

PLANNING & ZONING COMMISSION
Public Hearing & Regular Meeting
March 2, 2010

The Planning & Zoning Commission held a public hearing and regular meeting on Tuesday, March 2, 2010. Chairman Michael DelSanto, called the meeting to order at 7:00 o'clock, p.m.

The following Commissioners were present, viz:

James Sinclair	Edward Pocock, Jr.
Francis Kenefick	Kelly Kennedy DelDebbio
Paul Chaplinsky	Zaya Oshana, Jr.
Michael DelSanto, Chair	

Alternates: Lisa Conroy
 Edward Costello
 Steve Kalkowski

Ex-officio members present were as follows, viz:

Mary Savage-Dunham, Town Planner
James A. Grappone, Assistant Town Engineer
Mark J. Sciota, Deputy Town Manager/Town Attorney *

Absent: Patrick Saucier, Alternate Commissioner
 John Weichsel, Town Manager
 Anthony J. Tranquillo, Director of Public Works/Town
Engineer

* Arrived with meeting in progress where noted.

A quorum was determined.

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

The Minutes are being prepared summary style and the video and audio tapes are available for further detail.

MICHAEL DELSANTO, Chairman, presiding:

Approval of Minutes - Regular Meeting of February 2, 2010

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

Mr. Oshana stated for the record he did watch the video of the meeting.

The Chair apologized for the communication problem regarding the cancellation of the meeting.

PUBLIC HEARINGS

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

A. Tyke Lavette, one lot resubdivision application, 169 Captain Lewis Drive, S #1272.1.

Sev Bovino, Planner with Kratzert, Jones, represented the applicant. This property is at 169 Captain Lewis Drive. It was previously approved by this commission but the Mylar was not filed in time. The property meets all the zoning regulations in terms of frontage area. It's served by public water and sewer. We received wetlands approval last time and we don't have to go back. The building has been reduced in scope.

This was part of Barge Canal Industrial Park, Section 10. Explained.

Staff had comments and may have one stipulation for this approval.

I'll answer any questions.

(No questions)

(Those speaking in favor of the application)

Karen Burnetto, 17 Taunton Street, Southington. My husband and I are the applicants, SPR 1534.1 for a 4200 sf building you'll see later this evening.

I'm here to ask for your support and action on this one last resubdivision on Captain Lewis Drive. Our project is dependent upon this approval in order for us to move forward. Time is really of the essence. We have a big piece of equipment that needs to come in and we simply don't have room where we are now. It's crucial for us to be able to move in by early summer in order for us to gear up and be ready for that piece of equipment for the fall. I would appreciate your action on this tonight. Thank you very much for your time.

(Those speaking against the application)

(No response)

(Staff)

The Town Planner reported that she did receive and email correspondence from the economic development office in support of this application.

The only outstanding item at this point in time is the filing of a drainage easement and right to flow. All other matters have been addressed with regard to the public hearing.

The Chair closed this public hearing.

B. CL&P special permit use application to allow a second principal building for a separate office use in the industrial zone, property of Brophy Metals, 364 Old Turnpike Road SPU #479.

George Brophy, owner of the property, represented the application. Basically, the map that was before this current revision is pretty much identical to what we're dealing with now. The question is what was previously marked storage trailer is now marked office trailer.

Discussion.

Mr. Chaplinsky asked about the trailer storage and if it was on wheels. Mr. Brophy said everything there is on wheels.

Discussion.

Mr. Brophy explained the only storage there is that office trailer. It has a lock on it so if there is anything of value, it'll be locked inside. I would imagine the storage would be blueprints, plans and schedules. Office trailer. There is no allowance in our agreement for anything environmentally unsafe. That's not allowed, even temporarily.

Discussion.

Ms. Conroy noted this is an I-1 zone but it does abut residential zones. Will implementing this have any effect to these neighbors? Mr. Brophy noted there are only five guys on this crew - five trucks. Explained his work crew is down so even if I rehire, the traffic flow right now is lower than it's ever been.

Discussion.

(Those speaking against the application)

(No response)

(Staff)

(No comments)

The Chair closed the public hearing.

C. Zoning Amendment, bonding procedures and requirements, Sections 9-06.1 and 15-09 of the Zoning Regulations ZA #552.

The Town Planner explained the change as a text amendment eliminating passbooks for bonds. There are some other typographical or housekeeping corrections, too.

Explained.

(Those speaking in favor of the application)

(No response)

(Those speaking against the application)

(No response)

(Staff comments)

The Town Planner read the letters from CCRPA and South Central Regional Planning Authority into the record. (Letters on file in the Town Planner's Office.)

The Chair closed the public hearing.

D. Subdivision Regulation Amendment, bonding procedures and requirements, Section 8-01.01; 8-01.01a; 8-01.02 and 11-07 of the subdivision regulations, SA #23.

The Town Planner advised this is essentially the same type of changes proposed. These are our subdivision regulations which also have language on bonding procedures. I'll refer back to the information provided in the previous public hearing. We are eliminating passbooks as an acceptable form of bonds.

This text amendment does have the support of the finance director, the town attorney and the planning department. Given the great amount of bonding the finance department and planning department handles, it's important to streamline the process as much as possible while improving and providing proper accounting and efficient customer services.

Explained issues in the past with bonds being turned over to the state and we have had processing issues.

