

PLANNING & ZONING COMMISSION
Public Hearing & Regular Meeting
August 18, 2009

The Planning & Zoning Commission held a public hearing and regular meeting on Tuesday August 18, 2009. Chairman Zaya Oshana, Jr., called the meeting to order at 7:14 o'clock, p.m.

The following Councilpersons were present, viz:

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

Alternates: Steve Kalkowski
 Lisa Conroy
 Paul Chaplinsky

Ex-officio members present were as follows, viz:

Mary F. Savage, Town Planner
Anthony J. Tranquillo, Director of Public Works/Town Engineer
John Weichsel, Town Manager

Absent: Patrick Saucier, Commissioner
 Dennis Vachon, Alternate

The Chair seated Ms. Conroy for Mr. Saucier. A quorum was determined.

The Chair announced the Town Attorney is not going to be in attendance this evening due to a family emergency.

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

STENOGRAPHER'S NOTE: The Minutes are now being prepared in summary style. You may refer to the audio or video tapes for more details.

ZAYA OSHANA, JR., Chair, presiding:

Approval of Minutes

A. Regular Meeting Minutes from July 21, 2009

Mr. Sinclair made a motion to approve. Mr. DelSanto seconded. Motion passed 5 to 0 to 2 with Mr. Kenefick and Ms. DelDebbio abstaining.

B. Special Meeting of July 15, 2009

The Chair seated Mr. Kalkowski. Mr. Sinclair moved to approve the Minutes. Mr. Kalkowski seconded. Motion passed 4 to 0 to 3 abstentions with Ms. Miceli, Ms. DelDebbio and Mr. DelSanto abstaining.

Ms. DelDebbio noted for the Minutes that she had read the Minutes and viewed the video of the last meeting.

Mr. Chaplinsky added he had read the Minutes but didn't see the video.

Mr. Kenefick said he had read the Minutes.

5. Public Hearings

Ms. Savage read the legal notices into the record.

A. Lovley Development, Inc., special permit use application for open space preservation subdivision, 44 lots, 703 West Center Street SPU #475.

Sev Bovino, Planner with Kratzert Jones & Associates presented the application. He introduced into the record:

- Area map with the names and addresses provided with the application and was mailed out to the neighborhood within 500'.
- Copies of the proposed open space subdivision in reduced form so the commission can follow the presentation.
- Purpose statement required by the applicant which was also submitted with the application.
- Alternate layout for the application was submitted to compare the proposal with what could be.
- Staff comments with written responses.

Subject property is located in an R-20/25 zone and is served by public water and sewer. Referred to the key map. The zones around this property are R-20/25. There are two parcels of land which will be combined. One has access from Alder Lane and is approximately 12.91 (sic) acres in the northwest corner of the property. The other is frontage on West Center Street, about 1950 lf of frontage. The total area between the two parcels is 29.3 (sic) acres. The property has about 20 acres of open fields. Address is 703 West Center Street.

It has wetlands, floodplains and extensive wooded areas. Approximately 29 acres of wooded land which is mostly located to the west of the project here and a small amount to the east.

The proposed development would take place in the open fields. The proposal is for 44 lots, open space subdivision to be built in two phases, starting with Center Street and moving north. It eventually will connect to Monarch Drive in Phase II. Monarch Drive is a 2,200 lf temporary cul de sac. It was the original plan when that land was developed to the north of us to connect.

The application is made in accordance with Section 3-07.3 a & b and in compliance with special permit requirements.

Explained the development boundary property.

Section 3-07.3 E1 was explained and a statement was provided and a copy was entered into the record.

It is the applicant's opinion that an open space preservation subdivision accomplishes the intent of the regulations and more particularly Section 3-07.4 as follows: a substantial amount of land will be dedicated to open space, 28.8 acres. Land will not only include wetlands but a substantial amount of upland, about 7.3 acres of upland which will be along West Center Street and in the rear of the Royal Oak Subdivision. The location of the open space is such that it will allow for substantial buffers between the developments to the north, south and west. The open space layout allows for minimum infringement on wetlands and buffer areas as compared to a conventional layout which we have provided to the commission. This limited intrusion allows unobstructed link of the wetlands area to conserve the area for wildlife corridors and preservation of the natural resources in the area.

The design provides for the most appropriate use of the land considering site issues. More efficient and shorter growth network is achievable with this layout.

The applicant was able to eliminate one rear lot and any major wetlands filling under the open space subdivision.

Under the open space regulations, 55 lots are allowed and we proposed 44 lots. Calculations are provided.

Our goal was to design a plan which preserved as much open space as possible versus a conventional layout where we would provide 9 acres, (+/-) or maybe even less if we decide to put some of that into the proposed lots.

The other goal was to preserve the open feeling you get when you drive by the property on West Center Street.

Discussion.

All proposed lots meet and exceeds the requirement which is 85' of frontage, 14,000 sf of land. Most have more and we can provide more.

Discussion.

Some lots have less of a backyard to meet our design, so they have less than a carbon footprint than the lots with larger yards. Less grass to cut, less trees to be moved and less overall wetland impact with this proposal.

The new homes are designed to fit the smaller lots and have space available. Along with additional trees, per the regulations, we propose to retain the wooded area that's in the middle that runs east/west and plan additional trees in the backyards of the new lots.

Other layouts were briefly discussed.

The proposed layout now has a "T" intersection at this location which will have a stop sign, slow down the drivers heading south even to make a left turn he will have to slow down. Heading north, you will have a stop sign to take a right.

This layout provides a more interesting streetscape. Explained.

As allowed under Section 3-07.3A, we met with staff and we are aware of their concerns. We are prepared to work with them.

As to Section 3-07.3E, the commission shall find that the proposal accomplished two or more of the purposes set forth in Section 3-07.2. We believe we easily met the purposes outlined in the regulations. We maintain the character of the land. We conserve forest and watercourses. And, we also have an appropriate use of the land considering the size of the land, 49 acres. The topography. In addition, we provide a more efficient use of the land. We are concentrating the lots in the open field but we're leaving much open space. Some of the open space on West Center Street could be used by the public if the town chooses.

Discussion.

This layout results in a smaller and more interesting road network and results in less road and utilities to maintain thereby lowering overall costs and energy costs to the developer and the town for the long term.

Handed in one alternate layout for the record which was considered. Forty five lots with additional roadways, two cul de sacs.

Price range will be between \$389,900 and \$429,900. The square footage of the homes are around 2150 sf.

Discussion.

The distance between these homes and the neighborhood to the north - they're about 45' apart. The sideyard is 20 and these homes are like 21, 22 feet. And, to the other one it would be 42 to 44 feet apart.

The first home proposed in this development is about 70 feet from the first home on Monarch Drive.

He entered for the record copies of the house plans proposed to be built. Renderings were shown of the homes.

The builder has a lot of experience and he is a very capable developer to fit these homes and make them look nice in the neighborhood matching the rest of the development to the north.

Calculations were submitted for the record. Explained that 55 lots were allowed and 44 lots were proposed.

The commission has to find that the open space subdivision is appropriate at this location compared to a conventional layout. If you do determine that and approves the Special Permit application, the next step will be a resubdivision which is subject to a public hearing.

Discussion.

Mark Lovely, President of Lovely Development, said a couple of words to the commission. Explained he wanted to leave as many trees as possible on the property.

Discussion.

My goal was always to never put any homes on West Center Street Extension to the west. It was to keep that open for recreation, et cetra.

Also, the connection to Monarch Drive was looked at to make that as safe as possible. That's why it comes to a "T" intersection and have to take a right so people have to stop.

Discussion.

We are planning on planting 1200 to 1500 per lot of trees, et cetra, to make it look greener and aesthetically nice, also.

Mr. DelSanto asked for comments on the usability of that open space beyond the development. Mr. Lovely explained you could put some walking trails through there and I have offered to construct a gravel parking lot with white fencing around it if the town wanted to, at my expense.

Discussion.

The separation distances between the homes were discussed in response to a question by Mr. Kenefick.

