

**UNAPPROVED MINUTES FOR TWO (2) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD**

**HELD TUESDAY, JULY 21, 2009; 7:30 P.M.**

**CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

Acting Chair., Kim Rose, called to order the July 21, 2009 Public Hearing of the Milford Planning and Zoning Board at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Frank Goodrich, Janet Golden, KathyLynn Patterson, Kevin Liddy, Susan Shaw, Gregory Vetter, Kim Rose, Acting Chair.

**Not Present:** Mark Bender, Victor Ferrante, Jeanne Cervin, Chair.

**C. 8-24 APPROVAL**

1. **OPEN SPACE ACQUISITION – BURNT PLAINS ROAD** - Request by Mayor James Richetelli for Section 8-24 approval under Connecticut General Statutes for the purchase by the City of Milford of a parcel of open space on Burnt Plains Road, located on Map 099, Block 0836, Parcel 0070A, of which the South Central Connecticut Regional Water Authority (RWA) is the owner.

**Mayor Richetelli:** Request for 8-24 approval of approximately 7.5 acres of open space on Burnt Plains Road currently owned by the South Central Connecticut Regional Water Authority. Under Connecticut State Statutes, when the RWA is going to sell excess property, the first right of refusal goes to municipality in which the land is located. If the municipality chooses not to exercise its priority rights, then it would be offered to the State of Connecticut, DEP. Should DEP pass on the purchase, it would then be offered on the open market.

As indicated on the map that the Board received, this piece of open space fits perfectly within the City's open space informal formula, that is used when it entertains the purchase or acquisition of a piece of property. It links up with other open space that is owned by the City at this time. One of the parcels is the Red Bush Athletic Park, but much of that land is untouched and open space. It links up to another parcel of land south to it. The YMCA property is very close to this property, as well as two parcels of open space that the City purchased about two years ago on Orange Avenue, the former Novelli and Rottman orchards.

This purchase is recommended by the City's Open Space Advisory Committee and is consistent with the City's Plan of Conservation and Development.

Also asking the Board's permission to access funds which are under the control of the Planning and Zoning Board. There are two accounts: 1) The Planning and Zoning Open Space Account in which there is currently \$193,947; and 2) The Planning and Zoning Subdivision Regulations Park & Recreation Fund in which there is currently \$566.00. Both of the funds require approval by the Planning and Zoning Board and Board of Aldermen. These funds can only be

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used for open space or park and recreation activities.

The total purchase price is \$600,000. The RWA is required to do a minimum of two appraisals. One was done by the Arthur Estrada Company of North Haven and their appraisal was \$800,000. The other appraisal was done by the Michaud Company in New Have and their appraisal was \$600,000. Under State Statutes the Water Company is required to sell the property for not less than the lowest appraised value. The Water Authority voted to sell this property to the City of Milford for a price not less than \$600,000.

The financial terms would be \$300,000, or half of the cost at closing. The balance of \$300,000 would be split into ten annual payments of \$30,000 with no interest for the first five years and the second five years at 5% interest.

The City has prepared an application to the State of Connecticut Department of Environmental Protection Open Space and Water Shed Land Acquisition Grant Program, which is a 50% matching fund. However, this application has not been forwarded to the State because the budget has not been funded as yet due to the budget situation in Hartford. It is expected that it will be, however, and at that time the application will be sent. Should the grant be obtained the balance of the purchase would be paid off in full without paying the installments as previously described.

**Ms. Shaw:** How many appraisals must be obtained?

**Mayor Richetelli:** The RWA is required to get a minimum two appraisals. However, the City will be required to obtain two appraisals that must accompany the application for the State DEP grant.

**Ms. Shaw:** Will all the money be taken from the two accounts that exist?

**Mayor Richetelli:** Yes. He explained there are additional City accounts that are reserved for open space. Those will be accessed as well. There is currently \$78,904 in the Golf Course Open Space Fund, which requires approval from the Board of Aldermen. The balance would come from other City funds, namely, the unreserved, undesignated fund balance of the City, in order to reach the \$300,000 payment.

**Ms. Shaw:** What are the uses the City will gain from this acquisition?

**Mayor Richetelli:** There are two things which will define what the City can actually do. By accepting the financing from the Regional Water Authority, the stipulation is, "It will be restricted for conservation purposes and protected for open space, allowing construction of minor improvements associated with passive recreation and open space only."

If an application is put in for the DEP Open Space Land Acquisition Grant, then it

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needs to be deeded in perpetuity as open space.

