

PLANNING & ZONING COMMISSION
 Public Hearing & Regular Meeting
 October 6, 2009

The Planning & Zoning Commission held a public hearing and regular meeting on Tuesday October 6, 2009 at the Joseph A. DePaolo Middle School. Chairman Zaya Oshana, Jr., called the meeting to order at 7:05 o'clock, p.m.

The following Councilpersons were present, viz:

Kelly Kennedy DelDebbio	Francis Kenefick
Michael DelSanto	James Sinclair
Dawn Miceli	Patrick Saucier
Zaya Oshana, Jr., Chairman	

Alternates: Dennis Vachon
 Steve Kalkowski
 Lisa Conroy
 Paul Chaplinsky

Ex-officio members present were as follows, viz:

Mary F. Savage-Dunham, Town Planner
 Anthony J. Tranquillo, Director of Public Works/Town Engineer
 Mark J. Sciota, Deputy Town Manager/Town Attorney
 John Weichsel, Town Manager

A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

The Minutes are summary style. You may refer to the audio or video tapes for more details.

ZAYA OSHANA, JR., Chair, presiding:

Approval of Minutes

Regular Meeting of September 15, 2009

Mr. Sinclair made a motion to approve which was seconded by Mr. DelSanto. Motion passed unanimously on a voice vote.

The Chair announced the Southington Drug Task will be holding its 19th Red Ribbon Rally on Wednesday, October 14, 2009 from 6:15 to 7:15 pm on the Town Green. The rain location is Derynoski. Everyone is invited to come and participate. Come together and people when they do come together can make a difference.

PUBLIC HEARINGS

Ms. Savage-Dunham read the legal notice into the record.

A. Mackiewicz Custom Homes, LLC, earth excavation application for the removal of approximately 178,000 yards of material for a residential development, Wet Pines Drive (Assessor's Map 154, Parcels, 2,5,9,10,11,12,13,14,15,16,17,18,19 & 20) EE #128.

(Those speaking in favor)

Stephen Giudice, with the office of Harry Cole & Son, representing the applicant presented. I'm here with David Buchholz who is sitting in the second row.

Gave a history of the application to-date. At the last meeting we had a lot of input from commission members, residents and staff. We went back to the drawing board and made revisions to the plan. I'll go through those with you.

We got the feeling the amount of earth we're proposing to move in this site was too great. A concern was what is this applicant's track record going to be. Mr. Buchholz will introduce himself and speak in a minute. He'll let you know who he is and what he's about.

In the meantime, I'll outline a few things we've done and what our new proposal will entail.

The biggest thing is we reduced the amount of material being removed from the site from 178,000 cy down to 27,000 cy. That was in response to feed back from the commission.

We are proposing to reduce the permit length from 2 years down to 1 year. This will give the commission a shorter timeframe to evaluate our performance and if there are issues you will know in that one year period.

Third, we propose to reduce the area of excavation to the areas that have already been cleared on the site. (Showed map) The reasoning is the parcel to the north where most of the activity is now proposed, is the existing subdivision that was approved, West Pines, Section II. That area, we need to generate material in order to complete that roadway. We'd like to complete the road improvements, start marketing the lots and get that subdivision underway.

The earth going off site is intended to generate funding to allow us to complete the road and bring the site into compliance with what was originally intended.

Discussion.

We will provide weekly status reports to the planning and engineering departments, as we testified last time.

Explained.

The faulty equipment on site, an excavator and some storage trailers, we don't believe Mr. Buchholz is technically the owner of those pieces. We're trying to find a way to remove those with the permission of the owner.

As far as remediation of contamination that possibly occurred from one of those pieces of equipment. We are in the process of retaining DES to take a look and see if there is any issues and if so, what might be done to remediate.

The reason we're coming back with this reduced application is we want to show you in a short period of time that Mr. Buchholz is a good businessman and a good neighbor and will run this operation cleanly.

Our intent is to move forward and find an alternative route for removal of the remainder of the material that won't have an impact on the abutting property owners. We are negotiating with owners for possible points of access.

We believe if we can move forward with this application, our next step would be to do additional survey and engineering work, have the wetlands on the abutting property flagged and we would make application for the conservation commission to explore that option.