It's a cumbersome system to manage the passbooks both internally and with the client.

We are also changing the language by taking out "surety" and replacing that with the word "bond". It's a housekeeping thing. We do not accept insurance bonds. Surety is another word for a bond which is confusing so we're just saying "bond".

(Those speaking in favor of the application)

(No response)

(Those speaking against the application)

(No response)

The Chair closed the public hearing.

E. Robert Lavoie, Special Permit application for parent/grandparent apartment, 86 Jubilee Drive SPU #480.

Donna & Robert Lavoie represented the applicant. They indicated the apartment would be for Robert's mother, who is a double amputee, in a wheelchair and in need of care.

Discussion.

We're able to meet all the conditions the town set forth. We would like consideration for our double driveway. I'd like to have that considered because the apartment is where the old garage was and the driveway is existing. After the apartment is renovated, we would like consideration to have that remain because of easy access for the wheelchair and her disability.

We are able to make an ADA-compliance home for her and meet all the town's consideration, otherwise.

(Those speaking in favor of the application)

(No response)

(Those speaking against the application)

(No response)

(Staff comments)

(No comments)

The Chair closed the public hearing.

7:30 pm.

6. BUSINESS MEETING

A. Tyke Lavette, one lot resubdivision application, 169 Captain Lewis Drive, S #1272.1.

The Town Planner concurred the applicant was correct in stating there was only one item outstanding. We would recommend that as a condition. That is that the drainage easement and right to flow be filed on the land records prior to the filing of the Mylar for the subdivision or at the same time as the filing of the Mylar.

We have reviewed the easement language and it is acceptable. We are ready to have the final version filed. With that, the application is ready for action.

This is a stipulation of the Town Council that required this prior to actual last subdivision application. The applicant never followed through, evidently, with the conditions the Town Council applied. We picked up on it the first time the subdivision came in. They never filed a Mylar the first time, so that subdivision was null and void.

Mr. Oshana made a motion for approval with the stipulation as stated by the Town Planner. Mr. Sinclair seconded. Motion passed 7 to 0 on a roll call vote.

B. CL&P special permit use application to allow a second principal building for a separate office use in the industrial zone, property of Brophy Metals, 364 Old Turnpike Road SPU #479.

The Town Planner noted this is a basic application. In your staff memo I framed the information for you. Staff is supportive of the application. We would recommend a stipulation that if the proposed second use is expanded, via the addition of a second trailer or there's a determination to build an actual bricks & mortar building, at that point in the applicant would come back for a modification.

Mr. Sinclair made a motion to approve the application with the Town Planner's stipulation. Mr. Pocock seconded. Motion passed 7 to 0 on a roll call vote.

C. Zoning Amendment, bonding procedures and requirements, Sections 9-06.1 and 15-09 of the Zoning Regulations ZA #552.

The Town Planner advised this is ready for action. All appropriate notices have been done. She is ready to answer questions, if any.

Mr. Oshana made a motion to approve this application. Ms. DelDebbio seconded. Motion passed 7 to 0 on a roll call vote.

D. Subdivision Regulation Amendment, bonding procedures and requirements, Sections 8-01.01; 8-01.01a; 8-01.02 and 11-07 of the subdivision regulations SA #23.

Ms. Savage Dunham advised this is ready for action should you choose to.

Mr. Sinclair made a motion to approve. Ms. DelDebbio seconded. Motion passed 7 to 0 on a roll call vote.

E. Robert Lavoie, Special Permit application for parent/grandparent apartment, 86 Jubilee Drive SPU #480.

Ms. Savage Dunham stated this is ready for action. The regulations do require that there is only one driveway so if the commission wants to make an exception, based upon what you have heard tonight, a separate motion should be made to waive that in this instance. It is a requirement of your regulation.

Mr. Kenefick said under the circumstances, wheelchairs take up a lot more room in the driveway and it'll be a lot easier for the lady to get around. I have no problem with waiving the driveway.

Ms. Savage Dunham advised everything is in order and she has the affidavit.

Mr. Sinclair agreed making that into a motion. Mr. Chaplinsky seconded. Motion passed 7 to 0 on a roll call vote.

Mr. Sinclair made a motion to approve the application. Mr. Pocock seconded. Motion passed 7 to 0 on a roll call vote.

F. Yarde Metals, revision to location of fueling station, 45 Newell Street SPR #1524.1.

Mr. Bovino represented the application. This is a revision to a previously approved site plan. The fueling station was approved when Yarde Metals moved to Southington, renovated the building and site plans were approved at that time.

The fuelling station was approved along the fence line (indicating). Because we have a scale on the west side of the building and the traffic that comes through there, we needed to shift the fuel station about 20' westerly.

Everything is the same. It's an above ground fuel tank, double walled, with all the safety features. We received wetlands approval. We ask for you to consider approving this site plan.

The Town Planner added the application is ready for action and there are no stipulations required.

Mr. Oshana made a motion for approval of the application. Mr. Chaplinsky seconded. Motion passed 7 to 0 on a roll call vote.

G. Brunetto, proposed 4,200 sf industrial building, 169 Captain Lewis Drive, SPR #1534.1.

Mr. Bovino represented the application. He advised this is a site plan for the property you approved the resubdivision.