**Mr. Liddy:** Please describe the topography.

**Mayor Richetelli:** Relatively flat and very wooded. It is overgrown and wild, but is flat and usable land.

**Mr. Liddy:** There appears to be an easement or an access path.

**Mayor Richetelli:** It is an access path. Believes it is 50 feet minimum.

**Mr. Liddy to Staff:** How long did it take to build up the Open Space Fund to the \$193,000 balance.

**Mr. Sulkis:** Cannot give an exact date. Open space funding is dependent upon several things, each of which can occur at various times. It is accumulated over time and this amount happens to be the fund balance at this time.

**Mayor Richetelli:** Recalls the last time this fund was depleted was approximately four years ago when the City purchased open space on Fresh Meadow Lane, which linked up to Eisenhower Park.

**Mrs. Patterson:** Is it possible the State would not have the funding for this project. They are having serious financial issues.

**Mayor Richetelli:** That is a distinct possibility. There is no guarantee that the City would get the matching grant of \$300,000. If we do not get the grant, although it meets all the necessary criteria, we would accept the financing terms provided by the RWA and incorporate the payment into the City's operating budget.

**Mr. Vetter:** When these funds were established, was such a project designated for this use?

**Mr. Sulkis:** Yes.

**Mayor Richetelli:** Noted that there is another account named the Board of Aldermen Open Space Account which has not been funded in two years and currently has a zero balance.

**Mr. Vetter:** How recent are the appraisals?

**Mayor Richetelli:** Estrada appraisal was March 17, 2008 and the Michaud appraisal was August 7, 2008.

**Mr. Vetter:** Perhaps some money could be saved if the appraisals were more current.

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**Mayor Richetelli:** This was addressed to the RWA today. They are firm at the \$600,000 price. The option is open until September 30<sup>th</sup>. If the option is not exercised and closed by September 30<sup>th</sup>, they will offer it to the DEP. \$600,000.

**Mr. Goodrich:** Made a motion to approve the Open Space Acquisition of Burnt Plains Road, using the balance in the Planning and Zoning Open Space Account of \$193,947 and the Planning and Zoning Subdivision Regulations Park and Recreation Fund of \$566.00.

**Mr. Liddy:** Second.

**Mrs. Patterson:** Stated she has an issue using the taxpayers' funds for this project, which could potentially be for the total cost of \$600,000, based on the way the budget is now and the cuts in the economy.

**Mr. Liddy:** Stated looking at long term planning this is a good idea. The Board is always in the forefront to increase open space and their constituents always say there is not enough open space in the City. This is a golden opportunity to go to bat for the City for this cause.

**Ms. Shaw:** Stated her concern was is this the right open space and right use. In looking at the Plan of Conservation and Development and the City, it is about what is the long term plan as far as how much is usable; how much is to preserve wildlife and how that is divided on the very little funds that the City has for that purpose. Said she wished she knew more about what the City's long term goals would be in preserving open space.

**Mr. Goodrich:** Reviewed the numbers and said the property is available now and the City should try to get it.

**Mayor Richetelli:** Everyone is aware it is not possible to acquire or to purchase all the open space the City would like. There are parcels that the City has had to pass on because the price was too high, the timing was not right or just did not fit in with the overall area. This particular piece is going to link beautifully with existing open space. That is one of the criteria that is looked at. It is seven acres of very developable land. There is residential development all around it. This will assuredly be purchased and developed privately if the City does not exercise its right to do so. The Open Space Advisory Committee has looked at this for a long time and unanimously recommended the purchase. It has also been discussed with the Land Trust and they are in agreement that this is an opportunity to acquire a parcel of land that should not be passed up.

**Ms. Rose:** Spoke about the difficulty of putting the taxpayers at risk to potentially pay \$300,000 at a bad economic time and it is a difficult decision. However, the map shows the property's link to the other open space parcels previously

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acquired. Asked how many acres would this make that the City owns.

**Mayor Richetelli:** Estimated the total to be 20 acres.

A vote was taken: 6 members voted for the motion. Mrs. Patterson voted against the motion. Motion passed.

2. **LEASE AGREEMENT – 120 BRIDGEPORT AVENUE** - Request by Mayor James Richetelli for Section 8-243 approval under Connecticut General Statutes of a lease agreement between the City of Milford and Joseph Arcudi, Christina D’Arcangelo and Daniel Bagley, the owner and tenants of 128 Bridgeport Avenue, located on Map 18, Block 365, Lot 6.