This gives us an opportunity to do that engineering work. Allow the site to start getting up to par and allow us to establish a track record with the commission.

Dave Buchholz, Eastford, CT. Basically on this project, my nephew John, I was the banker and he was the contractor. I had no idea what was going on other than when he needed some money, we gave him some money.

I've owned three successful businesses. I've been semi-retired for 11 years now and this will be run as a first class operation. We are in the process of finishing the road right now. Chuck Breeze has been talking very closely with the town right now to make sure everything is in compliance. We are looking for approval of the lights that have to go into the system and hopefully by the end of the month if that's done the road will be finished on the first phase.

This will be run first class and to the rules and regulations you people set up.

Ms. Miceli asked about the number of trucks per day and truckloads per day.

Mr. Giudice said the roads referred to are Pine Hollow Drive and Sandy Pine Lane, part of the Pine Hollow Estates portion of the subdivision. That is the one the town called the bond and put down a binder coarse last fall. His intent is to complete the roadway. He has a contractor who has almost completed the sidewalks and shoulders and we anticipate doing the lighting soon and the road will be ready for acceptance by the end of the month.

Mr. Giudice said they were figuring 10 to 11 trips per truck per day, 3 trucks for one year, 50 weeks.

Ms. Miceli, with the weekly reports, if it didn't work as planned and if it was more than that, what would be our recourse? Is that where the weekly status reports would come in? Ms. Savage-Dunham explained the earth excavation approval is a special permit approval. If you approve it with conditions and the conditions are violated, then the commission could revoke the permit. We will be working closely with the applicant and if there is a problem out there, we would issue an issue Stop Work Order and bring it back to the commission for your review. Citizens would contact my office with any problems or violations with the plan.

Discussion.

Mr. Kenefick asked about starting times. Mr. Giudice said it was 8:00 am to 5:00 pm Monday thru Friday, no work on holidays. Mr. Kenefick asked if they would have a problem starting at 9:00 am instead of 8:00 am. Mr. Giudice said that is acceptable.

Mr. Chaplinsky asked about the other access point and when we would know about that. Mr. Giudice said hopefully soon. Probably take another three to six months to go through the engineering and approval processes. Are you proposing Phase I and Phase II or are you taking the entire property and reducing the overall proposed excavation for that entire parcel in its entirety, in other words, no future work? Mr. Giudice advised there is plans for future work on the property. We've reduced the area of the excavation to the northerly portion of the property, the area already disturbed on the parcel. Our intent is to come back at a later date, once we've explored the other options, and request the additional portion of the property.

Discussion.

There will be some variability as to weather conditions. Some days you may not be able to run trucks at all. Mr. Giudice said they'd like the flexibility to have three to five trucks, if you were

going to stipulate, that would be helpful. Maximum trips per week, or something.

The Chair said one of the issues was we went from the last application that had some issues; we started with a small earth excavation that grew into excessive mining of the operation to this application. We're now going on a very large excavation of the project.

What you're saying is you want us to see how you're doing as the owner and operator of this property. The intent is to still come back with 178,000 cy of removal, is that correct? Mr. Giuidce said it would be reduced by the 27,000. In total, it would still be the same.

We're still going to see the same issues with trucks going through the property and the discussion of the alternate route, how would it go. That's in the future. But we have to keep in mind the other access points, some conservation issues that need to be looked at. As you take the whole scope of the project, it looks like you are looking at some of the concerns that were brought up; long term there is no magic bullet to this process.

Discussion.

Discussion of how the construction will take place.

(Those speaking against the application)

Arthur Cyr, 103 Berlin Avenue. It concerns me for a couple of reasons why I'm against this tonight. Instead of coming in and shooting 178,000 this year, they're going to go for 27,000. Then they'll come back for another one. And, another one and one until they get their 178,000 cy out. That means that the people in the neighborhood could be looking at 3 or 4 years of earth excavation.

Discussion.

I noticed children getting off the school bus when I was there. I hope this commission never, ever, ever again approves any residential development anywhere in this town without sidewalks. There are now young kids coming down this street with no sidewalks.