The reason we're in front of you --- the layout pretty much is the same. The building was reduced from 5600 sf to 4200 sf. The parking was reduced, as well as the paved area. Sewer and water are available. There's a turning movement here for the trucks to come on the property and this serves as the trash receptacle on the property (indicating).

We responded to all comments. Mary had addition comments on the February 18th checklist which he reviewed.

Ms. Brunetto met with Mary and discussed the products they use in the operation of this business. She can address that. They are all environmentally sensitive products.

There's no floor drains in the building. There is extensive landscaping on the site to be done.

I'll answer any questions.

The Planner indicated she had nothing further to add.

Mr. Chaplinsky made a motion to approve. Mr. Oshana seconded.

The Chair asked about the items Mr. Bovino addressed. The Town Planner said they are noted on the plan and the applicant is aware of it, so at the time of the CO request, we'll be looking on the as-built. Staff is satisfied and the applicant has agreed to it.

Motion passed 7 to 0 on a roll call vote.

H. Queen Street, LLC, site plan application to remove existing building and construct new larger retail/convenience store, 464 Queen Street SPR #1564.

Mr. Costello recused himself and left the bench at this time.

Sev Bovino, represented the applicant. He passed around some reductions of the building elevations and the canopy that is existing on the site.

This is located at the corner of the Old Spring Street and Queen Street on the west side of Queen Street. It's right next to Price Chopper.

He explained the existing conditions using the map. There is one pump in the center of two posts and then there is a building there that exists between the pumps.

We are not going to change the canopy existing but we are going to add to the canopy as it comes closer to the new building that's proposed for the back.

The existing building is about 480 sf and the new building is going to be 2,970 sf.

No food handling is proposed in terms of a restaurant or anything like that. However, we will contact the health department to discuss the potential for a grease trap if they think it's necessary, but we are not intending to have food preparation here.

This is a B zone. Public water and sewer.

The parking required is 17 and we are proposing 20 spaces.

The existing canopy will stay. There's three pumps on the site and three fuel tanks. We are going to add one fuel tank for the diesel. That's what the new pump will be for - diesel.

We're showing additional islands on the site to reduce the pavement on the site and to make the site more attractive. The green islands (indicating) are new. Appropriate trees and shrubbery are proposed on the site.

No additional lights posts. The lights will be on the building. Full cut off fixtures on the building.

Drainage is proposed in the back of the building. Staff had many comments on this and the applicant worked very hard to retain a drainage easement from the property owner to the west. Because of

that, we were able to change the drainage design to accommodate all staff comments.

We have spill control practices indicated on the mapping.
Explained.

Catch basins on site will be hooded. Explained.

The required landscaping based on the parking requirement is about 400 sf. We propose about 1026 sf.

Construction access for the building was discussed as being from Weichsel Crossing.

Discussion.

We are going to isolate the construction area with a fence. And, then when the pumps need to be replaced, we'll close the business for about ten days. That way all the additional work will be done and there'll be no interference with the public.

The building elevation was discussed.

Any questions, I'll answer them.

We also provided a radius for the town future improvement at this location (indicating). Tony asked me for some property to be granted to allow future expansion of Weichsel Crossing to provide a proper radius in the future and we are willing to do that.

Ms. Savage Dunham stated she and Mr. Grappone visited the site again today. We reviewed the plans this afternoon. At this point in time we do have a couple of stipulations to suggest and one for your discussion.

We would like you to discuss: On the comment sheet from Mr. Tranquillo, Mr. Grappone and I, comment #3. Town staff feels that at such time as John Weichsel Crossing is built to Town standards --- it is a town road but obviously, it needs a lot of work - we feel that it would be appropriate for this southerly curb cut from the gas station to be closed off. This building is designed for traffic to flow around in. And, it could accommodate a drive thru restaurant.

(End of Tape #1, Side A)

(Beginning of Tape #1, Side B)

Discussion continued regarding the elimination of the southerly curb cut with John Weichsel Crossing. It's very difficult to take a left turn out of that driveway with no light being there.

Traffic flow patterns were discussed.

Mr. Bovino explained why gas stations need two curb cuts for proper flow. Traffic flow as again discussed.

Attorney Anthony Denorfia, representing the applicant, discussed the comment. He stated he had a problem in that he has never seen where a commission granted a condition that is conditioned upon something else happening in the future which is beyond the applicant's control.

While it may be a good idea, I think it might be beyond your scope of review or authority. How do you enforce the condition? You can't revoke a CO.

Attorney Denorfia suggested getting the Town Attorney's opinion on this, as well. And, if you are going to vote, I would request a table so I can discuss it with my client.

Discussion.

Ms. Savage Dunham pointed out for the commission, you do stipulate things on future events all the time, i.e.: connection to a sewer line or water line in the future. It is not out of the realm of general practice to condition upon a future event.

Discussion.

Ms. Savage Dunham stated the staff recommends that condition as well as three others.

Mr. Oshana said he was in favor of eliminating as many curb cuts on Queen Street as possible. We have done some approvals in advance of other occurrences happening. My biggest issue is I'm looking at this and saying, I think if we closed off that second entrance, we'd be doing some potential damage inside the site. We'd potentially be putting people at risk.

Discussion.

Ms. Conroy offered the state does not require two curb cuts for a gas station.

Mr. Chaplinsky made a motion to table which was seconded by Mr. Oshana. Motion passed 7 to 0 on a roll call vote.