(Those speaking in favor of the application)

Arthur Cyr, 103 Berlin Avenue. Spoke in favor of the application for a couple of reasons. He cited the Woodruff Street development this developer did. He does nice things. He was in favor of the number of houses Mr. Lovely is proposing. It's unique that he's not cutting trees.

Discussion.

This is probably the best plan this town is ever going to see for a 50-acre site.

He spoke about a sidewalk waiver in the future. There are presently no sidewalks.

Discussion.

John W. Mayo, 33 Vernondale Drive. I'd like to commend what Mark and his group has put together. I like what has been proposed. I think it's the best thing for us in the neighborhood.

Discussion.

I request all consideration be given to the plan that was presented tonight.

Mark Mongillo, 152 Alder Lane. Sixty year resident of town. I have to commend the developer for his definite consideration for the town, it's beauty and respect for trying to preserve as much as he can of the natural surrounding.

Discussion.

My greater fear would be if this didn't come to be.
Discussion.

I wish you take all that into consideration for this particular piece of work and move forward with the approval.

(Those speaking against the application)

Chris Zaida, 80 Monarch Drive. Made the argument as to why the link to Monarch Drive should not be made. The health, safety and welfare of the families of Monarch Drive is best suited by keeping Monarch Drive as a cul de sac.

Bob Jennings, 736 West Center Street. He spoke of the wildlife in the field. Turkeys, wild turkeys. Deer. Fox. Coyotes. He spoke about the land being wet.

What they're proposing, the deer and turkeys will not stick around. There is nowhere for the animals to go in town.

Discussion.

Me and my neighbors on that street have a very bad water problem. Explained most houses have two sump pumps. This development is really going to put a burden on us more by raising the water table. With all the new homes and streets, where is the water going to go?

Discussion.

There's no storm sewer in that whole area. If you propose the storm sewer down I would give you all a big hug! We need held down there and this is not going to help us.

I don't think anybody did a study of that wetland. You dig down 6 inches and you hit water.

The brook and the stream were discussed.

Traffic was discussed. I can't get out of that street.

I would like to have a study done on how many acres you need to support say three deer.

Discussion.

(End of Tape #1, Side A)

(Beginning of Tape #1, Side B)

Poor notification was discussed.

I want to know if something can be done with the storm sewer. Are they going to have one in the development?

Statement of purpose was cited. Under the last item, does this mean he has the right to fill anything he wants by removing one building lot? I don't understand this.

Discussion.

The Chair said there are wetland regulations he has to abide by. The application tonight is to discuss the special permit use to decide whether or not an open space preservation subdivision versus a conventional type of subdivision that would fit within an R-20/25 would be more preferential.

Discussion.

Once that decision is made, then he comes back to the commission with a site plan for the subdivision. Questions on the subdivision would be next.

Discussion.

Ask the neighbors about the water problems.

The Chair said when the design comes forward; certain regulations have to be met to go forward.

Discussion.

Mr. DeSanto asked: What would you prefer to see here instead of the 44 house subdivision? The Speaker responded he has no objection to the houses. I just want our problems addressed and the water is the biggest one.

Discussion.

The speaker continued this is going to add to my water problem. The tree line that he mentioned he would leave, the only reason he has to leave that is that that's a drainage culvert.

Discussion.

(Applause)

Alfred Pucci, 131 Alder Lane. The gentleman before me brought to point all the matters that we should be considering. Most of all is that what is proposed to us is something that is flooding.

Discussion.

My concern on anything that is being looked at for consideration, is this the plot plan that's going to be offered to the town for consideration and with that, if it is, that a hydrology study be conducted for the 44 plots shown here and an environmental impact study be conducted to determine what's going to happen to the wildlife that live in the habitat. And, also traffic studies should be conducted to determine what would be the effect of opening up a pass way on to Monarch Drive.

I have water at the back of my lot. Discussion.

There are a lot of engineering parameters that have to be satisfied before the town can vote on this. I think we should look at this as the final plan before that happens.

The Chair reminded the plan in front of us tonight is for the concept of an open space preservation subdivision.

Discussion.

My concern is where the water is going to go.

Brett Powell, 92 Monarch Drive. I don't think most of us are here to dispute or tell him not to build. I think that this right here looks like a very, very nice plan for 42 not 44 lots. Taking these three out and leaving the cul de sac where it is. Not letting it go through. It will become a traffic nightmare.

Discussion.

I would be for this the way it is if the cul de sac was not breached. Traffic patterns were cited.

Discussion.

The proposal to open up this cul de sac is a major mistake for this town. It will be critical.

Intersection of West Street, West Center and West Center Street annex is a nightmare.

Discussion.

Monarch Drive is not a thoroughfare and it's not wide enough to be a thoroughfare. The width of the road is appropriate for neighborhood use.

Turns and limited access were discussed.

Jude Lane and West Street is already difficult. This volume of traffic is going to add to it greatly.

The differing lot size, one third acre vs. half acre, was discussed regarding economic values.

Emergency vehicle access and snow plowing was discussed as not being applicable in this instance.

Lot reductions will result in worse traffic conditions. More houses will worsen the wetlands issue. We'd love to see this at half acre.

Discussion.

If that cul de sac is breached, it really would be a bad idea.

(Applause)

Joe Carmichael, 228 Monarch Drive. The last house on the right hand side. It is adjacent to the field where the development is under proposal.

I don't oppose the development itself but I do oppose anything that would be a less square footage of a house or lot size to maintain the integrity of our neighborhood.

I've walked the field many, many times. It is wet and it takes a long time for the water to settle down after a heavy rainstorm.

Discussion.

What is going to happen to the water when the houses are built? Is it going to come into our property on Monarch Drive. My backyard is most pretty much all the time as it stands.

Intersection of West Center Street Extension was discussed as being a terrible, terrible intersection.

Traffic patterns were discussed.

Bill (Inaudible) 164 Monarch Drive. I want to the comments. I am concerned about the cul de sac break through. I am not opposed to the new development and homes. Spoke of the children and his concern for their safety.

(Pause, pause, pause)

The Chair asked for a brief recess.

(Whereupon, the meeting was recessed at 8:15 o'clock, p.m.)

(Whereupon, the meeting was resumed at 8:20 o'clock, p.m.)

The Speaker resumed. He continued to speak of the safety and welfare of the children in the neighborhood.

Traffic patterns were discussed as regards the safety of children in the area.

Monarch Drive is looking to be continued as Monarch Drive albeit they're one third acre lots. I'm concerned from an economic value perspective having the street continued with third acre lots.

Discussion.

That concludes my thoughts and comments.

(Applause)

Carl Verderame, 1103 West Center Street Extension. The first thing I would ask is you give consideration to not closing this public hearing tonight. Continue it for two weeks for the reason I took the time to go and get the plans from the town engineer's office and also acquired all the literature submitted with the SPU. I think there needs to be some changes related to the proposal in front of us.

Under Section 3-07-2 it talks about the area should be used possibly for recreation purposes as well as neighborhood amenities.

Under Section 3-07-2 E is that smaller networks of utilities and streets lowering public maintenance costs and energy costs.

Discussion.

If we take on that area, there will be a maintenance cost associated with the town once it is decided to them.

The other thing I noted in the proposal for SPU for this type of SPU is trying to utilize solar energy. I don't see that anywhere here on any of the plans.

Under 3-07-3, the key words here are the commission has the final determination as to the maximum number of lots.

Discussion.

Under 3-704, standards and conditions, the first thing under D-1-B, lots abutting lots with existing single family dwellings conform to the area requirement of the adjacent zone. When I look at the plan, the areas abutting the R-20/25 zone have 14,000 sf. You have the right to protect the other people adjacent and you have the right to say that the lot size should be equal to the R-20/25 zone. I don't see that here stressed at all.

The other thing is 3-07-4 D-3, there should be no more than 20 percent lot coverage in its entirety.

Energy design standards were discussed. Streets should basically have an east/west orientation with lots and buildings facing south. That has to do with the assistance with solar energy.

