he was evicted for being a bad tenant. They went through this process and it is important that this Commission recognize this as a conforming single family dwelling.

Chair Parkins responded that she didn't understand what...

Mr. Schultz stated that this was an existing single-family dwelling that was converted.

Chair Parkins responded that now it was converted back like it never happened. She asked what they were approving.

Mr. Schultz stated that they would be acknowledging the conversion back to the single family dwelling status.

Comm. Pogoda commented that it was illegally converted.

Comm. McGorty stated that they did a Cease & Desist and then...

Chair Parkins stated that they didn't allow them to do anything to begin with so...

Mr. Schultz responded that they don't need to vote on it, it is just...

Chair Parkins commented that this is an enforcement issue, code enforcement issue than a planning and zoning issue.

Mr. Schultz stated that it is important that the Commission understands what they did because...

Comm. McGorty commented OK, they issued a Cease & Desist, they shut it down, broke it down and...

Mr. Schultz continued that they receive calls with questions from the mortgage companies because they receive notices.

Comm. Tickey asked Rick Schultz if they know that it is now conforming.

Mr. Schultz responded yes because they had the Building Official, Fire Marshal and Zoning Enforcement Officer go out there. They also used Corporation Counsel and got a copy of their lease that states “no more than up to six...”

Chair Parkins asked who owns the house.

Mr. Schultz responded that a woman from out of state bought the house as an investment and put people up. They are seeing more of that and they have to crack down quickly because of the fire code issue.

Chair Parkins asked if the owner had been notified.

Mr. Schultz responded yes and she’s corrected it and claimed she was unaware of it.

Chair Parkins commented that they wouldn’t take action on this then because it is under code enforcement.

SEPARATE #6835: SHELTON LION’S CLUB, 405 BPT. AVENUE, FLEA MARKET

Mr. Schultz stated that they are coming in before the event.

Chair Parkins responded yes, that is good and added that she thinks it is this weekend.

Mr. Schultz stated that it would be April 26th with a May 3rd rain date. He showed the Commission the Shelton’s Lion Club Flea Market flier.

Chair Parkins asked what they were going to do with all the cars there.

Mr. Schultz responded that they are coordinating this year with the Police Department. They were parking on Nells Rock Road.

Chair Parkins commented no, the Curtiss Ryan cars...

Comm. Pogoda agreed and added yes, there are all new cars sitting there.

Mr. Schultz stated that they are working around it because this is the only spot that can accommodate them.

Comm. Harger asked if Curtiss-Ryan was aware of it.

Mr. Schultz responded yes.

Comm. Pogoda asked for clarification that they are working with the Police Dept. because last time cars were parking all along Nells Rock Road.

Chair Parkins asked why they can’t have it Downtown.

Mr. Schultz responded that they have a good arrangement with the owners.

Chair Parkins stated that it is not the ideal place for it. If they had it Downtown they would have more parking.

Comm. McGorty asked where they were going to put it.

Comm. Pogoda responded right there where the buildings are in the parking lot.

Comm. Tickey asked if Curtiss-Ryan knows this is happening with people and stuff around their cars.

Mr. Schultz responded yes, and they have their own security.

Chair Parkins asked Rick Schultz to make sure that Curtiss-Ryan knows they are doing this because they don't want Curtiss-Ryan coming in saying that they approved the lease and they had no idea about this.

Mr. Schultz responded OK, absolutely.

Comm. McGorty commented that at least a lot of people will see their cars.

Comm. Pogoda stated yes, but these are brand new cars getting...

Chair Parkins asked for clarification that there would be police presence because they didn't have it last time.

Comm. Pogoda agreed stating that they didn't last time and he asked where cars would park when all the parking is being taken up. They are parking on Bridgeport Avenue and Nells Rock Avenue.

Chair Parkins added that they park on both sides.

Comm. McGorty asked if there would be a cop assigned to it.

Comm. Pogoda stated that there was no cop last time.

Mr. Schultz indicated that public safety is an issue with this one.

Comm. McGorty asked if Curtiss-Ryan didn't care about their cars – as long as they know...

Mr. Schultz stated that is why this Commission has to do it because when they get an application he makes referrals to the other departments.

Chair Parkins stated that when they've done it in the past those cars weren't there and those businesses weren't there. It was a completely empty lot; it was different and they were still parking all over the place.

Mr. Schultz stated that they like that spot.

Comm. Harger asked why they were going to vote to approve this. It doesn't fall into place and there are public safety issues.

Mr. Schultz stated that sooner or later that site will not be available for it and he's going to encourage them to go Downtown.

Comm. Tickey added that there are so many events down there that have proved to be so successful. People are getting used to going down there.

Mr. Schultz stated that after this event, they can tell them that's it.

Comm. Harger stated that it hasn't happened yet and asked why they can't change the venue.

Mr. Schultz responded that they have already printed up fliers and put them up everywhere. He recommended that they do this one and then that is it. He added that the Lion's Club put a lot of time and effort into it.

Comm. Pogoda stated that there is definitely going to be a problem with all of the cars there. He went by there the last two times they had this event and there was not enough parking there then. There are probably at least 30 cars in that parking lot right now.

Comm. Harger commented that it is a busy road and the sight lines on Nells Rock Road are lousy.

Comm. McGorty asked Rick if he knows that Curtiss-Ryan knows about this or not.

Mr. Schultz responded that he knows that they were informed but he did not speak to them personally.

Comm. McGorty asked if they told him that.

Mr. Schultz responded yes, but he will call them himself as he did with the Chief of Police and the Fire Marshal.

Chair Parkins commented that they would have kiosks or tables set up in front of those cars, people might be sitting on them...

Comm. Pogoda indicated that wasn't their issue though – their issue is about the safety and having cars parked all over the road.

Comm. McGorty stated that if they are OK with it but it is still a safety issue.