I. Tahoe Realty, modification of previous approval, 120 West Main Street FF #211.1.

Mr. Bovino, Planner, with Kratzert, Jones representing the applicant.

You approved this application on August 8, 2008 with two stipulations. One was the building will be constructed with a flow through first vertical foot of floor area. I don't know how that was arrived at, but the regulation under Section 605.42a, allows non residential structures to be above the floodplain elevation one foot. The floodplain elevation in this area is 135. This building is at 136.09 which meets the regulations. So we would request the commission to modify the approval and remove that first stipulation.

The client has found that he cannot work with that stipulation. He would have to leave the building open to allow the flow of water which doesn't come through the building, anyway, because it's above the floodplain.

And, to have materials stored above grade, above the slab, normally you have skids and this would have to be higher.

The other problem is critters. You're basically leaving the building wide open to allow anything and anybody to come in.

Since we're meeting the regulation, we would like to request that the approval be modified.

The Town Planner indicated staff supports this and it's ready for action.

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

J. Calco Construction, subdivision modification to remove boulder, Cider Mill Estates S #1192.1.

John Mastrianni, 71 Church Avenue, Forestville, CT., representing the applicant. We are here to ask for permission to move a rock behind a home that we're constructing right now. Evidently, the original subdivision approval, I believe there were three large rocks that the commission wanted to remain. This is the last lot for the 8 lot subdivision. The other two lots have very large rocks and you don't need a ladder to get up the rocks.

The reason I'm here is a safety reason. This particular rock, it's easy for kids to go and jump and start climbing on the rock and then it's a big ledge on the other side.

The gentleman who purchased the house has two young sons and it's the safety reason why we would like to remove it.

The Town Planner advised she framed the discussion for the commission in the packet. This was originally approved back in 2002. I enclose for your reference testimony from the public hearings at that time indicating the discussion from Commissioner Longo and the

rest of the sitting commission about the protection of the natural features which are part of your subdivision regulations. Therefore, within the purview of the board.

There is testimony from the public about the interest of preserving some of this property. I've highlighted in the Minutes provided to you testimony from Mr. Bovino stating that the boulders will remain. In fact, the retention of the boulders was a condition of the subdivision approval.

The applicant is here asking this commission to go back and modify a condition of approval that was placed by the sitting commission in 2002.

With that, I'll answer any questions.

Mr. Chaplinsky stated he was a firm believer in what the previous commission did and I am a very firm believer in precedent. The last commission really went out of its way to look at this subdivision to preserve the natural history.

I struggle with a new homeowner coming in with the reason of a bigger back yard and safety to remove the condition. I talked to Attorney Sciota about this. I went out to the site. Commissioners at the time did walk the site and there were stipulations specifically about the rocks.

I spoke to the neighbors on either side of this house and I spoke to a neighbor behind the house and asked their opinions about kids playing on the rock and how they feel about the rock and the preservation of that area. The two neighbors on either side of the house, one said either way it doesn't matter to me and the other said he'd like to keep it, but he's not going to be upset if it goes. The third neighbor behind said they really didn't care, as well.

The house is really built right on top of the rock. As you drive down the road, it's really difficult to see the rock. I agree that maintaining what the last commission did was a good thing.

I contacted some of the commissioners sitting at the time. And, I asked their opinion. Two of them said if you really believe in the safety issue, no problems. One of them said, you know, I would like to keep it if possible.

This rock, in my opinion, you could easily stand on the grass next to the rock and walk up the rock without any problem and get to the top of the rock and have a 10 to 12 foot drop, very sheer drop on the other side.

From my perspective, I don't have a problem with supporting the safety standpoint.

Mr. Kenefick agreed. It'll make a better backyard. There is a safety factor there. None of the neighbors care what's going to happen anyway. I am in favor of it.

Mr. Chaplinsky pointed out removal of the rock is going to be a consideration.

Discussion.

Mr. Oshana felt it was a bad idea to change the decision. Spoke about the neighborhood he grew up in that had a "big rock".

Mr. Oshana explained a lot of time went into this decision at the time of the condition. We need to be cautious about going back and revisiting history. What kind of potential damage is going to be done to this house as well as the neighbors if when you start breaking up the rock --- what is going to happen to surrounding neighbors houses foundations? What kind of liability?

Mr. Mastrianni pointed out, if you jump off this rock, you are going to break your neck.

Discussion.

Mr. Chaplinsky added this is a civil matter the applicant will have to deal with.

Discussion.

Mr. Costello commented, when you do break this rock, you don't make the neighbors sorry that they helped this along. We're not going to break rock on Saturday and Sunday. Or before 9:00 am.

Mr. Mastrianni agreed.

The Chair commented he was on the commission in 2002. I echo the sentiments that if this was a park or an area where people visited, near a playground and it had some features where you could climb the rock but this is in the middle of someone's back yard in a neighborhood. I would hope you would be sure of the safety of the homes and foundations in the area. That is going to fall on you and not the Town of Southington. I am for removing the rock if it is going to increase the safety of the neighborhood's children.

Discussion.

Mr. Chaplinsky made a motion to approve the request. I wanted it noted that I don't think this is something I would support on a regular basis. I don't like the idea of overturning a previous commission's decision. I believe in precedent.

Mr. Kenefick seconded. The person that owns the property wants the rock removed, he noted.