Discussion.

Getting back to the earth excavation, that can be troubling for a neighborhood. Spoke about Hobart Street with Knight's Crossing.

I don't think the reason that the developer wants to generate is a reason for this commission to approve something before they have that secondary access to the south. They'll have to come up with a plan and go to the conservation commission. Is that a reason for this commission to give them 27,000? When they come back next year, it's going to be it's really not economically feasible for us to go through

because if they don't go through next year with that second access, then it's really not going to be economically feasible. Meanwhile, we've stuck this neighborhood with 5,000 to 9,000 trips. I feel that's wrong.

I ask you to look at this application with a very heavy hand.

Marcel Lessard, 75 West Pines Drive. Spoke against the excavation of the properties off West Pines Drive. Tonight I'm here to speak for all the residents on West Pines Drive. I would like to submit a petition that has been signed by all of the adult residents on West Pines Drive and I have the original and copies to give to your staff. (Submitted for the record)

Read the Petition into the record.

I hope you take our feelings and concerns into consideration and I don't want there to be any doubt about how we feel about the application in its current form and amended form.

Thank you.

Joe Palfini, 95 West Pines Drive. I would like to highlight one thing and that is the children walking up and down the street, 1500 truckloads, it occurs to me nothing has changed here except that we're asking for a small parcel of time rather than a large parcel of time.

We've endured hardship that we shouldn't have had to for a number of years. The applicant is requesting this, in my opinion, as a commercial venture to sell material and the people paying the price are the residents and the town.

It would make more sense to pursue the alternate means of agrees and if it costs money, that should be factored into the business plan as to whether or not it is a viable process to sell that material.

Discussion.

With an alternate access, there will not be further damage to the town road and the neighborhood can have the semblance of neighborhood life back.

Thank you.

(Staff communications)

Ms. Savage-Dunham referred to an email communication from Eric Semmel, 27 West Pines Drive supportive of building homes but not supportive of a gravel pit operation. This has been distributed to the commissioners.

That's all that I have

(Rebuttal)

Mr. Giudice said he was offended by the submitted petition. I think it's out of place and it makes accusations against my client that are completely false. I don't think it should be made part of the record. He said my client is responsible for things that happened at the site and that's not the case.

This is a new applicant. He wasn't involved in the day to day operations. He was the bank.

Discussion.

I don't think its right to put the petition out there and have the neighbors sign it with things that are untrue. I don't think it's fair to my client.

I understand the neighbors don't want this operation. We are trying to compromise with the neighbors and with the commission. Mr. Buchholz is brining the site into compliance with what the intention was.

Discussion.

Yes, we are trying to find an alternative route. We believe we have one. But for this commission to say no you can't do anything to him basically puts him on the hook with our other options.

Discussion.

West Pines Drive is a public street and we have the right to use it. We'll clean it and maintain it. We'll follow the procedures as outlined in the application. We have a right to use it just as much as the neighbors do. With or without this application, there will be vehicles going up and down West Pines Drive. We don't know why there are no sidewalks. The extension, Pine Hollow Drive now has sidewalks and future sections will have sidewalks. We can't make up for what happened in the past.

Really consider what we put on the table. We think it's a good faith effort. We are a good applicant. We are a good neighbor. We want to be able to explore this other alternative but we have to be able to bring the portion of West Pines Drive in compliance. And we would like to be able to export some material to do that. That's where I am.

We have to look forward.

Ms. Savage-Dunham asked Mr. Giudice to explain his intention to finish off Pine Hollow Estates.

Discussion.

Mr. Kenefick asked the Town Attorney: Like Steve says, he has the right to use that road as much as any of the neighbors do. How do we stand legally if this application is turned down? Attorney Sciota said he has subdivision approval in that area. Trucks can go up and down that road to build the homes and the roads, et cetera.

Earth excavation is an SPU and it is a separate application. And, it can be approved or not approved by this commission.

Discussion of reasons to deny in the regulations.

Hearing nothing else, the Chair closed the public hearing and moved on to Item B.