Mr. Schultz stated that the Fire Marshal has to inspect shelters so when canopies go up the Fire Marshal has to know about it.

Comm. Dickal commented that there will still be cars and people still going to Wal-Mart, grocery store, it is a busy road there.

Comm. Harger stated that she wants to support their event but not their venue.

Mr. Schultz indicated that he will tell them loud and clear that it is not going to happen again.

Comm. Harger added that they are coming in a little bit late too.

Comm. Dickal asked why they had these fliers made up before they had the approval.

Comm. McGorty responded probably because they did it last year.

Comm. Pogoda agreed that they probably figured that it was OK because they did it last year just like Wal-Mart has done for all these years.

Comm. McGorty stated that it is good that they have the Police involved to help with traffic but it isn't the most conducive location.

Chair Parkins stated that she would be so inclined to say that they can move it and put a notice there that it has been moved to Downtown.

Comm. Pogoda asked if the cops were aware of this.

Mr. Schultz responded yes when they do a Certificate they notify the Fire Marshal and the Police Dept.

Comm. Pogoda asked if it had been done last time.

Mr. Schultz responded not to the extent that he wanted it.

Comm. Pogoda stated that there were no cops there last year.

Mr. Schultz responded that Staff told the Sergeant and there was some communication breakdown because when he lets the Chief of Police know, he makes a bulletin out of it.

Chair Parkins stated that they need to pay the police. They need to pay an off duty officer and not use City resources for their traffic control.

Comm. McGorty commented that the Chief wouldn't send down officers for free...he didn't think so...

Comm. Pogoda stated he didn't know, if they don't want to pay...

Chair Parkins stated that they want them to hire an off-duty policeman for traffic control.

Mr. Schultz responded that is a reasonable condition. Fire Marshal inspects structures, Police Dept. enforces the traffic.

Chair Parkins asked that it be noted that the Commission wants them to hire an off duty police officer and next year they need to look for a location downtown.

Comm. McGorty commented unless this location is empty by then.

Chair Parkins stated that hopefully, there will be a new development there. Even if it is empty, it is still not conducive to having that event there. She asked for a motion to approve with those conditions.

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was voted (5-1) to approve Separate #6835 with the noted conditions. Comm. Harger voted in opposition.

SEPARAT E#416: NANCY'S TREE PLANTING, 159 BPT. AVENUE, TEMP. STORAGE

John Todis, representing Nancy's Tree Planting addressed the Commission. Mr. Todis stated that he was seeking temporary approval to screen the top soil that he has on Bridgeport Avenue and sell top soil and mulch. He has done this for many years and in the past he has kept the place clean. He indicated that he has a garden center across the street. Mr. Todis stated that he heard from Rick Schultz that one of the Commissioners said that he was bringing mulch into the lot prior to being approved and that has not happened. This is mulch, on the lot right now, came from the trees cut down on the top of the hill from Roger Spinelli's development which is now put on hold. Mr. Todis stated that he wanted to clarify that issue.

Mr. Schultz clarified that Roger Spinelli owns the property and the Commission has received a letter authorizing this activity if the Commission should act favorably on it. He received two letters of support from Blanchette's Sporting Goods and from David Welton, 151 Kneen Street.

Comm. Harger asked what this had to do with Blanchette's. It is across from Chaves Bakery.

Mr. Todis stated that he was across the street from Chaves Bakery. He brought in a photograph to show the Commission what it looks like.

Comm. McGorty commented that it was next to Ari's and Shelton Auto Parts.

Chair Parkins commented that isn't what this picture is though.

Mr. Todis indicated that it was a picture of a nursery he had on Bridgeport Avenue before.

Comm. Tickey asked if he would have any trucks going back and forth, taking mulch in and out.

Mr. Todis responded yes, there will be trucks coming in and out; hopefully, if there are customers. Right now he has about 500 yards of top soil on the site; the screener has been put in position for a long time - like 5 years. He didn't want Roger to get into trouble for not having approval so he pulled back on everything.

Chair Parkins asked if he had equipment there too though.

Mr. Todis responded that it is sitting but it has been sitting for 5 years and he would like to move that because sooner or later Roger is going to try to develop this site which is a no-brainer. The material that he has on the site right now has got to be moved somewhere. He wants to move the pile of top soil that he has.

Comm. Harger asked how much of the cliff he had been clearing recently.

Mr. Todis responded that the ramp that they see there now was for the air track to get up on top to do test holes which were never done but the lot is cleared for an air track to blow that mountain out of there. There are two or three things happening on this site but as present he doesn't think that Roger is in the process of doing this development but there is 7,000 square foot building that is going to go into that site at some point.

Comm. McGorty asked if people were going to come purchase there or is he just storing it and processing it and bringing it to where it is needed.

Mr. Schultz stated that there would be no public coming there.

Mr. Todis responded no, just his son and him there.

Mr. Schultz stated that this is a Commercial CB-1 which allows contractor business and storage area and he asked Mr. Todis how long he would need to be there.

Mr. Todis responded 3 ½ months – the season is over on July 4th.

Mr. Schultz indicated that the hours of operation would be 9 a.m. to 3 p.m. Monday through Saturday with two employees.

Chair Parkins asked if his screener and the equipment were going to be there as well.

Comm. McGorty stated that it is there and it has been there.

Chair Parkins responded OK because she doesn't travel there that often.

Mr. Todis added that it has been sitting there for a long time and he'd like to screen that pile off. He wants to make a couple of bucks off of it.

Chair Parkins asked if when it was gone he would be out of there.

Mr. Todis responded yes.

Comm. McGorty asked if there should be silt fencing around it to make sure

Mr. Todis responded that there is no erosion. He has been doing the same thing for 7 or 8 years and he never had a problem.

Chair Parkins commented that there was sidewalk in front of that.