A yes vote would allow the applicant to remove the rock.

Roll call vote:	Chaplinsky:	Yes
	DelDebbio:	No
	Kenefick:	Yes
	Oshana:	No
	Pocock:	No
	Sinclair:	No
	DelSanto:	Yes

Motion fails 3 yes and 4 no.

Mr. Sinclair made a motion to deny the application. It is apparent from the record that a lot of thought went into this with the original application. I'll stand by the previous commission's decision.

Ms. DelDebbio seconded.

Roll Call:	Chaplinsky:	Nope
	DelDebbio:	Yes
	Kenefick:	No
	Oshana:	Yes
	Pocock:	Yes
	Sinclair:	Yes
	DelSanto:	No

Motion passes 4 yes, 3 no.

K. Mobile billboard complaint/regulation discussion

Passed to later in the Agenda when Attorney Sciota arrives.

L. Continuous Improvement Subcommittee - open microphone session 1 of 3.

Mr. Chaplinsky noted the Continuous Improvement Subcommittee is seeking feedback from the public and anybody involved the planning and zoning process, permitting process. We'd like to announce that on Thursday, March 11th and Wednesday, March 24th, we will be holding a public input session, the subcommittee will, at 7:30 pm here in the council chambers.

We're looking for feedback you may feel we maybe need to make improvements on our regulations and/or process improvements.

I would like to stipulate at these meetings that we will exclude feedback with respect to Adult Oriented Businesses as there is a

separate subcommittee handling that and they will make appropriate provisions for feedback on that matter.

M. Mohawk Northeast, request for release of \$20,000 bond in lieu of site plan compliance SPR #1509.

Staff supports this. Mr. Sinclair so moved the motion. Mr. Oshana seconded. Motion passed unanimously on a voice vote.

N. Rite Aid, request for release of \$7,100 public improvement bond, 500 Queen Street SPR #1501.

Staff supports this. Ms. DelDebbio so moved the motion. Mr. Pocock seconded. Motion passed unanimously on a voice vote.

O. Starr, release of \$2,300 erosion and sedimentation bond, 419 Lazy Lane, S #977.

Staff supports this. So moved by Mr. Pocock. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

P. Telfer subdivision, release of \$7,000 erosion and sedimentation bond, 976 Flanders Road S #1103.

Staff supports this. Ms. DelDebbio so moved. Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

Q. Crystal Farms Section 7, release of \$4,200 erosion and sedimentation bond, 791 East Street S #1121.

Staff supports this. Mr. Sinclair so moved. Ms. DelDebbio seconded. Motion passed unanimously on a voice vote.

R. Deerbrooke Estates, Section I, release of \$6,600 erosion and sedimentation bond, S #955.

Staff supports this. So moved by Mr. Sinclair. Seconded by Mr. Pocock. Motion passed unanimously on a voice vote.

S. The Asado, request for release of \$1,000 erosion and sedimentation bond, 142 Center Street SPR #1543.

Staff supports this. Mr. Sinclair so moved the motion. Mr. Pocock seconded. Motion passed unanimously on a voice vote.

T. The Asado, request for release of \$1,200 public improvement bond, 142 Center Street SPR #1543.

Staff supports this. Ms. DelDebbio so moved. Mr. Sinclair seconded. Motion passed unanimously on a voice vote.

ITEMS TO SCHEDULE FOR PUBLIC HEARING

A. Recko Farms Homes, LLC, application for parent/grandparent apartment, 42 Empress Drive SPU A#481, March 16

The Chair asked to have the item scheduled for March 16th.

ADMINISTRATIVE REPORTS

Discussion of drive through design

The Town Planner referred to an email sent to the Commission on February 8th, 2010 regarding this. (Read into the record the email which is on file in the Town Planner's Office.)

(Attorney Sciota entered the meeting at this time.)

We've discussed this administratively and there are many communities in Connecticut that require an SPU for any drive thru. The purpose being is to look at internal traffic circulation and to be sure that the site works for that proposed user. If there is a modification, it gives the commission the time to make sure that the site still works.

Discussion.

I wanted you to have a discussion and provide some guidance because with three conversations in one week about it, I think it's an issue that the commission needs to provide staff some guidance on.

The recent application with Dunkin Donuts and the ATM was referred to and discussed.

It's a very interesting idea to put this into some sort of an SPU process, commented Mr. Oshana. It gives us more flexibility process wise to say what can we do with these secondary uses.

Discussion.

The Chair passed this item along to Paul and his subcommittee to review and comment if any changes need to be made.

The Planner appreciated the feedback.

Mr. Chaplinsky brought up a letter written to the administration regarding 21 Candlewood Lane. It was with respect to flooding. The resident wanted to know if the retention pond at the corner of East Street and Candlewood Lane was properly maintaining and whether it's flowing. Mr. Chaplinsky said he took a look and it looks like a retention pond. It has weeds and water in it. The water was flowing. The pipe was about half full. Is that appropriate or not?

Mr. Grappone, Ass't Town Engineer, explained the town has a number of detention basins it maintains. Maintenance on them in the past was not as aggressive as it is in the last couple of years.

Regarding this issue, highway has been out to evaluate it. We did the proper maintenance on it. We have determined it is functioning properly.

The Town Engineer notified the property owner that the property owner the property is within a floodplain area, so it is subject to flooding.