**Mayor Richetelli:** On March 16, 2009 the Board approved the purchase by the City of 120 Bridgeport with certain conditions prior to the purchase. This lease agreement is one of the conditions. The purchase is being recommended by the Devon Revitalization Committee as part of its overall plan to revitalize Devon. Additional parking is important to the overall development in the viability of Devon. The parking lot was reconfigured and 17 additional parking spaces will be obtained. In order for the restaurant (Al Dente) to be viable and in compliance with their site plan, they need an additional five spaces, for which they are asking.

Stated that shared spaces are not uncommon, especially in the downtown and the Devon area. Without it many businesses would not be able to meet the requirements and would not exist. Believes the lease agreement, which is not exclusive to the restaurant, will enable the restaurant to remain in business and will add to the municipal parking area for Devon.

**Mr. Goodrich to Staff:** Is the 18 feet width for vertical parked cars sufficient?

**Staff:** For a one way traffic pattern it is sufficient.

**Ms. Shaw:** Asked if there will be signage stating it is for the restaurant or municipal parking.

**Mr. Sulkis:** Stated according to the lease, he believed, they had a right to five spaces, but they are not assigned.

**Mr. Goodrich:** As a municipal lot, this will help the businesses in Devon.

**Mrs. Patterson:** Agreed as there is a lot of congestion in that area.

**Mr. Vetter:** Stated it was not clear in the lease as to signage and that it was important that the five parking spots are swing spots and not exclusive to Al Dente’s.

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Asked who would be responsible for maintenance and snow removal of the lot.

**Mr. Sulkis:** Explained that this lease was solely for the parking spaces. The issues Mr. Vetter referred to were part of the original 8-24 request. The City will be responsible for maintaining its own lot. Mr. Arcudi is responsible for maintaining his property.

The approval before the Board tonight is the result of conditions that the Board placed on the original 8-24 to create that lot. By creating that lot and the traffic pattern through Mr. Arcudi's property, he lost five spaces. Since he is a nonconforming use and he had already been granted parking waivers, he was going to end up being five spaces short. This agreement allows him to use five spaces here and then once this is passed by this board and the Board of Aldermen, he will come before this Board for its approval of an amendment to his site plan because his site plan will now require, (and is allowed), off-site parking in the CDD-2 regulations. This is step 1 of a 2-step process.

**Mr. Liddy:** Will there be a sign that says Municipal Parking?

**Mr. Sulkis:** The lot has not been created yet. It appears that that will be a reasonable sign to post on that site so that people will know.

**Mayor Richetelli:** The municipal lot across the street from Al Dente Restaurant is marked with a sign stating it is a municipal lot reserved for Milford taxpayers with the proper stickers on their car.

**Mrs. Patterson:** Made a motion to approve the request by Mayor James Richetelli for Section 8-243 approval under Connecticut General Statutes of a lease agreement between the City of Milford and Joseph Arcudi, Christina D'Arcangelo and Daniel Bagley, the owner and tenants of 128 Bridgeport Avenue, located on Map 18, Block 365, Lot 6.

**Mr. Goodrich:** Second.

**Mr. Liddy:** Where will the \$1.00 rent to go to each year?

**Mayor Richetelli:** In the account designated as "Revenue for Other Real Estate" located in the Municipal Operating Budget.

A vote was taken. All members voted in favor of the motion. Motion passed unanimously.

**Mme. Chair:** Noted the procedures for the public hearings to the audience.

**D. PUBLIC HEARING CLOSSES BY 8/25/09; exp. 10/30/09**

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3. **26 HIGGINS DRIVE (ZONE ID)** Petition of Leo Carroll, Esq. for a Special Exception and Site Plan Review to establish a dog day care center on Map 80, Block 810, Parcel 15D, of which D'Amato Investments, LLC is the owner.

**Leo Carroll, Esq., 26 Cherry Street**, on behalf of Mary Beth Stark proposing to open a business Bark Avenue Pet House at 26 Higgins Drive. The property is owned by D'Amato Investments. James McElroy is the designer of the project. The legal ads and sign have been posted as required.

Background: Original approval was given in July 17, 1984 for a one-story warehouse. The Planning and Zoning Board issued a letter by its Executive Secretary for site plan approval. Subsequently, an application for a zoning permit was signed by Peter Crabtree, Zoning Enforcement Officer at the time. Certificates of Building Compliance, Certificates of Zoning Compliance were also issued in 1986-87. (Copies of these documents were date stamped into the record.)

The reason to give the background is because this is a reuse of an existing structure. Wants to make it clear that this is a preexisting, nonconforming building, which is not being changed. The only thing that will be added is the reconfiguration of parking and there will be a six-foot vinyl fence for a dog run behind the property.