Mr. Todis responded that he never had a problem with that and it was always clean. He never received even one complaint.

Mr. Schultz asked him what he could put around the perimeter of it along Bpt. Avenue.

Mr. Todis responded that what he would like to do is put the piles of woodchips that are there, he would like to make a berm out of it.

Chair Parkins commented that would be a good idea to keep the sidewalk clean.

Comm. Harger asked if he was going to continue to clear.

Mr. Todis responded not until Roger gets approval. He has to do a site ...

Comm. Harger asked where the material was coming from that he was screening.

Mr. Todis responded that the material came from Chaves across the street when it was being built. He moved it across the street and stockpiled it but then the economy got bad so it has just

been sitting there. He commented that maybe this year would be different and people will buy some material and move the pile off. He asked for approval and he doesn't want Roger to get into trouble.

Chair Parkins asked for a motion to approve.

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to approve Separate #416 for temporary storage.

Chair Parkins continued with the add-on Certificates of Zoning Compliance, Separate #6829.

SEPARATE #6829: YA YA NATURAL SPA, 194 LEAVENWORTH ROAD, BUSINESS

Mr. Schultz indicated that this business would occupy the balance of the building where the former bookstore was located in White Hills Plaza. It would be 2,200 square feet, four employees, hours of operation 9 a.m. to 5 p.m. 7 days a week. No signage requested at this time.

Comm. McGorty asked what else was in there because he mentioned it was the balance of the building.

Comm. Harger responded that it was Bob Boroski's Art School. She asked what they were going to call this place.

Mr. Schultz responded it was called the Ya Ya Natural Spa.

Comm. McGorty asked if it was a nail salon.

Atty. Dominick Thomas representing the landlord confirmed that they just finished the lease negotiations.

Chair Parkins stated that she will assume that the landlord will make sure that there is ventilation especially with people painting next door because they don't want them to be asphyxiated by the smell of nail lacquer. She asked Staff to make a note of that.

Atty. Thomas responded that they are going to do improvements to the property and they have to go to P&Z and the Building Dept. for their improvements.

Chair Parkins asked if he was representing the nail salon.

Atty. Thomas responded no, he represents the landlord. They instructed the people signing the lease today that they had to take this procedure and also the ...

Comm. McGorty asked if there were State rules regarding the ventilation issues.

Atty. Thomas responded that he didn't know about that.

Chair Parkins stated that sometimes with the nail salons, their ventilation consists of opening the front door and back door and that is not good enough because the stuff is pretty potent.

Comm. McGorty commented that there must be something regulated with the Health Department for it.

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to approve Separate #6829.

SEPARATE #6828: MATT CALANDRO, 100 CENTER STREET, OUTDOOR PATIO

Matt Calandro, business owner for 100 Center Street, Shelton addressed the Commission.

Mr. Calandro indicated that he was looking to add on a patio to the front of the building as well as the side as they can see from the drawing. He stated that in the front of the building, there

would be very few tables, probably two tables in the front and 5 to 6 tables on the side. On the last page of his application he explained the layout.

Comm. McGorty commented that he was fortunate to have that nice wide walkway out to the front.

Chair Parkins indicated that Matt came before the Downtown Subcommittee.

Mr. Schultz stated yes, this is as a result of the DSC.

Comm. Tickey commented that it looks great.

Chair Parkins asked if the smoking area was to the left if you're facing the building.

Mr. Calandro responded yes and added that anything to the right of the double doors would be "no smoking."

Mr. Schultz indicated that this has evolved because of the amount of time that the Committee put into it.

Chair Parkins stated that fortunately, Matt is one of the owners down there that actually has additional sidewalk space and isn't encroaching into the City right-of-way on the sidewalk.

Comm. Pogoda asked about the umbrellas and if they would have one solid color with no advertising.

Mr. Calandro responded yes.

Comm. Harger asked about the oval, wavy signs.

Mr. Calandro responded that they were gone.

Comm. Harger stated good because those are the ones that get tattered and faded.

Mr. Calandro commented that they do have new signs coming. They have to change the name.

Chair Parkins asked if they had a new name yet.

Mr. Calandro responded no, unfortunately, they signed settlement agreement two weeks ago and they are working diligently to figure out something unique and trendy. He indicated that he hopes to have something in a couple of weeks.

On a motion made by Jim Tickey seconded by Thomas McGorty, it was unanimously voted to approve Separate #6828.

Chair Parkins asked Rick Schultz to explain the add-on Separate #6832 and what they wouldn't really be acting on for Todd Road.

SEPARATE #6832: MONACO CONSTRUCTION, 20 TODD ROAD, TEMPORARY SALES AND STOCKPILE

Mr. Schultz stated that today he received an application for a Certificate of Zoning Compliance #6832 at 20 Todd Road which is Professional Tire. Professional Tire authorized Monaco Construction, who is leasing space on Oliver Terrace with Winter Bros. for the stockpiling and sale of mulch. They were given the green light to bring in hundreds of concrete blocks to create separators.

Chair Parkins asked if they were given approval by Professional Tire.

Mr. Schultz indicated that Professional Tire, unfortunately, used to be zoned CB-1, like with the last application for John Todis but they zoned it to restrict business and elevated the uses. This is

no longer a permitted use. Monaco Construction needs three months. They are buying property in Monroe and because it is not a permitted use, it would take at least three months to take action. He suggests to the Commission insofar as this is an enforcement matter...

Chair Parkins asked if it was there already.

Comm. Pogoda responded yes, it's there already.

Mr. Schultz stated that yes, it happened quickly.

Comm. Harger asked when it came about.

Mr. Schultz responded that Staff found out late Friday and he went up there this morning. They are in dire straits because they are going from Point A to Point B with "B" being Monroe but they need three months to facilitate their operation. The owners of Professional Tire have assured the Commission and Staff that they will be out of there. He has to issue a Notice of Violation with the understanding that the use is not permitted. He had to inform the Commission because he received an application. It is not a permitted use.