With respect to the detention basin, it is functioning properly.

The resident was sent a letter on the town's findings.

Discussion on the procedure the town followed.

K. Mobile billboard complaint/regulation discussion

The Town Planner noted a memorandum in the packet was provided by her, but she is not clear on where the commission wants to guide the conversation to.

The Chair said there was a complaint that this travelling billboard was parked on a property on Queen Street, VIP. We wanted to put it on the Agenda tonight so the commission could have a discussion with regards to it.

Some looked at the information provided by the ZEO and you have pictured included as well. And, some folks think that it's a truck. Others think that it's a billboard.

I'd like to open up the discussion tonight as to what the commission feels, what their thoughts are.

The Town Attorney said before he left for vacation, he spoke with Frank and Mary and he spoke with you. My suggestion was that we say

mobile billboard but when it comes to a consensus of what a mobile billboard is, I called CCM and I gave Mary some examples of what other towns are establishing as a finding for a billboard. We do not have a specific definition of a mobile billboard.

I think a subcommittee is looking at those things. I'm getting from CCM every day which I'm filtering to Mary and she filters to you. If we're going to have a definition of it, we need a definition of it.

A mobile billboard, just so you know, some of you go back far enough, remember years ago we had one that was coming through town and it used to park over here by the bank. And it was always understood that was a mobile billboard. What it was was a truck pulling a trailer with a billboard on it.

This one here, I understand why the commission is torn as to what this is. I think to help you out, what we need is and obviously your subcommittee will review what a regulation is that defines mobile billboards and then have the board actually vote on what a mobile billboard is so that it makes it easier for Mary and Frank to figure out exactly what a mobile billboard is.

Now, other towns have defined it and when you look at those, you'll see they're defining them in ways that are not going to help in this situation. They define them simply as what I was talking about. They don't define it as vehicles used for transport. It isn't just an easy, let's put the words together, I think you have either Mary work on a reg or have your subcommittee work on a reg. But I think that's where you've got to head.

The Chair said his first inclination is to say the subcommittee, but I think we owe it to the complaint to talk about it here. I mean, we have pictures.

Mr. Kenefick added he has seen mobile billboards before. This is quite unique. This looks like a custom made vehicle. It is a commercial vehicle. If we're going to stop this guy from using this thing to deliver his toys, what are you going to do with Stop & Shop?

Richard's Chevrolet uses one of these boards, too. But it's a board. It's a board. There is no place to put supplies inside.

This is a regular commercial van I would think.

Mr. Kalkowski disagreed emphatically on that.

(End of Tape # 1, Side B)

(Beginning of Tape #2, Side A)

Looking at the frame of the truck, normal delivery vehicles have containers the size of the frames or even larger. This is designed specifically to be a mobile billboard shape. I worked in Manhattan

for many years and I know what a mobile billboard is. They used to go around Manhattan all the time. This is very similar to this, although, to me, again, I think he's pushing the limit of what a truck and a delivery vehicle is. So, to me, I would think that this falls more into a mobile billboard than it does toward a delivery vehicle. Even though it does both, I think this is something that is grey, very grey.

Mr. Sinclair agreed with Mr. Kalkowski on this. We discussed it in our adult reg subcommittee. This is definitely not a moving van. A moving van is, as Mr. Kalkowski pointed out, is the full size of the frame. What this is is a mobile billboard with what I call excessively limited storage to throw t-shirts, novelties and other promotional supplies in. But it to call this a moving van or anything other than a mobile billboard, I think is, while it's grey, it is, it is what it is: a mobile board.

Ms. Conroy agreed it is kind of a grey area. But this could be an issue with Stop & Shop and would it be an issue with any other business and plus with this specific one, I'm not seeing it in use as a billboard at the place because it's in the back of the building and it's not visible to the rest of the public. I would have a definite issue if it were sitting in front 24-7 and it would only move once a day or be parked there after hours. But I think for the use, for what it has been doing, I don't have a problem with it. Like I said, if it were parked anywhere for an extensive amount of time on the site, visible to Queen Street, then that would be different.

Mr. Chaplinsky agreed with a few of the commissioners and Commissioner Conroy. A couple of things, first of all, most storage containers that transport inventory, don't have generators in them. Most storage containers that transport inventory don't have lights built into the floor to shine up on the outside. For example, Stop & Shop does not have generators in its inventory vehicles and it does not shine a light on the outside sign of the trailer.

So, this is clearly a unique vehicle. And, we can argue about whether it's a mobile billboard, or not. But I really agree that this vehicle is a mobile billboard.

Now, I think you brought up a good point, Commissioner Conroy. Is a mobile billboard a mobile billboard if it's used as an inventory vehicle. So if we define a mobile billboard as something which does not contain a stockable area inside of it, but then it starts strapping boxes to the outside, and they're still transporting it on top or in the cab and they put some boxes in the front cab where somebody could sit, is that a mobile billboard still?

I mean, to me, a mobile billboard is a design of a vehicle. It is not how it's used. It's like we say, and I use this example, we talk about regulating mobile homes and storage of mobile homes on a residential property. If you have one mobile home that you are

storing, you are allowed to store one mobile home but if you have a second mobile home of the same type, but you're using it as a playscape, it's still a mobile home.