Mr. Carroll stated this application came before the Board last summer and was denied without prejudice on April 28, 2008 [sic]. He was brought into the matter after that denial. He understood that there had been some concern that the "T's" had not been crossed and the "I's" had not been dotted.

Changes of use are required in obtaining Special Exceptions. This is an ID zone. The property is nonconforming. It has been existing since 1984. It was totally conforming when it was built. The changes made in 2008 by the Planning and Zoning Board rendered the property nonconforming.

Ms. Stark is intending to operate a dog daycare center. It will also serve cats. It will be primarily a pet center for people to drop their pets off during the day while they are at work and to leave them in the care of caring and concerned operators who have experience dealing with pets. There will be a crate optional overnight boarding facility in compliance with the regulations of the Connecticut State Department of Agriculture.

The building will remain unchanged except for the realignment of the parking and the addition of a totally enclosed dog run to the rear of the building. The area of the dog run is currently paved with asphalt. That will be removed and gravel will be installed. It is a 23 x 63 foot dog run with a six-foot high white vinyl privacy fence. Basically the operation is one that has people drop their pets off in the morning and pick them up at night. Ms. Stark also intends to operate a service

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which will go around to people's homes and collect their pets. A van or truck will provide transportation for the dog owners who will not have to drop off their pets on Higgins Drive.

It is anticipated there will be no more than 50 dogs. At the beginning it may start in the range of 20 or 30 and perhaps go up to 50. Basically, the number of pets will be a maximum of 50.

Asking for a change of use. There is an existing building. The use has been approved for a warehouse with a 1000 SF office, with a use "to be determined". That is what is being done now, redetermining the use. It has been used for various things over the years. Changing the use from a warehouse to a dog daycare center. Milford does not have a provision that allows dog daycare centers. Therefore, here tonight asking for a Special Exception.

All City departments have approved this application. Public Works approval said, "The plan is acceptable to the Public Works and the Engineering Departments, as nothing in this plan has changed in the manner that would require a new engineering review". In this case, Mr. Kolwicz has taken the old approval, which was granted by Bob Brinton, the former City Engineer, and recertified it by saying that additional changes are not necessary. That approval had been granted in June 2008 by Bob Brinton. (Copy of the approval letter from Bob Brinton was date stamped into the record.) The dog day care center will be operated in accordance with the Commercial Kennel Regulations, Section 22-344-1 to 344-15 of the Connecticut General Statutes. (The State regulations were date stamped into the record.)

Mary Beth Stark has spoken to the neighbors individually to explain the nature of the business she hopes to open. She has received five letters in support of her application from the neighbors: New England Stone at 35 Higgins Drive. They occupy four buildings on Higgins Drive; SH Acoustics Staff at 10 Higgins Drive; Chrysalis Technology at 20 Higgins Drive; Anray Lithographers, Inc at 25 Higgins Drive and Boyle Communications at 19 Higgins Drive. (The letters were submitted and date stamped into the record.)

**Jim McElroy, Architect, 26 Hauser Street, Devon. Project Designer.** Gave a brief overview of the site plan displayed showing the existing building, the gravel dog run, vinyl fence and parking area. Described the interior of the building which was displayed. There will also be enclosed private kennels and a large pen area to enclose some larger dogs.

Mr. Carroll confirmed with the Board Clerk that the report from the Tree Commission had been received and is in the file.

**Mary Beth Stark, 201 Hattertown Road, Newtown, CT.** Told the Board of her experience with dogs and large animals. She was a veterinary technician. She is certified by the Red Cross in Pet First Aid. She has been taking care of dogs



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for people out of their homes and house sitting for them for the past few years. Grew up in Milford and would like to open her business here. There are a lot of people looking forward to her opening this business.

Handed in letters from people who will want to use her pet day care and boarding business. (This information was date stamped into the record.)

Last year the Board had concerns about traffic. The basic drop-off time will be 8:00 a.m. After that time if people want to drop off it will be by scheduled appointments, so there will be no congestion on the street.

**Mr. Carroll:** Stated he has spoken with another dog daycare operator from Danbury who has been in existence for five years. Has asked Kathleen Reynolds, the operator of that center to explain to the Board how her operation runs, as the proposed application will be run similarly.

**Kathleen Reynolds, Meadow Lane, Ridgefield, CT.** Present tonight to explain the operations of the dog day care business to the Board. She is one of the owners of Wags, dog day camp and boarding business opened in 2004. Located in a mixed use zone in Danbury. There is a veterinary clinic on one side and a lawn care business on the side and across the street from a condominium complex. The building has 5,200 SF inside and 3,000 SF outside, and a fenced yard similar to what is being planned by MaryBeth. Care for an average of 65-70 dogs per day. About 40-55 are day care, depending on the time of year. Hours are 7:00 am to 7:00 pm. Overnight boarding is 10-30 per night. Facility has been in operation for 5 years. No major problems and no complaints from neighbors due to noise, traffic, parking, or dogs escaping.