Discussion.

As to dwellings, basically, the long access should be running east/west.

Landscape buffers are needed at the perimeter of all of the areas.

Discussion.

If you feel with the lot sizes, only 14,000 sf, you have the right to tell them to basically put up a border. Coverage is close to 20 percent.

There's also rights of way to get to the open space.

In the regulations it talks about a homeowners association and we can ask that question later on.

I did one last calculation measuring the road network with a ruler for a conventional subdivision and then I moved on and took a look at the other road network and they were almost exactly the same. They did say they were going to have a more efficient and shorter roadway network and based on the calculations I did it doesn't seem to be any shorter or more efficient.

Relating to the cul de sac, I do think you need to give strong consideration to the intersection of West Street and West Center Street Extension. The problem is there's not two lanes at the top and traffic backs up.

Discussion.

I believe with the addition of the houses, either plan, I think you need to take strong consideration of looking at that intersection.

The last thing is I would request you table this and have another public hearing at your next meeting.

Thank you.

(Applause)

Dan (Inaudible) 206 Monarch Drive. I concur with most of the people here regarding the application. I'm against it for reasons stated.

I do have a question: In 2007, there was an uproar regarding development of public golf courses into housing developments. At that time the result was they increased the zoning one acre lots. What has happened?

The Chair said the zoning was not changed to acre lots.
Discussion.

The speaker apologized for the misinformation.

The only final solution to this matter would be to keep the cul de sac on Monarch Drive, let the developer develop the building lots and have two distinct neighborhoods.

How many of you live on cul de sacs?

Mr. Kenefick added his was a permanent cul de sac. The audience offered they hoped theirs stays the same, too.

(Staff Communications)

Ms. Savage said the letters have been provided to the applicant and they are on file in her office. The commission has received copies of them.

- Email from Randall Jarvis. Opposition for a number of reasons.

- Jeff & Kelly Long, 165 Monarch Drive. They are opposed for a number of reasons.

- August 18th letter from Mrs. Sharon Longo, 787 West Center Street. Voicing concerns and opposition.

- August 17th letter from Lorraine & Tom Grecko, 46 Huckleberry Lane. They are opposed for a number of reasons.

- Email from John and Linda Dudac, 641 West Center Street, with a number of questions regarding the application.

(Response from applicant)

Mr. Bovino addressed public comment. Tonight, I think the proposal is to consider if it's going to be open space development or not.

- Storm drainage is proposed on the plans. The drainage runs east to west into two detention areas.
Discussion.

- We don't proposed to add any drainage or run off to West Center Street. The roadway that starts at West Center Street pitches down catching the water and taking it into our own drainage system away.

- We have to comply with ZIRO.

- As to the cul de sac, we are bound by the regulation to show this kind of layout. It's a temporary cul de sac and we need to tie into. If the PZC decides to tell us that they would rather have a dead end cul de sac on our project, that's what we're going to do.

(Applause)

I can assure Mr. Verderame we have looked at all of his concerns. As to recreation, this property, 28 acres, plus out of 49 acres, it's unheard of which is more than 50 percent of the land area dedicated to open space which can be passive or active.

Roadway network, we have double cul de sacs, connections of roads in two different locations. This is a more efficient layout.

Cost of open space to the town, I'll leave it up to you as to whether you want to accept the open space or they want to the applicant to consider other alternatives.

As to solar energy, the homes can be arranged to take advantage of the solar gains if anybody decides to.
Discussion.

Neighborhood, Monarch Drive, if you decide on this layout, we can provide a buffer by installing a fence, additional plantings. Between the lots there will be additional trees planted and landscaping. The distance between the homes is not much different than Monarch Drive.

Discussion.

In terms of meeting the purpose of the regulations, you need to meet two or more of the six recommended areas. We have met easily four out of the six intended purposes when doing open space.

We have done a pretty good job and I'll be glad to answer questions.

Mr. Kenefick thought the offer not to go into the cul de sac on Monarch Drive was great. How do feel the staff will treat you on something like this? Mr. Bovino said the police and fire are in favor of the connection.

Discussion.

Discussion of the Copper Ridge cul de sac.

Mr. DelSanto asked Mr. Bovino to talk about the other concept. Mr. Bovino said it would be half acre lots, 38 lots, but it does not include the 12 acres to the north which would add a small roadway so you are probably talking about 41 lots and lots all along West Center Street. By stretching it, I can provide 9 acres of open space versus 28 but I could include the extension of lot lines and take a lot of the open space out and make acre lots.

Discussion.

The Chair held the public hearing open to the September 1st meeting. At that hearing we will accept new presentation, new testimony from the public and new information from the applicant and move forward at that point.

All documents are available for public review in the Town Planner's Office.

In the business meeting, this item will be tabled meaning no action.

(Whereupon, the meeting was recessed at 8:45 o'clock, p.m.)

(Whereupon, the meeting was resumed at 8:50 o'clock, p.m.)

(End of Tape #1, Side B)

(Beginning of Tape #2, Side A)

ZAYA OSHANA, Chairman, resuming the Chair:

B. Connecticut Sikh Association, Inc., special permit use application for more than one building on a site, 1596 and 1610 West Street SPU #476.

Rob Blanchette, Borghessi Building & Engineering, representing the Connecticut Sikh Associations, Inc., along with some of the members in attendance.

Right now they occupy a single parcel of land at 1596 and 1610 West Street. There are two buildings, one on the south side, which is a house they use for the housing for their Priest. And, their existing worship area is on the north side of the property, 5000 sf on two floors.

We want to retain the two buildings with the third building in the middle being for the worship area. Explained the uses for the three buildings ie: worship area, dining area and Sunday school.
Discussion.

They are not adding more uses but they need more room for the uses they currently have.

The exiting driveway on the north side would be retained. Add a new driveway right in the center of the property. The one for the residence would also stay.

The flow around the building for parking was discussed.

The drainage was discussed noting the amount of parking spaces and total impervious area was reduced to try to shrink down the amount of drainage that runs off the site from 1.75 acres down to 1.55 acres. A water treatment system was added and explained.

I note that some of the issues regarding the adjoining neighbor, after speaking with their representative, can be resolved. Explained.

All staff comments have been addressed and revised drawings for that have been submitted.

The Chair asked about the uses for the building with the dining. Are you going to do any rentals? Mr. Blanchette said no. A big part of the religion is dining together afterwards.

The traffic assessment has been received. Mr. Blanchette summed up there is not going to be much of an increase in the actual volume of traffic. Explained.

It was noted the sight line distances are good.

Traffic Report on file in the Town Planner's Office for review.

(Those speaking in favor of the application)

Manny (Inaudible), a founding member of the organization. Gave a history of the application noting it was August 19, 1999 when a permit was issued for this purpose. Described the organization as being an asset to the town and spoke of all programs they were involved in in Southington.

Discussion.

Explained the traffic to the site is a minimum.

Explained the services are on Friday at 7:30 and on Sunday at 11:00 am to 2:00 pm. Most churches are not in session then.

(Those speaking against the application)

Monica Cusano, 90 Welch Road. I'm here to give you some back history to this property and adjoining property. She discussed the water issues on her property, Cusano's Farm, 90 Welch Road west of the West Street locations.

Extensive discussion.

She gave an extensive history of water issues from 2005 forward on her property.

She submitted aerial photos from 2003 and 2005 which shows what is going on with the water.

Spoke of the reconstruction of the parking lot that was to be done by this applicant. Curbing, gravel, sidewalks, daywells and heir septic system. It was never done to this day.

In 2006 they went for an addition on the old Redman Hall, 10,000 sf, and I took them and the town to court for the poor drainage design approved by the Town Engineer.

Discussion.

She noted she is a taxpayer and this property is tax exempt.

She submitted pictures of this property so you can see what drainage is running off of the property on to our farm land and what improvements they have not done.

Discussion.

Now they want to add a third building not including the existing building and not including the existing house and separate garage.