Chair Parkins stated that it is not a permitted use but they are going to do it for three months.

Mr. Schultz stated that if they take action...

Comm. McGorty commented that he didn't think they could and they are going to do it...

Mr. Schultz stated that they can direct Staff to take action but it is going to take more than three months and they will be out of there.

Chair Parkins stated not if they give them a Cease & Desist Order it isn't going to take them 3 months.

Mr. Schultz stated that his office has to do that.

Comm. McGorty asked what they would vote on.

Chair Parkins responded that is why Rick took it off.

Mr. Schultz added that he can't stop an Applicant from coming in and filling out an application but it is not a permitted use.

Comm. McGorty stated OK, so Staff is taking action.

Chair Parkins asked if they were going to allow them to do this for three months when it is not a permitted use.

Mr. Schultz commented that they could give them...he wasn't sure what a reasonable period of time would be.

Chair Parkins responded 30 days.

Comm. Dickal agreed that was reasonable.

Comm. Pogoda indicated that he already has the concrete blocks there and set up the wall. He added that he was there today. He indicated that they have done the grading of the property.

Mr. Schultz stated that when it comes to Cease & Desist, the Commission has the final say.

Chair Parkins stated that they can't allow one person to do it and then tell somebody else that they can't.

Comm. Pogoda indicated that Professional Tire went and did it on their own.

Mr. Schultz commented that they were thinking of the old zone. Professional Tire has been there for 40 years, CB1, same as Bridgeport Avenue but they elevated that zone because they don't want those uses on Bridgeport Avenue.

Chair Parkins reiterated 30 days was sufficient.

Comm. Harger asked how long it took them to move in the blocks and everything.

Mr. Schultz responded that it went in there real quick.

Comm. Harger commented that then they could move them out real quick.

Chair Parkins agreed that if they got it moved in one day then they can get it out in 30 days.

Mr. Schultz stated that Staff knows what they have to do.

Chair Parkins moved on to New Business.

NEW BUSINESS

APPLICATION #14-6: DOMINICK THOMAS FOR MINOR MODIFICATION OF FINAL SITE DEVELOPMENT PLANS FOR PDD #76 (BUILDING AND PARKING RECONFIGURATION), 740 BPT. AVENUE (MAP 19, LOT 56), TALBOT PARTNERS, LLC: ACCEPT FOR REVIEW, DISCUSSION AND POSSIBLE ACTION

Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission. Atty. Thomas indicated that this application has been proceeding through the various approvals at the State level and now it is ready, as it approaches the time for construction and those entities that are going to be participating in the construction, marketing and everything have taken a look at it. After some consultations amongst the Applicant and VHB and after work sessions with Staff and the Chair, they are presenting what they believe is a minor modification to the Final Site Development Plans. It will affect the buildings and the parking but the buildings are not being relocated and it also will provide several enhancements.

Atty. Thomas stated that one thing they should note, especially those commissioners that weren't a part of the initial approval, is the fact that the garages are going to be replaced with other parking. He's always ready to let the Commission know when it is correct – and at a previous point that was made was about the garages being used for storage and not cars – he explained that one of the Commissioners had mentioned that comment about that possibility with these types of garages. He added that in taking the advice of the Commission, they are moving in that direction. It allows them to create a more landscaping and green in the front of the buildings as they will see in the presentation. He introduced Pat O'Leary from VHB.

Patrick O'Leary, VHB, 100 Great Meadow Road, Wethersfield, CT addressed the Commission. Mr. O'Leary indicated that what is precipitating the modifications is actually removing the garages from the six buildings that are around the perimeter of the site. He provided renderings of the elevations of the site that were presented during the PDD/Site Development Plan approvals.

Mr. O'Leary commented that they can see in the newer elevations building style is staying very similar architectural relief provided across the materials very similar in nature but the garage doors are being eliminated across the front of the site which were all on the street side as they look at the site plan. As a result of eliminating the garages which account for 72 parking spaces, the needed to replace those 72 parking spaces to maintain the appropriate parking ratio of 2.0 on the site. To explain the first element in replacing those parking spaces, he showed the original approved site plan with a double bay of parking across from Building #4. He indicated that they pushed back slightly in that area about 18 feet and were able to add another row of parking there which took care of the lion's share of those parking spaces that were lost. In addition they went to another portion of the site, pushed the wall a little bit closer to the property line to pick up another portion of parking and finally there were small island areas around there where they picked up individual spots.

Finally, in looking at the site plan, there were 12 parking spaces in front of each building immediately in front of the garage – they were tandem in nature with a garage and then a parking space in front of it in which cars could be swapped back and forth. He commented that was eliminated but they were able to change it from having 12 spaces in front of the building to having about 18 spaces in front of the building.

Mr. O’Leary indicated that they have maintained the exact same parking ratio that was there from the original site development plan. In the new plan they have 405 parking spaces out there and they are still deferring 60 parking spaces for the site. The original site development plan deferred 72. They are actually creating a few more surface parking spaces as they modify the site plan.

Mr. O’Leary stated that they looked at the plan and it is moving into the construction level now, they have added some more amenities associated with the site including a sidewalk going through the green area with some additional landscaping. Because of the change to the internal layouts of the buildings themselves eliminating the garages, it has allowed the developer to reconfigure those buildings. In looking at the site development plan they had to have sidewalks all along the backsides of the buildings there; they have been able to eliminate those so now they are additional entrances on the front sides of the buildings so they don’t need those sidewalks going across the back of each buildings.

He added that in conjunction with removing the garages, the buildings have become a little bit smaller so they aren’t necessarily losing a significant amount of green space by adding on this parking here because actually the buildings are getting smaller and they are eliminating the sidewalks around the periphery of the building so they are generally around the net zero and aren’t creating significant increase in the impervious area.