**Mr. Carroll:** Stated the decision he is asking of the Board has nothing to do with the structure that is there as they are re-using an existing structure. The Board is being asked to approve the use from an existing building that was previously used for warehousing and allow a dog day care center there because the regulations do not specify "dog day care center". Mentioned as the economy is moving from a manufacturing and industrial economy to a service-type of world, it is necessary for the Board to look at these uses and decide. Danbury has dog day care centers in their regulations. In Kathleen's business they took an existing stone facility and turned it into a dog day care center.

Enumerated the reasons why this was a good use for the zone that was once designated for manufacturing, which is not the case today.

Mentioned he and Mr. Sulkis have had various discussions on the matter. It has always been his position that the only thing being changed is the use. They are adding a fence, taking the asphalt off and putting gravel in, and reconfigured some parking. All these things could be done even if the use was not being changed. The difference of opinion between he and Mr. Sulkis was whether this application can actually be "certified" by him. Believes all that would have to be

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for certification is to have the Board agree that the use is an appropriate one. It is the Board's decision to determine if they want to see a property reused in Milford. This type of situation has been dealt with before. Milford's regulations are written so that it appears that every piece of property that comes before the zoning board would be a vacant slate or vacant lot and that is not the case. This property is 11,000 SF. It is a small lot. Zoning today calls for 43,000 SF. There is no way they can comply with these regulations. Had the same issue before the Board on a property on Old Gate Lane. Believes the Board should state these uses are good uses and appropriate for the zone they are in and they want to continue to have Milford move forward. It would be nice to change the regulation but it would require an adaptive reuse regulation to the City of Milford and that is a long process.

Asked the Board to exercise the ability to approve the Special Exception for the use of the dog day care business. Stated there will not be any more machine shops or manufacturing going in this property. Must use this property for other purposes and the regulations should be adjusted. Danbury allows dog day care centers in their CA-80 zone, which is a commercial zone. It is not an offensive use, but an appropriate use for this area.

**Mme. Chair:** Asked Mr. Sulkis if he had any comments.

**Mr. Sulkis:** Mr. Carroll is correct that the decision is totally up to the Board, as this is a Special Exception.

1. Sec. 7.1.1.1. requires him to certify applications that come before the Board. That section also talks about him certifying that the application is in compliance with the zoning regulations.

2. Has a couple of areas of concern, one of which is the driveway that is being utilized into the site. Their plan that was submitted by Mr. McElroy, (which is not signed or sealed), is based on a survey that was not submitted, and shows a 20.04-foot driveway width going into the site. The regulations require a 24-foot driveway when you have a two-way circulation pattern. This site, with Building 5 next to it, has always had a circulation pattern around these two buildings. That is how they were designed. Mr. Carroll would tell the Board they are two separate buildings on separate properties. They are analogous to a town house in a condominium. The properties have been used for two-way traffic patterns throughout that development.

3. Agrees with Mr. Carroll about the nonconformity of the structure. They disagree in that he believes changes are being made to the site. The Board has to determine if the amount of parking they are providing is adequate. If the Board approves the plan he would suggest changes be made, such as, the details on the bollards.

Mr. Sulkis stated he disagreed with the police report on numerous points. They

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did not do a traffic evaluation where it should be, out on the street. They did a site plan review. Disagrees with the assessment that the vinyl fence is enough to protect the dog pen from what is a heavy industrial use next door. If the Board were to approve this, he would recommend a guard rail in addition to the fence be placed along the property line in the back. The same recommendation had been made by the Board for the application they previously submitted.

4. No problem with the proposed use. There are other dog day cares in the City. Not every site is conducive to every use that the applicant would like to have on that site.

**Mr. Vetter to Mr. Sulkis:** Asked what had been reconfigured to allow that to be a circular driveway with the New England Stone property adjacent in the back.

**Mr. Sulkis:** When you have the same landlord for buildings 4, 5 and many of the other buildings, it is easy to direct your tenants to do as you wish. This site should be looked at in the context of when it was created and how it has been used and whether or not, as time has gone on and circumstances have changed, whether or not the application before the Board is reasonable.

**Mr. Vetter:** Very glad Ms. Stark wants to open this business here and it is a service everyone can benefit from. The question goes back to what was discussed last summer, which is safety and traffic.