Who is going to look out for us? I am bringing my storm water engineer to come and talk to you. We did have discussions in the

hallway about this. I have no problem with what they're building. I have a problem with the water issue. This is a big issue. It's always constantly draining on to our property. I know we're down hill but ZERO runoff is all I'm asking.

Discussion.

Ms. Cusano said the engineering department needs to be out in the field watching, hands on, what's going on. You can't depend on the plan to go through the way it is.

Discussion.

Frank Magnotta, consulting engineer and licensed professional engineer. Portland, CT. I've reviewed the current project application before you. I was also involved in the prior application and design which went into lawsuit with resolution of the engineering issues as a result of that.

I reviewed the plans and the drainage report that accompanied that. I did not see the staff comments that were generated as part of the town's review.

I have brief comments relative to the storm water analysis. I found that the design and analysis favorable, for the most part. My only question was the need for a little bit more detail in the actual report itself.

Explained.

We did have conversations prior to the public hearing. The big issue is the run off that currently comes off the existing site on to their property. Stormwater quality, detention are basically non-existent on the existing site now. The downstream properties, as a result of that, are the recipients of an excessive amount of water by today's standards is not permitted.

We discussed:

- One of the curb cuts is so low that the runoff on the highway actually runs down the driveway. The lip is not high enough so state runoff runs over and down the driveway. That's easy to fix.

- On the site there are two catch basins with drywells. Under the previous approval they were to be removed and rebuilt.

Discussion.

- At the rear of the existing parking lot, there is no curbing but the presence of a berm and some timbers prevent the water coming off the parking lot from sheet flowing off the parking lot down the hill into the embankment. That area is acting as a curb and funnels all the water to a point at the northwest corner of the parking lot and as a result of that there is a significant problem

created at that point on the embankment which then translates to the Cusano property, as well. We had discussed a solution to that.

Discussion.

Some items unrelated to storm water were discussed with the applicant and I don't think they're relevant to the PZC. The two property owners are willing to work together from an engineering standpoint to get them resolved to everyone's satisfaction.

Discussion.

Mr. Chaplinsky asked if the applicant would consider eliminating one of the driveways on their property.

Discussion.

(Staff Communications)

Ms. Savage reported she had none.

(Applicant responses)

Mr. Blanchette said there are some legitimate issues for each property owner and while we're doing construction, there are things that we can do fairly inexpensive to help the situation in the back. It is an existing condition and we are not going to add to the problem but I think we can solve the problem they have now.

Discussion.

The Chair closed this public hearing.

6. BUSINESS MEETING

A. Lovley Development, Inc., special permit use application for open space preservation subdivision, 44 lots, 703 West Center Street SPU #475.

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

B. Connecticut Sikh Association, Inc., special permit use application for more than one building on a site, 1596 and 1610 West Street SPU #476.

Ms. Savage noted the traffic report had just been received this evening and some other material, we're not prepared to comment on the traffic generation. Under the SPU traffic generation and the use of the property is an important consideration as well as the landscaping.

Mr. Kenefick asked if there was anything we could do to correct some of the flooding problem? Could we have somebody go up there and see if there's a berm that could be installed? Mr. Tranquillo said he would take a look at this time. They hit on the major issues that will help.

Discussion.

Ms. Conroy said she has the greatest confidence in the Town Engineer that he will be able to handle this.

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

C. Connecticut Sikh Association, Inc., site plan application to construct an 11,250 square foot religious facility, 1596 and 1610 West Street SPR #1556.

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

D. Today's Church, Inc., Special Permit Use application to allow a place of worship in a business zone, 1205 Meriden Waterbury Turnpike SPU #474.

Ms. Savage reported the public hearing was closed at the last meeting. At the commission's direction, staff talked with the applicant on getting information regarding usage of the building, hours of operation and the proposed scheduling. I did email that material to the commission for their review.

When the commission is satisfied with the utilization of the property, I would remind you that when acting on this application you must refer to Section 8-02.1.1 of the regulations as this property is adjacent to a residential zone. So in addition to any stipulations you may have on the use, you need to make a finding it is appropriate for this location. This application is ready for action.

Mr. Sinclair made a motion to approve the application finding that it is appropriate under our regulations, Section 8-2.1.1 with the stipulations that they stay with the times as set forward in the Town Planner's memo dated August 12, 2009 and they don't add any additional ancillary uses, i.e.: day care, unless coming before the commission again. Mr. Kenefick seconded. Motion passed 6 to 1 on a roll call vote with Ms. DelDebbio opposed.

E. Twinco Corporation, site plan application for retail development with detached gasoline filling station, Spring Street SPR #1551.

Ms. Savage reported this application has been before the commission for quite a while. I agent is here if you have questions of them. We did received revised plans last week and staff did review the revised plans. At this point in time, I will remind you that this site was an earth excavation operation. There was some concerns and violations issued.

(End of Tape #2, Side A)

(Beginning of Tape #2, Side B)

The applicant did submit an earth excavation application which has now been approved. Two SPU applications and this is the accompanying site plan.

The remaining staff comments are on the checklist and I do have the responses. From staff's perspective, these are technical in nature. They've been responded to and they're not being questioned. Mr. Hilson has no additional issues with any traffic items that are related to this development that are under the applicant's control at this time. If you choose not to act tonight, it is out of time. It'd have to be withdrawn, resubmitted and started over. Or, a special meeting could be held.

Ms. Miceli commented she was appreciative of the new architectural design that they submitted to us. It was exactly what I had in mind. I appreciated the fact they got on that and gave us something other than that plain, big box façade. I'm pleased.

Mr. Kenefick asked what needs to be done about the two lanes on Spring Street, the two turning lanes. Ms. Savage said at this point in time the applicant is not able to do anything. Because the restaurant pad originally proposed at BJ's has been removed, it is my understanding the STC will not compel road widening. The applicant had intended to pursue that but when they realized they hit a road block, unfortunately, their option was to remove the restaurant pad. At this point in time, that is not an option on the table connected with this development unless the S T C during their review then seeks additional considerations.

Discussion.

Ms. Conroy pointed out that having reviewed the revised traffic study that was submitted July 16th, I am very concerned about the operation of the intersections of Queen Street/Spring Street and the area with Queen Street and the 84 westbound ramps. It's in the report that with the proposed lanes that are included in the site plan that we're going to have queuing issues and traffic backing up into our intersection. Adding a double left lane would improve that situation as shown in the report. But that isn't possible as explained by Ms. Savage.

Also, at two intersections, the intersection of Route 10 at the eastbound ramps, the level service on a Saturday peak goes from a B to a C with combined improvements.

At the intersection of Route 10 and Spring Street, the Saturday peaks go from a level service of C with the background traffic to the level of service D.

According to our zoning regulations, Section 9 in Site Plan Review, 9-03.17, site plans in any zoning district which result in a peak hour trip generation of 75 trips or more shall be subject to the following additional requirements and this does meet that threshold.

The last requirement is that in addition to those first two, that no site plan will be approved if it will result in the reduction of a level of service. I don't want to see us going into this knowing that we're going to have a traffic problem and not being able to do anything about it.

Ms. Savage pointed out at this time the applicant is not able to add an additional turning lane which is why they reduced the density of the development on the site.

Discussion.

In speaking with Mr. Hilson, he said at this point in time, ultimately adding that lane is out of the applicant's control. They're working with DOT but they need right of way from DOT. That could take years.

Discussion.

The Chair said if this violates the regulations, we have an issue.

Discussion.

Negotiations have been taking place for nine months, added Ms. Savage. When they fell through, other options were sought out. If the applicant can obtain about 10 feet of right of way from the highway right of way, they will move forward and add another lane. Right now, those negotiations are stalled with DOT.

Discussion.

Do we have actual data that shows with the reduction of the restaurant there still is that traffic issue or are we making a judgment call here? On July 16th, the traffic report did remove the restaurant site pad.

Discussion.

Scott Hesketh, traffic engineer, added the June 5, 2009 report does not include the restaurant traffic. That is the report with responses to questions filed July 16th, August 10th, 2009. We didn't

add the traffic back in. The traffic analyzed was for the wholesale club and the gas station.