How it's used to me, is irrelevant. For me, whether it's parked in the front or the back, if it's driving down the street and it is coming on to that property, I'm not so sure that I agree with changing what this item is just because it's being used in some creative fashion.

One thing I would like to say is, it's interesting that maybe some of the folks who are sitting out here are saying, well, okay, if it's a mobile billboard then, why don't you do something about it? In the paperwork there are stipulations on this application and this particular instance, this was an advisory note that was made by the Planner. The Planner that said as an advisory note, we don't allow mobile billboards. So, again, I think we have an area of interpretation where --- and if I may, Mary, you are interpreting the section, 13.10 in the sign section, -- dash 4.f which says that portable trailer signs are regulated and we're applying mobile billboard to that. So, I think if we look at this from a subcommittee standpoint, I think we need to differentiate between what a mobile billboard is, what a portable sign is and how does that affect other businesses. I do think it is appropriate for the subcommittee use.

Even if we did classify this as a mobile billboard today, I truly don't believe that under portable trailer signs, that applies.

Ms. DelDebbio commented that if we just look at the makeup of the truck, like Paul had mentioned with the lights, they're not safety lights. They are used to light up what signs are on the truck. And, the shape of the vehicle is perfectly inset so it's definitely not supposed to --- the main purpose is not for transporting. But if we just look at the way something is shaped, if we look at the lights, if it is more than safety lights that are put on a vehicle, I think that would differentiate it from a Stop& Shop truck, Coca Cola, et cetera, where as the whole design is strictly is more for storage and transport.

Mr. Costello said in his opinion, this is a no-brainer. This is, from a business standpoint, this makes no sense as a delivery truck. The cost to register it, insure it, on and on and on. I'm familiar with it. For what this truck will carry, I wouldn't want to own it. There are many other trucks that I could own that could carry the same amount that would be much less expensive. So, this is not a delivery truck. It could be used for delivery. But it is not a delivery truck.

Mr. Oshana added, I think as we start looking at this and determining what is a billboard and what is not a billboard, where it's business and where it's not business, we have to be very careful because people use a variety of different types of vehicles to do

their business, to carry their logos, and to identify their business. So we have to be very careful as we head down this path and identify what is a business vehicle and what is not a business vehicle.

Having said that, there was a stipulation put on this business to say no mobile billboards. I would venture to say that the reason that that stipulation was put on there is because of this truck. I would say that this truck was in mind when this was there. I mean, this is a truck that was driving around. It was driving around a variety of other stores. So, when you say mobile billboard, you're not talking a delivery truck.

Now, whether we are thinking it's the kind that has the rolling outside thing that changes, I don't know. But we've seen this truck. We've seen a variety of other trucks. We've seen trucks when Bernie's is going out of business. And, Bernie's has a truck sitting on Queen Street. It's a box truck. Is that a mobile billboard? I don't think so. It's a box truck with a sign on it saying going out of business.

Mr. Kenefick mentioned Outback.

Mr. Oshana agreed. They have trucks sitting there. This is a little bit different. I don't know what the intent was the identification of a mobile billboard was identified. In my eyes, this is what the intent of a mobile billboard would be. It's a vehicle with a billboard on the side, driving around. That's a mobile billboard.

Mr. Kenefick said this is definitely a custom made thing. It appears to me like this guy fabricated this whole backend of the truck for one reason. It could be used as a delivery truck, which he's skirting the law, and it is also is a billboard.

But all of these trucks and all these businesses have a lot more signage on some of their trucks because they're larger than that. So, you know, where do you push the button here?

Could we check with the Motor Vehicle Department to see if this thing is --- what it is?

Mr. Pocock offered his information. First of all, I do believe that they are pushing the button on this but it's a fabricated truck, as Commissioner Kenefick said. You look at it, it's got angle iron on it and it's been attached to the body which is a flatbed truck.

But if you got to the motor vehicle statutes, Title 14, under commercial registration which I observed this truck again today there, unloading by the way, around 12:15. It's got a commercial plate on it. If you read the statute on a commercial registration, it means, the type of registration required for any motor vehicle which could be a car by the way designed to use or transport merchandise, freight or persons in connection with any business enterprise. Now this is

Connecticut Motor Vehicle General Statute's regulations. We can't circumvent that.

But as a precedent, the commission has stated here and I don't disagree, they're using it for an absolute purpose but I think we need to go down the avenue as Attorney Sciota said, of having our people look at some other avenues here to cover this so that we can do this legally.

Because if we do that and everybody says well there's not lights, well, there are trucks out there that have air foilers that light up. So, it ran off of other devices other than what they have -- - the generator stuck up the front of this rig here which I mean, is really you can see.

Like I say, I'm not in favor of it but I am in favor of our going forward and taking this step by step so that we can satisfy the public. I don't know any other way around it. I mean, I firmly believe that the statues protect them to the absolute under the statute they're going under.

Attorney Sciota suggested that in the first place and Zaya said it better than I did. You have to be, you have to run through the process because we have no idea of what other people are doing with their other trucks. You may have some consequences you are not aware of, so Zaya's point is well taken.

The subcommittee, you have to look, when you propose, look at all these regulations that you have now and see how the other towns do it and I think if you are going to have to look very closely to see what other businesses do in town because you don't want to get a whole bunch of problems with a regulation. So that has to be kept in mind by the subcommittee. But it is something that has to be worked out either through this board as a whole or my suggestion would be a subcommittee. I'll be sending you more regulations as CCM sends them in. That's the only way to work it out.