Stated the parking still represents a problem to him and the traffic flow. Still questions how 50 cars can move in the street into a pattern that allows people to drop off their dog and get in and out of the parking lot in an easy manner. There is no detail of the plan where on street parking is referenced. Asked how many spots would be taken up in the street versus people parking in the back. For the traffic flow there is a driveway; six spots of which 2-3 would be taken up by employees. Concerned about safety for the people moving in and out and the traffic flow and congestion that would be created on the street.

**Mr. Carroll:** The parking had been approved by the former City Engineer and he determined that six spaces should be adequate for the use. After he examined the nature of the use, starting at 6:30 a.m. to at least 8:00 a.m. and maybe later, people would be dropping off their dogs. Approximately half the people who would be using the facility would be dropping off dogs. That gives an hour and a half for at least 25 people to drive up, drop off their dogs, keep their cars running and move on. Higgins Drive is a dead end street that ends in a cul-de-sac. People can pull up in a cul-de-sac, make a U-turn and come back and park in front of the building, walk in the front door, drop the dog off and they leave. If they need to speak to someone, they can pull into the back yard and park in the parking spaces that are available. The other half of the dogs will be picked up by van. That should address the parking. In addition, the traffic flow is handled in part by the fact that not all dogs will be dropped off. Many will be delivered by a van and when brought home in the same manner.

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He stated that Mr. Sulkis had mentioned the circulation pattern. You can't get around that building now. Outdoor storage is permitted in that zone. New England Stone actually stores granite and marble slabs in the back of that building. You can't get around there anyway, and that is a permitted use.

It begs the question to say that the property is non-complying. It was approved in 1984 as a totally complying use. This Board saw fit to change the regulations. The applicant does not have to comply with them. A preexisting nonconforming site is protected by the law. They are allowed to reuse the property.

**Mr. Vetter:** How many spots would be used in front of the building to drop off a dog?

**Mr. Carroll:** 2-3 spaces. People go to work at different times. There can be contractual arrangements with people as to drop off times.

**Mr. Vetter:** Asked what percentage of Ms. Reynolds' customers are picked up vs. dropped off.

**Mr. Carroll:** Ms. Reynolds:does not have a pick up service. All dogs are dropped off. Incidentally, the dog day care operation was formerly a stone facility. They did it by the same process as a Special Exception, although the process is slightly different from Milford's.

**Mr. Liddy:** Asked if the landscaping plan was adequate.

**Mr. Sulkis:** They requested one ornamental tree be added in the front. Made some suggestions about plantings near the dog holding area to provide some shade.

**Mr. Liddy:** Asked Ms. Reynolds what minor problems she has faced in the past five years of her business.

**Ms. Reynolds:** Could not think of a particular instance of a problem, except for a minor injury.

**Mr. Liddy:** Asked if people would be trained to break up dogs fighting?

**Ms. Stark:** Stated she is trained in and can train people with regard to being aware of body language of a dog and preventing trouble before it starts. Dogs are screened and will be assigned appropriately.

**Ms. Shaw:** Asked about the Health Department report and the requirement for hot water and disinfectant for the dog run. Asked if that would be provided.

**Ms. Stark:** There will be hot water spigots and the area will be disinfected after

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each use.

**Mme Chair:** Mr. Bender, who is unable to attend tonight's meeting emailed her to voice his concerns: These were read aloud:

1. Interior drainage.
2. Too few parking spaces, according to the Regulations, Sec. 3.11.3.4.
3. No room for dog walking.
4. Did not feel the dog run was sufficient.
5. Only a single lane of drive in for the parking.
6. Would there be dog grooming on the premises? Believed that the applicant was known for her dog grooming.

**Ms. Stark:** A potential partner has a dog grooming business that is self-contained in a mobile unit. If customers who stay overnight for a week request to have their dogs groomed, Mark, from "Begging for a Bath", will bring his van, which is totally self-contained. Would not use any electricity or water from the building. He is also present for questioning. However, there would be no grooming to start with. Stated she is not a dog groomer.

**Mme. Chair:** Asked where the van would be parked, should he come to the premises.

Continued with Mr. Bender's concerns:

7. Noise. Another kennel in the "90" zone gets complaints the other side of the railroad tracks.
8. Issues of urine odors and the outdoor runs that seeps into the pea stone and settles there.

She mentioned in a letter from a tenant, New England Stone, stated the Applicant said there would be no noise from the dogs that would interrupt their stone business.

Asked the Applicant how she could assure the business next door that there will be no noise coming from the dog business that would interrupt the businesses conducted in the offices of New England Stone. Believed that would be impossible to guarantee with a dog run next door to them.