Mr. O’Leary commented that when they reviewed the plan initially, there were suggestions from Staff and the Chair to look at this area and make something more prominent in this area; with the additions of the sidewalk through there, it made sense to add a gazebo element for people who are utilizing the pool and utilizing the green scape out there. They have incorporated brick paver walking areas around it and landscaping.

A few other minor changes made were related to operational issues which were concerns of the Commission with respect to trash. In the past they showed one trash receptacle located at the far corner of the site. It was identified through the marketing process and in beginning to develop construction documents for the site, that it would be necessary, if they really wanted to keep the site clean, to have more trash receptacles so people wouldn’t have to walk as far. To that end, they have added two more trash receptacles to cut down those walking distances. He indicated that the comments from Tony Panico were to relocate this trash receptacle from this side over to the other side and they don’t have an issue with that. The only reason that they had the receptacle there in the first place was to facilitate the trash truck but it will still be able to get in there at get it even if it is switched over.

Mr. O’Leary discussed a few additional site amenities being proposed at this time including an electric car charging station. He showed the proposed location for that station by the clubhouse and pool. He pointed out the location of the bike rack program, area for sculptural elements in front of the clubhouse itself and stone dust trail that they previously talked about. He commented that they think these changes are very minor and they’ve read the comments from Tony Panico and don’t have an issue; they are happy to comply with them. They hope that the Commission will be able to approve these changes this evening as a minor modification to the site development plan previously approved by the Commission.

Chair Parkins stated that he had indicated about the deferred parking and asked him to clarify the areas it would be deferred to.

Mr. O’Leary addressed the deferred parking plan which is included in the packets. He reviewed the location and explained that it would be parking that would be the least useable if necessary in the future for visitor parking or something of that nature. Mr. O’Leary stated that in addition, a number of the landscape islands scattered around the site on the periphery edges have been

bigger so that they could provide more landscaping. He noted that they will see scattered around on the deferred parking plan, many islands can be removed in edge end caps – by taking 9 feet off of them to provide additional parking spaces.

Mr. O’Leary stated that if they look at the difference between the plans that are in the packet, there are 72 deferred parking spaces that were approved under the original parking plan with a total of approx. 465 parking spaces. They are maintaining the exact same count from a parking perspective but they are only deferring 60 spaces under the new modified site plan. They are actually going to have 12 additional parking spaces that are associated with the surface parking the way it is laid out now.

Comm. Harger stated that on one of their plans they have a notation about dog walking.

Mr. O’Leary apologized that he missed that and commented that they are providing a dog walking area up in the back in the proximity of where the deferred parking is. They have to provide a path for maintenance purpose going up into the detention/retention areas up there. It seemed an appropriate area so not to have dogs walking in the area for recreation which is down below and to allow an opportunity for people who do have the animals to get, what he considers, offsite behind the deferred parking. There will be a pathway going up to maintain the basins there and it seemed like the most appropriate area for a dog walking path. They are providing signs to identify it so that people will be directed up there to walk their dogs.

Comm. Harger asked if it would be a fenced in area.

Mr. O’Leary responded no it is not a playground, just an area for people to go and walk their dogs.

Comm. Harger asked if they were going to provide any stations that might have “doggy bags.”

Mr. O’Leary responded absolutely they would provide one up at the end of the trail.

Chair Parkins commented that they had talked about having that near the trash cans so that people would be more inclined to pick up after their dogs and throw it away.

Atty. Thomas indicated that they could provide cards with directions to the beautiful Shelton Dog Park.

Comm. Tickey asked about the modified site plan with the new parking to the right as you come in and if it could still accommodate a fire truck and fire lanes.

Mr. O’Leary responded yes, absolutely.

Comm. Tickey asked where the fire lanes would be.

Mr. O’Leary indicated that in the comments from the original plan, the Fire Marshal wants a two foot strip maintained all the way around the site wherever there isn’t parking. He showed the areas along where they would be providing that two foot strip with signs stating “Fire Lane – No Parking.” The concern was – he commented that parking was a long discussion associated with this application - and the Fire Marshal was concerned that people would come into these areas and parallel park along the side of the road. By virtue of incorporating the head-in parking up front, people cannot parallel park there any longer so they don’t have that striping associated with the fire lane there. He showed the areas where it would be continued down and other areas around the site, such as in front of the islands, where people may parallel park; it will be striped with no parking signs in those locations.

Comm. Tickey responded that was the only island he sees and asked what other islands don’t have parking in front of it.

Mr. O’Leary pointed out a couple of the other islands where they would be applying the striping and no parking signs. He reiterated that in the front area there is no longer a need for it because of the head-in parking; people obviously won’t park on the backside.

Chair Parkins commented that the addition of that parking makes it convenient for anyone who may be having a get together at the clubhouse there to have convenient visitor parking right across the street.

Atty. Thomas commented that these are modern, sprinklered buildings.

Comm. Harger asked what would take place in the interior where the garages had been.

Comm. McGorty asked them to put the front elevation renderings back up – the before plan and the proposed plan.

Chair Parkins stated that they have added two lobbies now.

Comm. McGorty asked if it would be a foyer or type of entrance where the garages used to be.

Chair Parkins stated that they reconfigured some of the apartments as well.

Comm. McGorty asked if they made them larger.

Chair Parkins responded yes, they made one-bedrooms instead of studios.

Mr. O’Leary stated that they were going to have three entrances which will go into hallways with signs directing people to the apartments and/or the provided elevators.

Comm. Harger commented that she didn’t understand their direction of eliminating the garages. She indicated that she thought that took away from what the building has to offer. On a rainy day with a car full of groceries, lugging them across the parking lot is not optimal.