Discussion.

Mr. Hesketh explained the difference between a level C and a D. And, the analysis is for a peak hour and actually a peak 15 minutes within the peak hour.

Discussion.

Mr. Hesketh went through his August 10th memorandum and explained that to the commission at Ms. Savage's request. (Memo on file in the Town Planner's Office for review.)

The applicant is willing to make the improvements provided he can obtain the right of way and move forward.

Discussion.

The Chair said the intersection is tough and it is a safety issue.

Discussion.

Mr. Hesketh reminded the commission they are under the STC review as a major traffic generator. Until we get a certificate from them we would be prohibited from moving forward. The site plan approval would help us get to that point.

Discussion.

Ms. Savage added there is a request for a sidewalk waiver from the Queen Street frontage down to the self storage frontage and that should be acted on prior to the site plan. Any motion you make, if you like the changes to the elevations, you should stipulate that those are part of the approval. And, my checklist with the 16 items that staff would recommend as a stipulation, as well.

Discussion of the sidewalk waiver request for 150 feet. The Chair gave his opinion on sidewalks. Putting them anywhere is good because they eventually hook up and add safety. Ms. DelDebbio added that if the tracks are there and the Rails to Trails continues, then the sidewalk would be key.

No motion made for the sidewalk waiver.

Mr. DelSanto asked the applicant to speak about their efforts with the DOT.

Mr. Weichsel said you could act on it with the conditional thought that if the state approves this transfer of land you have approved it. If the state doesn't, in the final analysis, nothing is lost. The state will not act unless you do and it would be a form of action.

Ms. Savage suggested a different way to word a condition like that might be that the condition that the applicant continues to move forward to achieve a level of service C or better. That might be obtained or achieved in other ways that we haven't even discussed besides the land transfer.

Mr. DelSanto made a motion to approve the application with the aforementioned stipulations set forth by the Planner to continue to work with the DOT to achieve a level of C or better. And, the elevation that we looked at and the 16 item checklist. Mr. Kenefick seconded. Motion passed 6 to 1 with Ms. Conroy opposed.

F. 609 North Main Street, LLC, site plan application for proposed office building, 60-1 North Main Street SPR #1476.1.

Ms. Savage noted the application has been before the commission for a long time. We have just received and reviewed revised plans. A few minor outstanding, none of which could be done, yet. Staff feels they would be stipulations on approval:

- The applicant needs to provide the town staff to review an easement for road widening on Flanders Street as required as part of the previous subdivision approval.

- We need to review the drainage, utility and parking easements for interior to the site.

- Staff would require that the dry wells outside be videoed just to ascertain their condition at this point in time.

Otherwise all other staff comments have been addressed with the revised plans.

Mr. Bovino pointed out the revised plans show the easements that Mary mentioned. The attorney will prepare the documents for the Town Attorney's review. We agreed to all the stipulations and all easements are shown.

The applicant has hired PYE, Inc. to clean the drainage area and there will be a report prepared and given to the Planner so she knows the system is working and in good condition.

(Letter submitted)

Mr. Sinclair discussed the curb cut on Route 10. I thought you were going to get rid of that. We'd rather see all traffic going through Flanders as opposed to the right hand turn only on Route 10. Have you discussed it with your client?

Mr. Bovino didn't get that impression the right hand turn was to be eliminated. There was concern about it. We did make some changes. The drive through area is going to be throttled down to a single lane at this intersection and by doing so the driveway becomes longer and we eliminated two spaces here. We have installed a stop sign and no right turn sign. The right turn movement is very important for his business. DOT needs to approve the cut and at this time we would like to stay with the right in movement.

Discussion.

Mr. Sinclair is not in favor of that curb cut on 10. I'd rather see traffic go off of Flanders.

Staff has provided in your packet the latest memo from Mr. Hilson who has reviewed this. And at this point in time the driveway in has been reconfigured and a stop bar has been added to help reduce potential internal conflicts within the site. The curb cut is completely within your discretion at this point in time confirmed Ms. Savage.

Mr. DelSanto made a motion to approve with the stipulations set forth by the Town Planner. Ms. DelDebbio seconded. Motion passed 5 to 2 with Ms. Miceli and Mr. Sinclair opposed.

G. Dean Michanczyk, flood plain filling plan application to remove existing building, add to existing building and install new parking lot, 120 West Main Street FF #217/SPR A#1558.

Attorney Bryan Meccariello, 142 North Main Street, on behalf of the applicant. They own all four properties which are important in these applications. The properties are 42 West Main Street (O'Hala & Taylor's building), 76 West Main Street (Pisko's Town Package and Barnette Hubeny Plumbing), 100 West Main Street (Old Plantsville Forge Company & Southington Specialty Wood) and then 120 West Main Street which is Dean's Stove & Spa.

All four properties are in an I-2 zone. Collectively, they are close to 4 acres in total.

There are three matters before you tonight:

- Floodplain filling application
- Site Plan application to remove the existing building which is actually the Barnett Hubeny Building and
- Add an existing building and install a parking lot.

Our engineers are here tonight to speak to you. I thank Mr. Secondo, Mr. Riccio, Mr. Perillo and all other merchants in the Center

of Plantsville. It's called the Downtown Plantsville Renaissance similar to the Downtown Southington Renaissance.

Discussion.

The EDC endorses this but he needs the cooperation of the property owners and that's where Dean and Eileen come in. This includes the municipal parking lot. A parking lot that the entire cost will be paid for by Mr. & Mrs. Michanczyk. They're taking down the existing building at a cost. The construction of the municipal parking lot is pretty much integral to the downtown Renaissance. They're doing it out of their pocket at a cost to exceed \$150,000.

Discussion.

The Conservation Commission will be having a site walk August 20th. Hopefully, they will vote on site so we can come back before you on September 1st we have their approval.

The Parking Authority is involved as this application includes waivers for parking spaces.

A restaurant is going up here as the other centerpiece of this application. (Showed rendering)

Section 5-02.1G, permitted uses in an I-2 zone was discussed. Right now in an I-2 zone we have Kess's Café, the old pizza place across the street. This new restaurant is nothing improper. We need to get the sense of your direction simply because my client is on a tight timetable.

Discussion.

The engineers will address staff checklists.

Ozzie Torres, registered professional engineer in the State of Connecticut and I have offices in Hartford, CT. I did the site civil engineering design on the project.

Explained the drainage on the site. The site has pavement areas that are in disrepair. The parking spaces are not well marked. There are fences and utility poles on the site which seem to impede the flow during a flood itself. The proposed plan is to remove a lot of this existing material and reshape it, regrade it and propose a new parking lot as shown on the plan.

The existing flood elevations and proposed elevations on the site were discussed. The level of flood through the area is about 2 feet from end to end of the site.

The proposal is raise the building which is just to the west of the proposed restaurant and remove all utility poles on the site, fences and other material that causes a problem with flooding. The site will be regarded so that we reduce the amount of material on site

within the floodplain. Calculations as to the cut and fill were submitted and discussed.

They are also going to remove the existing dock behind the building which is a lot of material. Explained there will be a net cut for the entire site of 263.67 yards. (Submitted revised calculations)

Site design was discussed regarding traffic and pedestrian users. This will be parking for the restaurant and Dean's Stove & Spa.

The proposal is to also install some ornamental gas lights along the river side and again the basis for the lights was accounted for within the floodplain so you can see we have reduced the volume.

Drainage heads southeasterly towards the river. That is what we'll keep as well. We've kept the slope towards the river and instead of using a storm system, we have a gravel, sand ditch along the edge of the parking 3' wide where it is comprised of stone and sand filter and we're listening to the wetlands commission as to how to finally design that to collect and purify the water.

Discussion.

The drainage calculations show the proposal will not increase runoff for all storms because we have removed a lot of impervious surfaces and created more grassy areas like the large island in the middle of the site.

Erosion control plan was discussed.