B. ZA #551, proposed text amendment to the Southington Zoning Regulations new Section 19- Moratorium.

The Chair advised the moratorium discussion is concerning a moratorium on introduction of new adult businesses into the Town of Southington. It does not actually discuss any particular applications for the Town of Southington --- any new or existing applications.

As the conversations or discussion goes tonight in terms of the public hearing, we are here to discuss the moratorium and not any application. When we speak our conversation is either for or against the moratorium or to discuss the moratorium itself.

Explained.

Our focus must be on that particular piece of regulation.

(Pause)

Ms. Savage-Dunham noted for the record, the matter before the commission is ZA #551 moratorium. At the direction of the planning & zoning commission, staff with the help of outside counsel has prepared a zone text amendment proposal with regard to adopting a moratorium for any new or expansion of existing adult uses within town. A moratorium is a zoning regulation amendment. The commission may adopt it for very specific reasons and for very limited durations of time in order to provide time for the commission or staff or its designee to modify regulations.

The courts do uphold moratoriums as long as they're clearly defined and for a reasonable term.

Read the language into the record. (On file in the Town Planner's Office)

As required, this has been referred out to regional planning agencies. It is ready for action should the commission choose to. It would be in place for 8 months from the effective date of adoption. During that time the commission would want to make any revisions or modifications to your regulations which would be an additional text change and be sure to have that adopted and effective prior to the expiration of the moratorium.

Read the letter from CCRPA into the record. (Record on file in the Town Planner's Office.)

I'm happy to answer any questions.

(End of Tape #1, Side A)

(Beginning of Tape #1, Side B)

(Continued reading the letter from CCRPA)

No questions for the Planner at this point.

(Those speaking in favor of the application)

Arthur Cyr, 103 Berlin Avenue. I speak in favor of this moratorium proposed. I feel it is necessary for this town - to give it some breathing space. Discussed the zoning regulations.

The fact there will always be different interpretations of the regulations was discussed.

I think the regulations were written pretty tightly. We just found someone who has a different definition and interpretation than the people in Southington.

Patricia Hackett, Dawn Lane. I am in favor of this moratorium. However, it will not affect VIP or any other business which states that they are not an adult oriented business. So I am not sure what the purpose of the moratorium is.

Discussion.

I feel that our current language is clear. I think we need to enforce the regulations we have.

(Applause, applause, applause)

She spoke about VIP and the Chair reminded the Speaker the focus is the moratorium.

I am in favor of the moratorium and would love to hear more about it.

Attorney Sciota explained this moratorium has a zero base and what that means.

Victoria Triano, Belleview Avenue. Absolutely, I think our regs are fine. I do believe that we were all under the assumption that we were protected and that was not the case, obviously.

I would ask you all to consider a moratorium. A time to review the regulations and to clear up any language that for whatever reason was not clear. And, I believe that we should take this time to look at and review and make some changes. So, I look forward to a moratorium to review those regs.

Thank you.

Mark Castro, 231 Ciccio Road in Southington. At previous meetings, we heard you all say that you did not like what was going on. I think the people are here this evening to ask you: what is your conclusion? What are you going to do?

Discussion followed centered on VIP.

The Chair agreed. Ms. Miceli added she did, too. The Chair said at the end of this meeting we have some information to share on that application you spoke about.

Thank you.

Eric Bucci, 64 Birchcrest Drive. I am in favor of the moratorium, as well. Spoke of why he came to the wonderful community of Southington.

Spoke about the VIP application.

He stated he was concerned about his property values. Explained.

Spoke about needing expert help on this VIP application.

We stand with you to help protect our town. Discussion.

I think everyone is concerned about their property values.

Spoke about the VIP store.

Thank you.

Jack Shamus, 68 Dawn Lane. We have voted you in to be the watchmen and women of our town. Spoke of the wonderfulness of the town and why he moved there.

Yes, this moratorium is good. But you know the ultimate question is will I be able to say a month from now, two months from now when someone comes up to me and says where do you live, I live in Southington. Do you want them to be able to say that's a great place to raise your children, they have great schools. I know they have a lot of sidewalks. But do those sidewalks go in front of pornography stores? Elaborated on the VIP application.

You have to answer, each of you, what will your legacy be?
Discussion referencing the VIP application.