Chair Parkins stated that these were only one car garages for the basement apartments only; not everyone in the building has the garage. It isn’t an underground garage.

Atty. Thomas indicated that these were amenities for specific units and the marketing basically indicated that they had a tendency, in other locations, not to be used for parking and it was not worth it given the design of the building. He added that there had been a comment that the garages actually took away from the ability to landscape the front of the buildings more because they couldn’t landscape in front of the garages. Now they have the ability, even though there is parking but in front of it there would be a little more greenery. He added that marketing is often what dictates these little tweaks that have to be done at construction time.

Comm. Harger asked for clarification on the number of units on the first floor.

Chair Parkins responded 228 units. There would only be 12 units that have garages out of 38 total units in each building; only 1/3 of the apartments would have had the garage.

Comm. Harger indicated that she just didn’t like outdoor parking herself.

Chair Parkins responded that if they were condos she would agree but these are apartments. She added that she didn’t know of many apartments with garages although some of the apartments for Avalon on Bpt. Ave. do have them but they are more of a townhouse style.

Atty. Thomas commented that he was shocked about the Avalon Downtown charging extra to park in the parking garage.

Mr. O’Leary stated that it eliminates a lot of the past Commission’s concerns here because the tandem parking was a big concern a year ago.

Chair Parkins responded, yes they don’t count the tandem parking.

Mr. O’Leary indicated that there were concerns about having the garage and the car in front of it so they essentially got rid of that problem and it doesn’t exist anymore. There won’t be any husbands and wives arguing with each other in the future about who has to park on the rear side.

The parking is out front and they were actually able to increase the surface parking a little conveniently in the vicinity of the clubhouse which had also been a concern for the Commission last time. He commented that hopefully the modifications have evolved with the modified site plan. As they move through they are picking up on some of the concerns that the Commission expressed in the past evolving the project to be better as they approach the construction side via the comments they have provided and the people from the operational side.

Comm. Harger asked if there was any consideration during any of the design stages for the ground level to be an open garage that services the whole building.

Chair Parkins asked if she means covered parking.

Mr. O'Leary responded that it doesn't make a great deal of sense; there are places where that will work but they have topography out here that adds to the aesthetic qualities by being able to differentiate the buildings, change the elevations of them. It doesn't lend itself well to that type because to be efficient, you have to be able to get in and out the opposite side and they are going into rock.

Comm. Harger responded OK, as long as there was some consideration given to it during the whole process.

Chair Parkins stated that Tony Panico provided a memorandum to Rick Schultz which was just handed out. She read it into the record recording Mr. Panico's thoughts on the proposed modifications for PDD #76.

***See attached memorandum to Richard Schultz from Anthony Panico, P&Z Consultant dated April 7, 2014 regarding Application #14-6 for Talbot Partners LLC Proposed Modifications to PDD #76 on 740 Bridgeport Avenue.**

End of Tape 1B, 8:34 p.m.

Chair Parkins stated that the Applicant is seeking minor modifications to the previous approved plan.

Mr. O'Leary stated as a side note that all of the bulk criteria are essentially staying the same for all intents and purposes. They are maintaining their 400 foot setback to the buildings from Bridgeport Avenue, side yards and rear yards are being maintained. The earth work that was approved as a part of the grading plans in the original plan essentially stays the same. They aren't changing anything with respect to raising or lowering any buildings. The only small portion of earth work that is actually being increased as a result of their modifications is one small area (he showed the area) which they will be moving 18 feet over into the ledge to pick up those parking spaces. They would assume the approvals consistent with the original site plans regarding the dimensional criteria as well as the earth work would be applicable to the modified site plan.

Chair Parkins asked if all of the rubbish containers would be enclosed.

Mr. O'Leary responded yes they are enclosed with the details provided in the original documents for the original dumpster and the other two as well.

Atty. Thomas added that all of their prior conditions that don't conflict with the modifications are still in effect.

Chair Parkins asked if there were any other questions from the Commissioners. With no questions, she asked for a motion and a second.

On a motion made by Thomas McGorty seconded by Nancy Dickal it was unanimously voted to accept Application #14-6 for review.

On a motion made by Jim Tickey seconded by Thomas McGorty, it was voted (5-0 with 1 abstention) to accept the Minor Modification of Final Site Development Plans for Application #14-6 with the noted modifications. Comm. Pogoda abstained from voting.

Comm. Pogoda indicated that he was abstaining because he originally voted no on this project.

Chair Parkins asked the Applicants when the shovel would hit the ground.

The Talbot Brothers Applicant (name inaudible) responded that it would be as soon as the State of Connecticut gives them a permit for State Traffic. They've been waiting more than a month.

APPLICATION #14-7: JAMES R. SWIFT, P.E. FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS FOR PDD #35 AND DETAILED DEVELOPMENT PLANS (PATIO ENCLOSURE FOR IL PALIO RESTAURANT), 5 CORPORATE DRIVE (MAP 28, LOT 8), DAMY MANAGEMENT, LLC: ACCEPT AND SCHEDULE A PUBLIC HEARING

On a motion made by Thomas McGorty seconded by Anthony Pogoda, it was unanimously voted to accept Application #14-7 and schedule a public hearing for Wednesday, April 23rd.

APPLICATION #14-8: RIVER'S EDGE OF SHELTON, LLC FOR PDD ZONE CHANGE, FINAL SITE DEVELOPMENT PLANS (14-UNIT CONDOMINIUM COMPLEX), CAM SITE PLAN AND REVISION TO FUTURE LAND USE CATEGORY OF THE 2006 POCD, 500 RIVER ROAD AND 41 FANNY STREET (MAP 54, LOTS 33 AND 42), IA-3/R-3 DISTRICTS: ACCEPT AND SCHEDULE A PUBLIC HEARING

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to accept Application #14-8 and schedule a public hearing for Wednesday, May 28th.