**Ms. Stark:** Stated New England Stone's offices are not next door, but across the street. Also mentioned the owner of New England Stone is one of her customers.

**Mr. Carroll:** Mentioned New England Stone occupies four different buildings on that street. They are the largest occupant on Higgins Drive.

**Mr. Vetter:** Concerned about an existing overhead door that is on the drawing.

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**Mr. McElroy:** Showed on the site plan that it was an existing overhead door from the previous business and will be blocked up and not used for this business.

**Mr. Vetter:** Stated his concern was for people parking in the back and walking through the driveway to get to the front and that would pose a safety hazard. However, people would not be parking in the back to drop off, as he understood it.

**Ms. Stark:** Stated she had worked at Kathleen Reynolds' facility for a day and saw how the drop off and pick up of dogs operated. Based on that she estimated there would be very little parking in the back. If someone has something they will need to speak to her about, it will be noted in the rules, that if more than a minutes or two is required inside, they would have to make an appointment.

**Mme Chair:** Opened the hearing to the public. Asked if anyone would like to speak in favor of the application.

**Diane Vassar, 17 Devol Street.** Used to work at a kennel for 300 dogs. Also a veterinarian facility. Believes with the technology available today, noise should not be a problem in these types of places. There is a better understanding of dog behavior than there was in the past. She and three other people used to work on the weekend with 300 hundred dogs. They were all well cared for. She is interested in recycling and green jobs. The fact that they want to reuse a building with minor modifications. All in favor of that. Stated the parking lot at the facility where she worked was very small because people popped in, dropped off their pet, picked it up a week later. This will also provide summer jobs for college kids and for school holidays, which is vitally important, especially with the retail sector being hard hit due to economic changes. From personal experience believes it is a very good business. She will bring her own dog there if it opens.

**Mark Zukowski, 15 Aspen Terrace.** Mary Beth is a client of his. He takes care of 150-200 dogs, in Milford alone, for his grooming service. Many inquiries as to who he would refer to for boarding. Does not usually recommend anyone in Milford. Trusts Mary Beth and he would refer his clients to her. It is a service that is needed. His clients are going outside the City to board and to use day care services. Would rather keep these people in the City. The location will also bring business to other businesses in the area, i.e. Dunkin' Donuts, gas station.

**Maureen Tyliszcak, Stratford.** Has known Mary Beth for 4-5 years. Mary Beth comes to her home to take care of her two dogs on a daily basis. Has used Wags and will use Wags again because there is no facility in this area that she feels comfortable with. Taking the dogs to Danbury is a big inconvenience, but will do so when she has to. Looks forward to Mary Beth opening her business, not only for her own use, but for all her other clients in the area.

**Mayor Richetelli:** In favor of this application. Stated the Board knows the role of zoning is to protect, amongst many other things, neighbors and neighborhoods

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from the impact of potential uses of properties. The Board is being asked to approve an established need for daycare for dogs in an area where the impact will be extremely minimal. Traffic and safety have been adequately addressed. Comes down to a small business. Talk of the economic crisis in the country can get exhausting. However, here is a small business owner that wants to go to work, open a small business for which there is a real need. In the name of economic development for the small business, this should be approved. Where there is no real hazard or problem being created in an area, the benefit of the doubt should be given to the small business owner and put people back to work and promote small business. Asked for the Board's approval of this application in the name of economic development.

**Peter Stark, Milford.** Brother of MaryBeth Stark. She has done a long of work and put a lot of research into this business. There is a need for this business in the City. The location is a good one. She has looked at numerous locations. There will be minimal if any impact in the area. She is very experienced with all types of dogs. The Board's focus should be that zoning regulations are complied with, but believes there is no impact on the zoning regulations. Small businesses such as the one his sister wants to open should be encouraged and asked for the Board's approval.

**Mme. Chair:** Anyone to speak against the application?

No response.

**Mme. Chair:** Anyone to speak against this application.

No response.

**Mr. Carroll:** This facility will be operated in accordance with the regulations of the State of Connecticut, Department of Agriculture and will be inspected by the State Department of Agriculture and the Health Department of Milford has approved it as to public health, so that those issues have been addressed. Believes the parking concerns have been addressed. Stated he did not understand Mr. Bender's comment about drainage.

**Mme. Chair:** Read that Mr. Bender said "he was concerned about the interior drainage".

**Mr. Carroll:** They will hose down the interior and the exterior will be hosed down and that will seep into the earth and that is an accepted method that the State of Connecticut Department of Agriculture recommends.