Discussion about correcting mistakes.

Discussion about the VIP store decision.

Thank you for your time.

Paul Brown, 48 Dunham Place. The passion here runs deep for this moratorium. I'm very strongly in favor of it. Spoke of why he chose to build a house in Southington.

Spoke about the VIP application.

I encourage you to take a strong stand and review not only the moratorium but even to write stronger language into the moratorium if you feel it's needed. Explained referencing the VIP store application.

Thank you for your time and thank you for serving us.

Dan Valente, Chairman of the Parish Council on Bristol Street here in Southington. We are definitely in favor of this moratorium. I gave you a unanimous resolution passed by our Parish Council on September 13th speaking to that fact. I know the 1500 families of ST. Thomas Parish agree this moratorium should go through.

I echo the sentiments of everything previously said. Discussion.

Are we going to have proper regulations and keep the scourge of pornography and drugs and associated evils out?

What do we stand for? What are we willing to die for? What's our real core conviction and I think everybody here tonight has made that evident. Please put this moratorium in place and do whatever you can to not expand this sort of thing happening again.

Thank you.

Heather LeBlanc, I'm not a resident of Southington. I came to give you some perspective. My husband and I are looking for our first home and out of the five towns we're looking in, Southington was on

the list. When we heard about all these things happening, we took it off of our list. We are no longer looking in Southington.

Margaret Cameron, 1122 Pleasant Street. I want to ask some questions about the moratorium itself. Could you briefly explain to me again what this moratorium says and then I'll ask some questions.

Ms. Savage-Dunham said in laymen's terms, if adopted, this moratorium would prevent any new adult oriented establishments or any of the existing establishments from expanding during the eight month term that it is effective. It would not affect any business currently under renovation.

Discussion.

Discussion about the VIP application approval. I would like to see put into the moratorium is that any business that wants to apply would automatically have to go to the board. I think that would be a catch for anything in the future. Whether it's an expansion of a business already in town or something new that wants to come in, it just automatically has to go to this board.

Questions about retail to restaurant uses and retail to retail uses and when they would need to come to the board.

Discussion.

Discussion about the VIP application and why it did not need to come to the board. Retail to retail, nothing to trigger site plan approval, permitted use in a business zone. According to our regulations it just required a sign off.

I am certainly in favor of the moratorium. That would help us.

Spoke of the wonderfulness of Southington.

Thank you.

Andrea Macatier, 1408 East Street. I am in favor of the moratorium but I think it's like talking to your daughter about birth control when she came home and told you she's pregnant.

Discussion.

We want to work with you. I am in favor of the moratorium. Thank you for putting it in place.

Thank you.

Mark Dreschler, 34 West Ridge Road. I am in favor of the moratorium.

Spoke about the VIP application approval.

It is your duty to keep this the great town that it is and I hope you will do that.

Thank you.

Steve Briggs, 5 Sunset Ridge Drive. Been here a long time. Spoke about the Southington of years ago.

I'm in favor of the moratorium. I just have two questions. How do you come up with the eight month timeframe and is it sufficient for you to do your job completely.

Thank you.

The Chair explained the eight months is a timeframe that is reasonable. If you're unreasonable with the timeframe, the moratorium can be squashed. The Chair felt the commission could meet the timeframe.

Ray Kastner, Reservoir Ridge, Southington. I am strongly in favor of this moratorium. Planting the Seeds for our future was the float at the Apple Harvest. I think as an adult, as businessmen and commission members, Town Council, we have to plant positive seeds for our kids for the future of this town.

Spoke about the importance of stopping businesses like this from coming into town.

Discussion of Mr. Lucky's.

Nothing is politically right which is morally wrong. Thank you for your time.

Dawn Capellino, 232 Trumbull Avenue, Plainville. For 30 years of my life I grew up in Southington. I work in Southington and have family in Southington.

I commend you for doing this. Spoke of driving by the Hollywood Place on Queen Street.

My whole focus is we need to protect our families. In my heart, even though I live in Plainville now, I am a Southington girl.

Together we can save our corner of the world. We have to work together. I will do anything I can for Southington because I love Southington.

Thank you.