APPLICATION #14-9: WONDER YEARS LEARNING CENTER FOR SPECIAL EXCEPTION SITE PLAN APPROVAL, CHILD DAYCARE CENTER, 60 TODD ROAD, IA-2 DISTRICT: ACCEPT AND SCHEDULE A PUBLIC HEARING

On a motion made by Thomas McGorty seconded by Nancy Dickal, it was unanimously voted to accept Application #14-9 and schedule a public hearing for Wednesday, May 28th.

PUBLIC PORTION

Chair Parkins asked if there was anyone in the audience wishing to address the Commission on any item not on the Agenda.

With no public questions or comments, she requested a motion to close the public portion.

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

OTHER BUSINESS

APPROVAL OF MINUTES: 2/22/14 AND 3/11/14 (Tabled)

RIVER RIDGE CONDOMINIUMS: REQUEST TO RELEASE SEDIMENT AND EROSION CONTROL BOND AND SITE BOND

Mr. Schultz stated that the Commission has received a letter from Mr. Brian Kelly, President of River Ridge of Shelton Condominium Association to release the two bonds currently being held associated with the River Ridge Condominium Development located at 665 River Road. The two bonds are \$6,000 Cash Bond Sediment Erosion Control and Site Restoration and a \$14,000 Saving Passbook with a Letter of Assignment for the Site Bond.

Mr. Schultz stated that this request was sent to Ray Sous, Assistant Corporation Counsel for review and he indicated that the Commission can either call the bond if deemed necessary or

have both parties work out a solution. The Developer of the property is represented here to address the Commission.

Mr. Schultz stated that they have a request from the Condo Assoc. for the Commission to call the bond because of work to be done. He referenced their letter dated March 21, 2014 addressed to Rick Schultz to request that the City of Shelton call the construction bond in the amount of \$20,000 that was set aside for completion of the residential construction project at 665 River Road known as River Ridge Condominiums. The funds are required to apply final paving at their development for which they have received quotes in the \$35,000 to \$45,000 range. They would be happy to provide quotes, if required. Mr. Schultz indicated that this is the letter that the Commission received and he sent it to Asst. Corporation Counsel. All parties were made aware of it.

Chair Parkins asked if they did not finish paving the complex before turning it over to the Association.

Mr. Schultz responded yes, that's right. It is a work in progress. He asked Atty. Thomas to address the Commission's questions.

Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission representing the Developer, CB Associates. Atty. Thomas stated that the reason that the front portion, the final course was not put on was because there are six approved units in the back with the utilities extended. Obviously, the impact of the Recession hurt this and there was a substantial amount of give and take between the developer and the then-mortgage holder. The bank that was involved at that time, USA Bank went under and was turned over by the FDIC to a "bank" from Pennsylvania called Customer's Bank. They have an individual there who was almost impossible to negotiate with. At some point the Bank made an effort, to what he considers almost distort money from the Developer.

Atty. Thomas indicated that he became involved in the foreclosure and they offered them the property. At that point, they did something that Judge Moran, who has been a lawyer and a judge for numerous years, said he has never seen anybody do, they withdrew their foreclosure count and sued on the note. After litigation took place, they reached an agreement to give them a judgment of a certain amount. After they gave them that judgment, the agreement on the record with a very knowledgeable attorney from Murtha Cullina (a very large firm) basically was that the Association that is involved here was going to foreclose on 5 units (2 completed and 3 partially completed) for condo charges. They all agreed that they would not oppose the strict foreclosure, the bank would get title and they would go to court in this other case and argue value which they did do. The Judge sided with Atty. Welch, representing the Condo Association and himself, representing the Developer as to what the value was of those 6 units which was tantamount to then settling the judgment. There was a judgment which was basically paid off by the 6 units.

For some reason that he in 40+ years of practice cannot understand, they chose, despite the fact that the agreement was clear, to challenge the fact that that is what was to happen – that it really wasn't the 6 units of value that they had to now go and sell the units. They sold the 3 units, the bank sold the 3 units at a ridiculously low price and now they are trying to claim that they can go back. To make a long story short, this matter is now at the Appellate Court level waiting for a pre-argument conference. The reason that the final course of paving was not done is because of the back property and they didn't want construction vehicles going over it. The reason that nothing is being done right now is because of Customer's Bank. So, Mr. Kelly, if he has an issue should be talking to Robert White of Customer's Bank – that is the person who is holding it up for what amounts to a frivolous reason.

Atty. Thomas stated that second of all, their bonds, and he has said it before, this is private property and has nothing related to municipal improvements. The Statute, which was amended recently, to make it very clear is that bonds are only for municipal improvements to be turned over to the control or ownership of the municipality or for soil erosion, sediment control and site restoration. The language of the bonds really both refers to soil erosion and sediment control and site restoration. He added that he doesn't think that fits into it. Regardless of the point, rather than getting into an argument over what the bonds are to be used for, if there was not this

frivolous appeal taking place, the five units in the back would probably be sold to another developer, the development rights to the six units, finish them and pave the property. He reiterated that it was the bank that was holding it up.

Atty. Thomas stated that his position is there can no calling of the bond and if there is, they would have to oppose that.

Chair Parkins stated that site development to her would include paving to make it complete. Site development is when everything is complete. If you walk away from a project that is what the bond is for – to either restore the site or finish it.

Atty. Thomas responded that there is no such bond – there is...

Chair Parkins stated site development.

Atty. Thomas responded that there is no ability in the Statute to do the bond. He indicated that they could look at 8-3.

Chair Parkins commented that he mentioned Site Restoration.

Atty. Thomas responded that Site Restoration is what is known in colloquial terms as a Top Soil and Seed Bond.

Mr. Schultz stated that it is for going back and stabilizing it.