The landscaping plan included in the package shows the landscaping with the island in the front parking area and then just some small work along the edge along the river where there will be some thinning of trees as approved by the wetlands commission.

That concludes what I have to say.

Jim Sakonchick, engineer with the firm of Kratzert & Jones. I'm working with the architect as a team to do the architectural design and structural work for the conversion of this building to the proposed Hearthstone Pub.

Gave the history of the building and the demolition work.

(End of Tape #2, Side B)

(Beginning of Tape #3, Side A)

Construction plans have already been completed and submitted to the building department.

Mr. Sakonchick brought up the proposal for the 30 by 40 foot addition located behind the building. Explained the criteria to be considered for the building. He noted this is being built in the floodplain and he has to put the piers in a location that not only will be not have a net increase in the amount of displacement of floodwater --- we're giving more floodwater area. But because the river is flowing, I have to place those piers so it doesn't have a negative impact on the conveyance of the water.

Discussion.

Conveyance shadows were explained. This is a note that comes directly from the FEMA documentation that says: Determining of the limits of the conveyance shadow is illustrated. All structures located completely within the shadow can be permitted without engineering analysis for a no rise certificate.

That means that by placing in the conveyance shadow, they have predetermined that that has no effect on the ability of the river to convey its flow and consequently, I was able to certify on the plans that this addition built with piers located in the conveyance shadow will have no effect on the river's ability to flow.

From an aesthetic standpoint, we have been able to develop plans that can convert this building --- a historic building - explained the rendering. It has traditional New England gable roofs. We are accentuating the features of that so it will naturally fit into this historic Plantsville area.

Discussion.

Architecture features were pointed out on the renderings and described.

Any questions on my presentation?

In response to a question by Ms. Savage, Mr. Sakonchick explained the elevation and the river which is located right to the side (indicated).

Dean Michanczyk stated that he would answer any questions you might have concerning the whole project.

Timingwise, we'd like to move as quickly as possible. Explained.

The municipal parking area proposed was discussed.

We are excited about working with the town and everybody else down there to make Plantsville a nicer place.

We are wanting to have the restaurant opening for Christmas.

Ms. Savage noted this needs Parking Authority approval. I also remind you this applicant is proposing the municipal parking lot easement and with the past three applications with parking lot easements, the commission did not act on the site plan until the easement had been filed on the land records after negotiation with the Town Attorney. That's been the practice and you have been consistent with that with several other projects in town. The attorneys working this out is critical to the establishment and support of this project which everyone is in favor of. With that the staff has no further comments.

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

H. Ridgeview Estates, request for one year extension, 1985 West Street SPR #1360.

And

I. Ridgeview Estates, request for one year extension, 1985 West Street, SPR 1360.2.

The staff reported that work is ongoing. We are pleased with the progress and we support both requests for extension.

Mr. Sinclair so moved the motion. Mr. DelSanto seconded.

Mr. Kenefick asked what they actively have been doing for the last four months there. It seems like they've done absolutely nothing.

Ms. Savage reported they've done quite a bit of work. The rear of property, that was the bailiwick of application 1360.2 with all the water and the drainage and the problems with the neighbors.

There was a number of other design problems going on out there, one of which was the requirement to construct the detention pond so that it could accept the water that was being redirected. That pond has now been completed. Explained as you drive up it must look very different.

They've also bricked up the unnecessary knockouts within the catch basins. They've been clearing out the systems.

They've done a number of other stabilization aspects of the site. We had a preconstruction meeting out there August 4th to review and authorize the start of work along the rear of the property line. Explained.

The erosion controls are in place. I am getting weekly email updates from the onsite manager.

Mr. Kenefick thought the whole big thing was the retaining wall in the back so the water or whatever wouldn't go into the houses. I thought that was the major point and the trespass.

Ms. Savage said that is one of the major points in the remedy. Now when they get the work done at that corner and the rear of the other corner, the next step is to then install a retaining wall. They have to put in the supporting basins. They expect to have the rear of the property stabilized by the end of the construction season. That's why staff is supportive of it. They're making great progress now that it has stopped raining.

We are very supportive of an extension. If you would prefer to give an extension of a lesser time, staff would support that, as well. We just don't want to stop then now that they're working out there and making progress.

Mr. Kenefick said he thought the main concern was to keep the water away from the people's condos in the back and the wall was supposed to be built and the catch basins were supposed to be put in there. That was my main concern. Not making the pond bigger, whatever. The problem is with the people that own the condos in the back. I wouldn't be in favor of granting a 1 year extension.

Discussion of a six month extension.

Ms. Savage clarified they didn't make the pond bigger. They actually built it according to the approval and the pond is what is supposed to be accepting the redirected run off that was the issue of the trespass. The plan is to collect the water, behind the retaining wall, divert it to a system of pipes to get it into the storm drainage system which then goes into the detention pond. The detention pond had to be finished and finalized and stabilized with the correct outlet pipes in order to not have a flooding situation on West Street and also accept this redirected flow.

Discussion.

A four month extension was suggested and discussed.

Mr. DelSanto amended his motion to grant a four month extension for application 1360 and 1360.2. Ms. DelDebbio seconded. Motion passed 5 to 2 with Mr. DelSanto and Mr. Kenefick opposed.

J. McCleary Associates, LLC, request for release of \$19,700 erosion and sedimentation bond, 85 Robert Porter Road SPR #1484.

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

K. Mt. View Farms, calling of subdivision bond, 850 Meriden Avenue S #1241.

Mr. Kenefick recused himself and left the bench. The Chair seated Mr. Kalkowski for this item.

Ms. Savage reported the staff would recommend calling the bond for this application. You may recall that several months ago you authorized the calling of the erosion and sedimentation control bond for the property. I did check the Minutes and we did not call this bond at that time.

There's been some ongoing siltation concerns that staff has been spending the money you authorized to clean up the public right of way.

Staff would now like to call this bond and then we are going to proceed to remedy this over excavation issue on some of the lots up there and we are still talking with the developer to see if there is a way to compel them to do the work. If you call the bond, staff is in a position to move forward immediately.

I did send a few letters which were not picked up. I made phone contact and the developer said they would meet me at lunchtime and I was going to hand them the letter. They didn't come that day. I paid for a Sheriff to serve them with the letter after which I got a phone call saying --- I'm out of state working. I'm coming back Sunday and I will come in and talk to you Monday. I promise I will do the work. Monday was yesterday, the person is back in town and they did not come to see me.

The Commission discussed the issues with a pointing out by the Chairman we need to call the full bond and we need to do the work.

After discussion of the restoration of the project, Mr. Tranquillo asked for time to research that restoration. Mr. Tranquillo said he would report back to the commission.

The Chair again stated very strongly it was his position the town needs to restore this property to the original plan that this commission approved.

Ms. Miceli added that the commission wants to be able to make that decision here at the commission level.

Mr. DelSanto made a motion to call the bond. Ms. Miceli seconded. Motion passed 7 to 0 on a roll call vote.

The Chair reseated Mr. Kenefick.

L. ESPN, request for release of \$14,000 public improvement bond SPR #1259.2.

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

M. ESPN, request for reduction of public improvement bond from \$170,000 to a new amount to be provided at the meeting. SPR #1435.

The staff recommendation was \$30,000 for the new public improvement bond amount. Mr. Sinclair made a motion to approve which was seconded by Ms. DelDebbio. Motion passed unanimously on a voice vote.

7. Items to schedule for public hearing.

A. Mackiewicz Custom Homes, LLC , earth excavation application for the removal of approximately 148,000 yards of material for residential development, West Pines Drive EE #128.

The Chair recommended before this is put on the Agenda, it is ready. We've discussed this a few times in the past. Staff has requested additional restoration information from the applicant and we do not have it, yet. We will hold off on scheduling this application until we have more information.

B. Proposed revisions to Sections 4-01.2A, 4-02.2A; 4-03.2A and 4-04.3A of the zoning regulations, ZA #550. (September 1 meeting)

This will be scheduled for September 1st.