Christine Knott, 244 Queen Street. I manage a salon within a very short distance of what has caused all this. The moratorium, I am in favor of.

Spoke of challenging the VIP application.

We are going to make a change and make a difference.
Discussion.

That's what we are asking you to do for us tonight.

Laura Gryzwinski, 160 North Star Drive. I am in favor of the moratorium. She spoke of her volunteer work in the community.

Spoke of the VIP business in town.

I am strongly in favor of this moratorium.

Dan Marstan, Tallwood Drive, Southington, CT. I am in favor of this moratorium.

(End of Tape # 1, Side B)

(Beginning of Tape #2, Side A)

Spoke of the VIP store location.

I strongly object to anything that will undermine the innocence of the children in this town.

Thank you.

John Tally, 151 McKenzie Drive. I am in favor of the moratorium and agree with what everyone said. I think the most important person who spoke tonight was the young lady who said she wasn't willing to town. We know what we have to offer and what we're fighting for. Hopefully, by our actions, she'll put us back on the list.

Thank you.

Terri Lombardi, 27 Royal Oak Drive. President of the YMCA Board here in town. We stand for strong community, strong children and continuing to build a strong youth in this town.

Discussion.

I support the moratorium. Fully support it. Anything we can do to help, we volunteer our service.

I ask you to make this moratorium so strict and so many eyes to look at it so that we can have a say on behalf of our teens and youth in town.

Again, thank you for serving.

(Those speaking against the moratorium)

John Garvin, 40 Brookwood Drive. This huge turnout is all because of sex. Sex in the form of a bricks and mortar business in our fair town of Southington.

The moratorium before us is the immediate business. Part 2 of the proposal in my opinion needs to be rewritten. It puts on hold "businesses that feature, sell or rent films, motion pictures, video cassettes, slides, books, magazines, newspapers or other forms of visual or audio presentation in which any of the presentation time or any percentage of the stock material includes the depiction or description of specified sexual activities or specified anatomical areas."

If we want to put a moratorium on businesses or institutions that have books and magazines that contain anything about sex, that includes sexual activities or anatomical areas per statute, we might as well start tearing down half of Southington or preventing them from going through zoning changes.

What about a magazine like Redbook or Cosmopolitan? It has articles about intercourse in them.

There goes Wal-Mart if they had come before the board during the moratorium.

Gas stations and Mom and Pop convenience stores.

How about books that have words and pictures? Yes, I am shocked that pictures are allowed in our town.

The book I hold in my hand: The Joy of Sex is from the library and can be found in most bookstores. The expansion of the library if it had come before the board during this time period would have had to have been put on hold.

And, Barnes & Noble, they're going to have to stay away during the moratorium.

Look at Page 141 in here and see if that meets the definition of no sex. This is from our library.

Lastly, there is a book that has detailed accounts of rape, incest, and all kinds of sex if I take it out of context. It's the Bible. No Bibles would be allowed to be sold in this town and no Christian bookstores might be able to be opened given the way this is worded today.

Sound ridiculous? That's why we have the First Amendment to help prevent this kind of lynch mob moral superiority action.

What we really need are some simple building and signing rules to allow only adults in adult premises. Signage consistent with what other businesses are allowed and the realization that we don't need nosy neighbors dictating to us what we buy to view, read or wear in the privacy of our bedroom.

Discussion.

We solve all this with simple zoning that would only allow sexual businesses in already established business zones, away from homes and schools but still accessible to those who decide to enter.

Lastly, moral, decent people actually enter these establishments. They include happily married or committed men and women, good citizens and those that contribute positively to our community. So stop your ignorant and offensive tirades about what kind of people these businesses attract.

Thank you.

(Staff communications)

Ms. Savage-Dunham referenced a communication that the commission already received. It is in support of the moratorium. It was received today by my office. And, it is from Tony Luna, Marion, CT. Dated October 5, 2009.

That's all I have.

The Chair closed the public hearing at this time.

6. BUSINESS MEETING

A. Mackiewicz Custom Homes, LLC, earth excavation application for the removal of approximately 178,000 yards of material for a residential development, West Pines Drive, (Assessor's Map 154, Parcels 2,5,9,10,11,12,13,14,15,16,17,18,19 & 20) EE #128.