Atty. Thomas commented that it was to stabilize the property. He added that this wasn't to stabilize the property. This is a condition that could potentially be treated by some sort of a Cease & Desist to complete a certain condition; however, they cannot do it while the litigation is pending. Whether it is the Developer or the person that the Developer would transfer the development rights to, the litigation is pending which they believe is purely, utterly frivolous on the part of the bank upset with the fact that their judgment was paid off by the value of the five units. He added that is exactly what they were – just angry at that.

Chair Parkins asked if any of the unit's owners were responsible for causing this situation.

Atty. Thomas responded no.

Chair Parkins commented that they aren't involved in this. This is basically between the original developer and the bank and whatever transpired and the unit owners are caught in the middle because they are going to have to pay out of pocket to finish paving. She asked if that was correct – yes or no.

Atty. Thomas responded if in fact there was not this frivolous appeal, there are people willing to buy it. If the people bought the development rights to the back they would have to pave, once they finished, they would pave, put the entire course on the entire site.

Comm. McGorty asked what zone this was.

Mr. Schultz responded Planned Development District.

Comm. Pogoda asked how long these people had to wait to get this thing paved. He added that this could go on for years.

Atty. Thomas responded that it wouldn't go on for years.

Comm. Pogoda stated that it has been going on for years so...

Atty. Thomas stated that it was at the Appellate Court level so they have no other appeal beyond this.

Comm. Pogoda stated that he could see where they are coming from if they are driving on a substandard surface – again, he hasn't been there...

Atty. Thomas stated that final course hasn't been put on but they are talking about off-road conditions.

Comm. Pogoda stated that he goes by there and he knows and the idea of prolonging this for years and for how much longer.

Chair Parkins asked if Ray Sous made a recommendation.

Mr. Schultz responded very loosely; he said that if the Commission feel compelled to call the bond and see where it goes, so be it but he confirmed that it is still under litigation and as Dominick stated it is going to the Appellate level.

Chair Parkins stated that when he says "call the bond" she doesn't know that they necessarily want to call the bond but she doesn't necessarily know that they want to release it so...

Mr. Schultz stated that first and foremost, all parties are aware so the Association initiated it – requesting the Commission to do something specific.

Chair Parkins stated – and they are requesting for them to call it.

Mr. Schultz responded yes, the two separate bonds. He made a referral to Corporation Counsel because this is a legal matter and now they are hearing from the prior Developer.

Chair Parkins stated that she just hates to see the unit owners get stuck with this situation.

Atty. Thomas responded that they haven't gotten "stuck" with it yet.

Chair Parkins commented well, if they have to come up with \$35,000 to finish paving then they are stuck with it.

Atty. Thomas responded no, not ...potentially, he is telling them that if there was not this frivolous appeal by this person and the back development rights were sold to a developer, the developer would finish the units.

Chair Parkins asked who owns the back lots now – the bank.

Atty. Thomas responded no that is what the bank's problem is, the bank was offered the entire site to take it over, release the lien and they refused – and he can't explain why because it is crazy – so now, after the litigation ended, the Developer, his client still owns the development rights. The Bank President and the lawyer from Murtha Cullina stood in court before the Judge and stated that they knew what the agreement was but now they have gone back on it. If it were sold, their understanding was that they would sell it to a developer. The development rights expire sometime in 2015 or 2106 that developer who would put up that final building would have to pave.

Chair Parkins asked why his client wasn't developing it.

Atty. Thomas responded that at this point, he doesn't want to.

Comm. McGorty commented that there was no demand for the front and he had all the units that didn't sell.

Chair Parkins (inaudible)...

Mr. Schultz stated that Staff doesn't feel comfortable making a recommendation because it is a work in progress.

Chair Parkins stated that she wasn't inclined to release this.

Mr. Schultz suggested tabling it and he will continue to work with all parties.

Atty. Thomas suggested tabling it and indicated that the Case Flow Settlement Conference will be set within the next month.

Mr. Schultz commented that hopefully there will be a resolution but he wants to let the Association know that the Commission is aware of it and it is a work in progress.

On a motion made by Anthony Pogoda seconded by Nancy Dickal, it was unanimously voted to table the Request to Release the Sediment and Erosion Control Bond and Site Bond for River Ridge Condominiums.

Chair Parkins asked Jim Swift, who was in the audience what agenda item he was here for.

Mr. James Swift, P.E. and Landscape Architect indicated that he was here regarding the Vista Apartments.

Mr. Schultz responded that they were already approved.

Chair Parkins indicated that she signed the drawings today. She asked him why he attended the meeting.

Mr. Swift indicated that his client's informed him that he needed to attend.

Mr. Schultz asked Mr. Swift to provide an update for the Commission.

Mr. Swift commented that they are going ahead - the building was not salvageable so they knocked it down and they will be replacing it in kind. He stated that they moved it one foot one way and one foot the other way with no impact.

Mr. Schultz noted that this was an as-of-right project, not a PDD and asked the Commission if they wanted to see any samples.

Mr. Swift commented that the architecture which this Commission approved is still in effect but instead of a façade on an existing exterior it will be brand new.

Mr. Schultz indicated that he would get samples because it was a major building.

Chair Parkins suggested that he take the signed drawings with him.

PAYMENT OF BILLS

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

STAFF REPORT

***See attached Planning and Zoning Staff Report dated April 8, 2014**

Mr. Schultz reviewed the P&Z Staff Report including issues such as the upcoming ZBA Applications, CT Siting Council, Zoning Subcommittee (Medical Moratorium update), DSC, ZEO Program and upcoming meeting schedule.

Mr. Schultz indicated that the Downtown Subcommittee would be held on Friday, 4/11 at SEDC and there will be an important presentation by the Matto family. They anticipate the Mayor will be in attendance.

ADJOURNMENT

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn the meeting at 9:15 p.m.

Respectfully Submitted,

Karin C. Tuke
P&Z Recording Secretary