Ms. Savage Dunham stated for the record: The stipulation on the mobile boards is because this applicant used to have a flatbed truck with a mobile billboard on it and that was the intent of the stipulation. I don't know if the applicant still has that truck or not, but it was three times the signage size of this delivery vehicle with flashing lights and bells and whistles and it was on the flatbed of a truck being towed. It was just not something that I wanted to see in Southington. That was the impetus for the stipulation for everybody's information.

Mr. Chaplinsky brought up another point. I know there's probably people who came to hear this item so to provide further --- I did reach out in light of what's going on here, I did reach out to the business owner and asked him about this vehicle. I asked him about what he would do to work with the town within the regulations but

understanding that we're not happy with the fact that this vehicle is out there with a picture on it that might, you know ---

And, he mentioned to me a couple of things. He said that they were doing deliveries. So one side of the coin, we don't like the vehicle but on the other side of the coin, the business owner has come forward and said he will try to cut down the number of deliveries. He feels he can go from three deliveries a week to one delivery a week. For what that's worth.

I also asked him, as we look at this, what he would be willing to do with respect to the times of the day. Certainly, children seeing pictures, it's a huge concern of mine. Weekdays, he said he would deliver during school hours which you mentioned yesterday he delivered at noon. So that is good to hear.

The business owner also said that on weekends, if he had to make a delivery on a weekend, that he would do it after dark with the lights off. And, he would only be between Queen Street exit ramp and the business with the light off. And anybody who sees it vehicle outside of that area or outside of those times, to report that, and he would try to take care of it. At least as a stop gap, that is what he is willing to do.

Mr. Oshana asked Mr. Chaplinsky if he had information as to why he needed this as opposed to when he was actually loading the business, he didn't need this truck while starting his business. This truck wasn't necessary and he had plain trucks.

Mr. Chaplinsky said he told him that. He asked him, you know, you said you used plain vehicles to build your business, from apparently another business, and he said, you know, we made modifications to this truck and we want to use it because it's not just Southington that we are going to. We do drive around in other areas where it is permitted.

Mr. Chaplinsky concluded by saying, do I like it? No. Am I trying to mitigate the damage? Yes.

Attorney Sciota said the subcommittee is meeting and the people know they can talk on these issues if they want.

The Chair noted a lot of information heard tonight. We can talk for another five hours and I don't think the board is ever going to come to any type of consensus. I think it is a great idea that we refer this to subcommittee and give Paul some more work --- he can talk about this in his subcommittee.

I think we do need a clearer definition of what a billboard is and what a truck is. Is it a billboard used as a truck or is it truck used as a billboard?

I'd be very curious if this complaint was made if it wasn't this particular business. I don't know. If this was WalMart would someone call in and complain and say, oh there's a billboard truck unloading boxes into WalMart. I don't think that complaint would come through.

I think we need to clearly define what a travelling billboard is. I have seen traveling billboards. In my estimation, this is not a traveling billboard because it is being used for other things. He is unloading boxes. I don't know why he's not using his Chef's trucks or his plain trucks that he used for the six months that he was opening his store.

I spoke with the owner as well. He did tell me he used it one or two times a week to make deliveries. It's a good truck for shoes because it fits the right amount of shoes inside the truck. He told me he instructed his employees not even to stop and get gas. They're supposed to come in, unload, bring it right back on 84 and go back to where it came from.

If we saw pictures of him travelling throughout town, I'd have a bigger concern. Both pictures that I've seen, and Mr. Pocock saw it today, behind the business. If he's travelling through town and he's out parked in front of TD Bank North, I'd have a bigger concern.

I'm just curious to see if this complaint would have come in if it was a different business. Either way, we are going to send this information to our subcommittee and I'm certain that Paul and Pat and Jim are going to do their due diligence and come up with a clearer explanation. Maybe we need to tweak our regulation to clearly define what a traveling billboard is.

Going back to Administrative Reports, the Planner indicated she did send a contact list. If you have any edits to that please let me know.

No other administrative reports.

9. RECEIPT OF NEW APPLICATIONS

The Town Planner passed around the list which is on file in the Town Planner's Office.

The Chair asked for a report from the subcommittees.

- Mr. Kalkowski said his committee is in good shape. One more meeting which we're planning for this week. We should have our final draft ready to go. We're working with Attorney Sciota in

starting to line up outside counsel for review. We'd like the outside counsel to again propose the regulation drafts. We are within our timeline. I also want to thank Commissioner Chaplinsky for reaching out to me regarding the open mike forums. We will take that under advisement and make a determination if we are going to go with the approach, or not.

- Mr. Oshana said the committee met. They began the process of looking at the committee. We had the economic development coordinator and the Town Planner involved. We've reached out to Chair Pocock of the Town Council to have a member of the Council work with us because as you work through the process of redefining what's going to happen up on West Street, we thought it important we get some interaction with the Council. The Council Chair will be contacting us with a designee from the Council to work with us.

The Chair said he was excited and loved meetings where we are approving industrial use properties. We chalk that up to Lou Perillo. He continues to do a great job with economic development. Let's hope that continues.

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

(Whereupon, the meeting was adjourned at 9:02 o'clock, p.m.)