Ms. Savage-Dunham informed the commission this is a modified application for a reduced amount of excavation. I did receive responses to comments which I distributed to you this afternoon. We did receive revised plans. The modified amount of work is intended to allow the completion of the partially constructed subdivision and roadway network. There are many approved lots there that need to have some of the sand moved over there for the septic systems. Some of the excavation is actually required to cut or box out the roadway.

That being said, this public hearing was continued from the last meeting. We are moving into our 65 days. The application is ready for action and I can answer any questions that you may have.

We are satisfied with the responses we have here based on the modified plans.

This site was over excavated by roughly 100,000 cy, noted Mr. Saucier. And, right now the application is for removal of 27,000 cy. To restore this to its pre-state, would require the movement of 100,000 cy into the site? Mr. Tranquillo said that was correct. But I don't believe that is what is being proposed.

Discussion.

The Chair reviewed the specifics of the application. There has to be some sort of conclusion brought to this particular site. The roads have to be finished. On the other side of the coin we have to be concerned with trucks continuing to run on these roads where we had an application that was in place. And, it was just so flagrantly violated last time. Understanding this is a new applicant, he was associated with the last applicant. Where does that tie begin and end. We have to make a safe development here.

When we look at the second means of access that was looked at last time. There is a vernal pool in the way.

Discussion.

If we have 27,000 yds removed now, are we going to see in a year from now a mining operation develop on this site to continue to pull out 178,000 cy. I don't think I want to see a mining site develop on this site.

Discussion.

Ms. Miceli asked about stippling nothing gets done unless they get the alternate egress? Mr. Sinclair said he would be open to that.

Mr. Sinclair asked the Town Attorney: We have an application for a parcel of land that's connected to a public road. If it's a safety issue, we can say, no, you have to find an alternate route. Attorney Sciota said or a different way of doing the process.

Discussion.

Discussion about restoration of the over excavation by the Town Engineer. He noted it is more of the replacing of poor material. He does not need to bring the land up to the original grade to make the development. He just needs to correct the problem he created.

Mr. Vachon also pointed out that the site can be fixed with what is there by moving things around. The Town Engineer concurred.

Explained.

Mr. DelSanto stated he felt the missing piece of the puzzle was the second access way. It's been discussed. I agree with Mr. Vachon. The neighbors have been through a lot. Not to fault this applicant but a lot of crazy stuff went on out there. I think the applicant needs to put his nose to the grindstone and find a second alternate route to get this fill out of there if he wants to pull more of it out.

Mr. Saucier concurred with Commissioners Vachon and DelSanto that a second entrance would be more desirable for this application.

I'll move to table. Mr. DelSanto seconded. Motion passed 7 to 0 on a roll call vote.

B. ZA 551, proposed text amendment to the Southington Zoning Regulations, new Section 19 - Moratorium

Mr. Kenefick made a motion to approve. Mr. DelSanto seconded. Motion passed 7 to 0 on a roll call vote.

C. West Pines Subdivision, request for five year extension, West Pines Dive S #1213.1

Ms. Savage-Dunham advised this is a statutory deadline. Staff would recommend an extension of some sort. You don't need to give the full five years.

Mr. Sinclair made a motion to grant a two week extension. Mr. DelSanto seconded. That'll get us to the next meeting. Mr. DelSanto took his second back.

Discussion of the subdivision's progress to date.

Mr. Sinclair removed his motion.

Mr. Kenefick made a motion to approve a one year extension. Mr. DelSanto seconded. Motion passed 6 to 1 on a roll call vote with Mr. Sinclair opposed.

D. High Ridge Industries, LLC, bond in lieu of site plan compliance in the amount of \$10,200, 125 West Queen Street SPR #1510.

Staff supports this. Mr. Sinclair made a motion to approve and Mr. DelSanto seconded. Motion passed unanimously on a voice vote.

E. Maria Staebler, request for reduction of \$31,000 public improvement bond to an amount to be determined, 409 Canal Street SPR #1398.1.