8

8. Administrative Reports

The Chair explained this application that we're going to discuss; I am going to ask the Town Planner to go over the details of this application. The Commission is going to have discussion and then we are going to have a public input session. Each speaker will have 3 minutes to speak. We are going to have a total of 45 minutes for open discussion --- that doesn't include the commission's discussion.

(The meeting was recessed at 10:55 o'clock, p.m.)

(The meeting was resumed at 11:00 o'clock, p.m.)

Zaya Oshana, Chairman, resuming the Chair:

Discussion of 228 Queen Street

The Chair asked Ms. Savage to review the process that was used in this application and how the permit was reviewed and deliberated for the VIP application.

Ms. Savage said this is a zoning permit application. Zoning permits are applied for in the building department. Applicants apply in the building department and they get routed to the zoning department. We then review them with the associated site plan approvals, if any in place for that site.

This application was submitted. It was for authorization to put in a retail establishment. The material in the packet identifies the proposed activity. The applicant proposed to open a retail store for the sale of clothing, hosiery, novelty, gift cards, party supplies, tobacco products, accessories, personal care items, books, magazines and DVDs. There is another list attached.

This application came. Staff received it. Brought it to me. We reviewed it against our regulations. Once we ascertained that based on the face of the application that it didn't require site plan approval, we then signed off on it. It is an administrative function.

The second page of the material submitted with the application has an asterisk and it talks about percentages of products. I will tell you that I met with the applicant and his attorney and we discussed the business and we discussed our regulations.

The Town of Southington has regulations for sexually oriented businesses. There's two different sections within our Zoning Regulations.

- Section 11-17.1 which talks about separation distances of sexually oriented businesses from schools, churches, parks, residential dwellings or other sexually oriented businesses.

- Section 2-19 has the town's definition of a sexually oriented business is. Upon request Ms. Savage read this section out loud. This section focuses in on percentages of media or the other type of sexually oriented business such as a bar, nightclub, peep show kind of place.

With that being said, we had this material in front of us. Clearly staff knew who the proprietor was and the business. And, based upon the application materials submitted to us, and their claim that they will stay under the five percent, after staff's review, we felt that it did comply with our regulations and we would not sustain a favorable outcome in any kind of denial of the subsequent litigation.

We talked to the proprietor about staff's concerns with regard to the location. Staff asks them to accept some conditions of approval which they did and they are enclosed in your packet, as well.

We also advised them that if they did any site work or filling then they would require site plan and floodplain filling approvals prior to the start of improvements.

We did advise them that mobile billboards are not allowed in town.

Stipulations:

- No provocative images shall be on signage.
- Applicant to retain existing façade or install façade in keeping with colors and design of area buildings.
- No mannequins or other sexually explicit material shall be displayed in the windows or so as to be visible to persons outside of the establishment.
- Applicant to consider installation of curtains or tinted windows.

The applicant did consent to mirror the windows so you won't be able to see in at all. It is an 18 or older establishment. Anybody entering the store, standard operating procedure is similar to cigarette sales, if they look like they're under 25, the proprietor asked them for ID. If they're under 18, they are not allowed entry.

The applicant brought in paint swatches and I have allowed to select what are the more appropriate colors for the area which are basically neutral beige and cream color.

The applicant is now doing interior demolition. They will require some building permits. My office doesn't review them. When their work is done and they're stocking the shelves, they will come to us for a CO at which time I will go and inspect the store to insure they've complied with the scope of their approval. If they have done that and they are not in violations of the regulations, then they will receive a CO.

The Chair asked who was involved in the decision. Ms. Savage said the decision to sign off, she ultimately did sign off on it as the department head. But our zoning enforcement officer --- the regulations indicate that I am the zoning enforcement officer, but we have another one, as well. We did meet with Town Attorney Sciota several times to discuss this prior to taking any action. It was not a decision made in haste or without advice from Town Counsel.

Mr. Kenefick noted the permit was signed June 24th. Don't you think we should have been told what was going on? Don't you think it was proper for Mr. Weichsel, Mr. Sciota, to at least attempt to tell us on June 25th or on June 15th that this was going down?

Ms. Miceli added we are the ones who field the phone calls and the complaints from the public. We represent and stand for the public. When we get phone calls and emails it is difficult to respond when we haven't even been privy to these conversations. My problem with this is regard to policing. I'm not quite sure how this entity is going to be policed with regard to the five percent, ten percent in the future.

Discussion.

Mr. Weichsel responded that can be inspected in a surreptitious manner. The police department.

The Chair raised the following issues:

1. The Town Planner has done a very good job for the Town of Southington to date.

2. I believe that the decision that was made by the staff of the Town of Southington this application was wrong. I've made that point to Ms. Savage and Mr. Sciota.

3. I also believe that in reading our regulations there is a clause that allows us to basically deny that. If you look at the items carried at the facility, it says: forms of visual or audio presentation of which ten percent of the total presentation time -

(End of Tape #3 Side A)

(Beginning of Tape #2, Side B)

--- or the stock material is devoted to the showing of material that is characterized by any of the emphasis upon which depiction or description of specific sexual activities or specified anatomical areas which are listed.

Our position when we discussed that is a store that says in their advertisement on their website: Indisputably, the VIP location are best known for having the largest and best adult video and toy department in all of New England.

Discussion.

Ten percent of the presentation time. Was discussed.

Look at boxes with sexually oriented descriptions on them. Pictures. Add that to audio or visual total presentation.

Discussion.

I did speak to the Attorney General of the State of Connecticut today.

(Applause)

He wrote me today after our discussion. (Read the letter which is on file in the Town Planner's Office.)

(Applause)

The Chair added we need to talk to the Attorney General and the Town Attorney about what we need to do next.

I also think the Commission should have been informed before this decision was made. This is a decision, while it is a transfer of a zoning permit, this is not business as usual. This is a store that is unique. It does not belong in the place it is going to.

Discussion.

Mr. Sinclair added he agreed with all comments. His two major problems were: (1) it doesn't fit within our regulations. And, going into the procedure on this, the PZC is the first interpreter of our own regulations. We say what they mean before anybody else. Not the staff. It should have come to this board, executive session or email, how do you guys look at this. I'll tell you right now, the way I read this regulations, this is prohibited.

I do have a substantive issue going through this list. If we got something like this for a site plan, we'd laugh at them. We'd deny it on the first night. Detailed items.

It all goes back to it should have been at this commission with this commission giving the answer on whether it's allowed or not. I agree with the Chair that it doesn't fit either in our community or in our regulations.

We have to be working with the Attorney General from this point on and working with our own lawyer to see what we can do to get this reversed as soon as possible.

(Applause)

Ms. DelDebbio agreed with all the commissioners. I do think we should have known about it. The whole ten percent thing is ridiculous. By their own advertisements, this is the type of store that they have is a sexually oriented business. We need to look at our regulations to see what can we do to help us protect us from anything else in the future.

Mr. Chaplinsky agreed with everything that's been said with respect to this business being where it is in Southington. Challenging the regulations and trying to do everything that we can to insure that this business is not where it is within the law is the right move.

This should not be a personal attack on anybody. We need to work as a team to make sure this gets done. It includes Mary and Mr. Sciota. Mr. Weichsel. I think you said prior to the meeting Attorney Sciota had some involvement in writing these regulations several years ago. I think Attorney Sciota was probably involved in the decision. I was not made aware of that. I think we all agree that prior notification would have been appreciated.

I also believe this commission has a responsibility to take some accountability for our regulations. This commission needs to accept that responsibility. I believe if we feel that sexually oriented businesses, when an application is made it should come before the commission and I think it should, we need to put that into our regulations.

If we are arguing about our own regulations that we wrote, then there is something wrong with our regulations. I'm formally requesting we put a committee together to look at this regulation and see what we need to do to beef it up moving forward. I think that public input is necessary. The discussions we're having now need to be in writing so we are not sitting here arguing about whether this business should have been approved or should not have been approved. It should be very clear to everybody that this shouldn't have been there and we shouldn't be in the position that we're in contemplating spending money to defend ourselves for this type of action.