Ms. Savage-Dunham passed around a memo. Staff has reviewed the status of this road improvement project and in conjunction with the request for the release of the bonding, based on our inspection of September 30th there are several punch list items outstanding.

The contractor is looking to get paid and the town is holding on the bond money. The applicant is asking for the money back. Staff is supportive of releasing this bond with the condition that item # 2, 3, 5 and 6 are completed immediately.

I ask you to authorize the conditional release of this bond and I'll get the check in my hand and as soon as those four items area completed to staff satisfaction, I will hand the check over.

This was a major safety issue and staff is pleased the project is progressing.

Mr. Kenefick stated they have done such a nice job at that place and now they're nickel and diming you with this stuff? I am not in favor of releasing anything.

Discussion.

Mr. DelSanto made a motion to table. Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

F. **** Rockwood Hills, request for release of \$12,700 public improvement bond, 489 and 495 Flanders Road, S#1258.

Staff supports this. Mr. Sinclair made a motion to approve. Mr. DelSanto seconded. Motion passed unanimously on a voice vote.

G. Informal discussion - 125 Robert Porter Road

Ms. Savage-Dunham referred to a memo in the packet which is fairly self-explanatory. We do have uses come in to town hall and they touch base with the zoning officer or the Town Planner with requests for the appropriateness of a use for a certain locations.

Frequently this happens after violations are issued and people are found to be operating out of places where they are not supposed to be.

In this instance, we have a property zoned I-1 and we have someone who has requested to put a heavy industrial or manufacturing type of operation on that site. They came to staff for our opinion. We told them that it was not appropriate for the reasons detailed in the memorandum.

We did advise them they could come for your opinion. That's what you have in front of you. They're looking for a sense if they should spend money to prepare an application that might be received favorably.

Discussion.

The Chair said in this area, we have been very consistent with our application in the industrial areas. We've done a lot of work on the industrial regulations and our applications. To put an application like this around some of the other businesses in that area would surely be not only in conflict, but I would think would harm the businesses that are there.

Mr. Saucier concurred. Mr. Sinclair agreed as well. It is an I-2 application.

Consensus of the commission is it is an I-2 application.

7. Items to schedule for public hearing.

None.

8. Administrative Reports

Nothing to report.

9. Receipt of New Applications

Ms. Savage-Dunham reported one. A site plan modification SPR 1461.6 - north plaza over at Northstar.
Explained.

The Chair called for comments, if any, from the Commission.

The Chair brought up a couple of points. As mentioned earlier, we would keep people posted on what's happening with 228 Queen Street, the permit that was granted. What's been going on?

We've held several executive session meetings where the commission has asked attorneys to come in and meet with us. We've contracted with some outside attorneys not associated with the Town, people that do this type of work: constitutional work, zoning work.

We are also in the process of touching base with an additional constitutional attorney to come in and advise us on where we are, what we're doing, what potential steps there are that can be done with this process.

Commissioner DelSanto and myself have had some meetings also with our Town Manager and our Town Attorney with some other outside parties on this situation, this permit.

At this point, what we're expecting is at our next meeting, we will have some answers. Very deliberately, we have been working through the process to work with the attorneys to make sure we understand clearly and specifically what's been going, what we can do as a commission, what are the options and then what are our recourses that we can do.

We don't have an answer for your tonight. At our next meeting, October 20th, we expect to have a resolution to this situation, where we see the next steps where we can publicly state out of executive session what our next steps are going to be.

Ms. Miceli added: That being said, and that's fine, I am going to, I feel like I have an obligation tonight with everyone sitting here wanting to know how we feel about this, I am just going to speak for me personally because I've said this before on the record and I'm going to say it again on the record tonight: I was against the permit being approved by town hall staff and I stand by that. I've done some research on my own with regard to this and I am in favor of revoking the permit before the business comes in. I just want to state that - because I agree that sometimes, regardless of potential legal ramifications here, sometimes it's okay to fight the good fight. That's how I feel.

Thank you.

10. Adjournment - Mr. DelSanto made a motion to adjourn. Mr. Saucier seconded. Motion passed unanimously.

(Whereupon, the meeting was adjourned at 9:22 o'clock, p.m.)