I hope we move quickly to review our regulations on this matter and future matters. I am more than willing to be a part of that.

The Chair indicated now it would be open for public discussion. We'll have a 3-minute time limit. Please hold to the 3 minutes. We are going to have a total time frame of 45 minutes.

(Speakers)

Arthur Cyr, 103 Berlin Avenue. Spoke about calls he got from people in the area that they are upset. Two school bus stops are across the street. There are 76 and 98 units in complexes across the street. A lot of condos.

I sent an email to town representatives and staff that it was inconceivable to me that anybody knew about this ahead of time.

This is a fight we need to fight. If we have to, we need to stop them from opening.

Discussion.

There are already two other stores like this in town, if that's the case, they need to be shut down. It's as simple as that. One is on Spring Street and one is on upper Queen Street.

Victoria Triano. The reality is there is culpability in this blunder.

Discussion.

The citizen of Southington appreciate the fact and we're so glad that you are taking this step. We have not been protected and our trust in the planning department has been betrayed.

Please, do whatever we need to do to stop this from happening.

We do need to look over the regulations. And, there has to be culpability on both sides. We do need to work together. This should've never happened.

Discussion.

Thank you and we appreciate the fact that you're here at this time. Together we can work to fix this thing. I may cost us some money now but it's worth the money to keep the fight going.

Doug Hageman former Chairman of the Zoning Board of Appeals for 13 out of 20 years. I'm appalled to see this Board attacking their staff.

Discussion.

You failed to do your job. The dereliction of duty is entirely on your part. I can't believe you have the audacity to attack this poor woman. You didn't do your job. You didn't get a reg put through and you knew darned well you needed one.

Discussion.

Rev. Carol Salka of 35 Nicolo Way. She spoke in opposition to the VIP citing outrage and concern for the well being of the children, families and our wholesome community.

Patricia Hackett. We need to look at the language: other forms of visual presentations. Any type of packaging is a visual presentation. Not just videos and magazines.

Discussion.

She also contacted the Attorney General's office. And, he said absolutely what I had interpreted is valid.

We don't need to worry if we are changing the ordinance. In the future we probably should clarify the ordinance but we have the wording in the ordinance already that prohibits this business: forms of visual presentation!

Thank you.

Manny (Inaudible) commended the staff in this town. Discussion.

We are human beings and we make mistakes. Discussion.

Moral values were discussed. Please do not lose sight of your staff. Staff is excellent. WE are entitled to make mistakes. Experience is the other name we give to our mistakes.

Thank you.

Christina (No last name given). I run Hair for All in the plaza with Ethan Allen. My biggest concern is that we didn't know this was going in. It's insulting the people found out through the media. If we had known before hand, we would have already been here saying: absolutely not!

Discussion.

VIP is doing everything to keep it on the down low as much as they possibly can. They're not even using VIP vans to bring in the material. That's insulting.

My sign says: Family Salon. You can't put a porn shop next to me. It is completely inappropriate.

Discussion.

We were all very insulted not even to be notified.

(Applause)

Terri Lombardi, 27 Royal Oak Drive, President of the YMCA here in town. Spoke that the Y provides services to build strong families, stronger kids. Spoke of all organizations that are here to help each other and our community to make it stronger. This doesn't make it stronger, it makes it much weaker.

I want to reinforce what you're saying and that is to go forward and do the best we can. But let's build bridges. We made a mistake. We have to build a bridge now between the staff and the commissioners and put that energy going forward on undoing what has been done.

Let's move forward.

(Applause)

Christopher Cayton, Today's Church. Spoke of counseling he has done in the past years with families who have been affected by pornography.

Discussion.

I echo the points you have brought out. That was what I was going to say. I just want to add my voice my opinion that if five percent of their inventory is in essence the largest inventory of pornographic material in New England, then it's far too much. If by sheer volume, they get to go in, there is something drastically wrong with our regulations. I believe you'll be able to turn it around based on what we have learned tonight.

I ask you to revise the regulation that all sexually oriented businesses must come before the commission and have a public hearing before they are approved.

(Applause)

Kelly Cameron, 1120 Pleasant Street. Gave her concerns with VIP.

- concerned about female employees safety nearby
- near a residence which house children
- single women coming to town
- being near the high school which would increase teen pregnancy
- increase in sexually deviant people
- increase in six crimes with VIP near family orientated businesses
- concerned for her own safety
- increase in sexually transmitted diseases like AIDS
- Southington has been a family friendly town with many women and children and I'm concerned for their safety
- purpose statement of VIP and their long hours

I understand where you're coming from and I encourage you all to keep working for our town.

(Applause)

Tony (Inaudible) I found about this when I got back from Christian camp on Sunday. We were told we had to leave this meeting for public safety. Zoning regulations are there for public safety.

What is disappointing is that it was done in a very deceitful manner. It's wrong.

Discussion.

The interpretation was made by one person or a handful of people without going to the planning and zoning commission.

Discussion.

Thank you that when you found out about it you took some serious action. I contacted a number of pastors in the area and I also

contacted some of our state representatives as well as the Attorney General's office, too.

Discussion.

I'd like you to know that the pastors and the churches here are going to be praying for you as you move forward to put some reasonable regulations. I'll be the first to volunteer from a citizen standpoint to help out.

Discussion.

(Applause)

Margaret Cameron, 1122 Pleasant Street, too. I can listen to Mary and she is a very intelligent woman. She knows her stuff. And, you, too as a board, I'm very pleased to have been here to hear all that you know about this.

Discussion.

Mary, I'm sorry, you had to be under this. Discussion.

I wanted to say what the others did, too.

All we need to do here is to stop them from opening up. Whatever that takes, that's what needs to be done.

Discussion.

What's the problem here with VIP? The problem is that it's the wrong kind of thing that we don't want to expose our children to.

Discussion.

We don't have to take a really bad thing and put it in flashing lights.

Thank you.

Dan Valente, Chairman of the Parish Council at St. Thomas Church here in Southington.

Thank you for listening and being very receptive to all of our concerns about VIP.

Discussion.

Spoke of how destructive pornography is.

I hope all of the commission can work together on this to build a community to keep this filth out of our town and continue to raise the values that support us and make us great.

Thank you and God bless you.

The Chair thanked everyone for coming out. I know it's been a late evening. Thank you for expressing your opinions tonight.

Where do we go next?

Mr. Weichsel stated, following what you said, there is kind of an obvious next step. You have already spoken directly with the Attorney General. We'll have a follow up conversation with him, tomorrow, whenever. I think you indicated you would be looking for a meeting. We'll look to set up a meeting as quickly as possible and get started on what is the intent of the commission and the citizenry to stop this and in effect to reverse an administrative decision which is not unheard of and can be done.

The Chair hoped to have a conversation tomorrow with the Attorney General to begin the immediately discussions.
Discussion.

Mr. Kenefick asked if they needed building permits. Ms. Savage said they do need building permits and I'm not sure if they've applied for them or attained them. A stay was discussed.

Mr. Weichsel said it might be a way to get right at this thing.
Discussion.

The Chair said after tonight we have a pretty good idea of where the commission stands. Now it's a matter of dealing with the Attorney General's Office, the Town Attorney's Office, the Town Manager's Office, the Planning Office and the commission.

There will be communications going forward from this commission as to where we stand on this matter.

Discussion about what the residents should do about expressing their opinions.

Mr. DelSanto pointed out it is going to cost money and that's where our tax money goes.

From the audience: That will be happy tax money.
The Chair thanked everyone for coming out tonight.

Receipt of New Applications

None to report at this point.

Commission Concerns

Mr. Sinclair brought up cell phone towers on water towers. The different radio waves that come off, I thought was an urban legend. He asked the Planner to get some information from the scientific community so we can see if we want to move to SPU, if it's legitimate or not.

Discussion.

Mr. Sinclair made a motion to adjourn. Ms. Conroy seconded. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 12:03 o'clock, am.)