**Mme. Chair:** Declared the public hearing closed.

**Ms. Shaw:** There are many issues that have to be addressed on the site plan. Asked Mr. Sulkis about the bollards.

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**Mr. Sulkis:** It would behoove the applicant to provide greater detail so that the Board knows exactly what measures are in place to protect the dogs. In the past when there have been other applications that have had site detail there have been engineered drawings. These drawings would describe how big the bollard is; how it is connected to the ground; will it in effect stop a car from going through. This particular plan lacks those details.

Restated his concern that came up during their previous application, which is since they have a neighboring property that is industrial, to protect the dogs, you need something more than a vinyl fence to prevent a fork lift or granite delivery truck from going through the fence accidentally and causing harm to the dogs.

**Ms. Shaw:** Stated she had no problem with a change of use, nor the type of business proposed. The parking issue appears to have been addressed. Thought they need a better site plan with the elements that Mr. Sulkis brought forward before they can vote on this application.

**Mr. Sulkis:** It would be helpful to have the updated survey be part of the package, so that the measurements of the site elements can be verified.

**Mrs. Patterson:** Motion to table this matter for discussion at the next meeting.

**Mrs. Golden:** Has a problem because it is not in compliance with the Regulations. The Board has to make sure that everything they have in front of them is in compliance with the regulations. Did not see any engineered drawings. There are many questions that all the members have. She does not think she was provided with enough information to make a decision on this.

**Mme. Chair:** Interjected that there was a motion to table further discussion on this.

**Mr. Vetter:** Second.

Asked if the purpose of the motion to table would be if they are not requesting additional information from the applicant now, why would it be tabled?

**Mme. Chair:** This will be discussed at the next meeting because there are two huge applicants that have to come before the Board tonight.

**Mr. Sulkis:** No formal action has to be taken. The public hearing has been closed. The standard operating procedure is to close the public hearing and discuss the matter at the next meeting.

**Mrs. Patterson:** Withdrew her motion.



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**Mr. Vetter:** Withdrew his second.

**Mme. Chair:** The Board will discuss this application at the next meeting.

[A recess was taken from 9:10 to 9:25 p.m.]

4. **990 NAUGATUCK AVENUE (ZONE HDD)** Petition of Recycling, Inc. for a Special Permit and Site Plan Review to construct a recycling volume reduction facility on Map 40, Block 300, Parcel 2, of which Richard and Joseph Barrett and Michael Dedonato (Trustee) are the owners.

**Thomas Lynch, Esq., 63 Cherry Street**, representing Recycling, Inc. and the Barrett Family Trust as the owners of the property. Also present: Joseph Barrett, one of the property owners; Darlene Chapdelaine of Action Consulting & Associates and Manuel Silva, Project Engineer, Rose Tiso & Associates.

Presenting two applications to the Board: 1) Special Permit to allow the construction and development of a recycling facility at the property located at 990 Naugatuck Avenue, in accordance with the zoning regulations that were in existence at the time that this application was filed on June 18, 2009. 2) A Site Plan Review application.

Stated that in 29 years of practicing before this and other boards, he has never been able to look at the Board and say "I know you are going to deny these applications". A procedural process has been put through resulting in the change that the Board voted at the last meeting of Section 3.12.5 of the Zoning Regulations to now have recycling facilities as prohibited uses in the Housatonic Design District. This process was put in place to ensure that these applications are denied.

Said he wanted to state from the outset that he thinks that procedure was flawed. He will reference some State statutes, as well as the Zoning Regulations to buttress that opinion. Stated it is his opinion that this was done wrongly and it is denying his client the right to develop his property in a manner consistent, not only with the spirit but also the intent and letter of the Milford Zoning Regulations and State statutes.

Believes everyone knows the Board's feeling as to the continued use of recycled facilities in the Housatonic Design District. Also know the historical background of the property. The Barrett family has owned the property for over 50-60 years. They have used the property as a trucking facility for operation of a transportation company; a fuel depot, as well as separation of recyclable materials for demolition. In 2007 a former tenant, Associated Carting, Inc. was allegedly operating an unpermitted. Says he uses the term "unpermitted", not "illegal", solid waste facility on the property after such was discovered after there was an accident on the Metro North trail line involving a dump truck and injuries to people on the train. A lawsuit was brought after that by Attorney General

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Blumenthal, seeking to cease and desist any further operation of a transfer station or dumping site on the property. A stipulation was entered into between that particular tenant and the State and his client endeavored to proceed and take steps to remediate the property and eliminate that unpermitted activity.

There was an approval obtained by the DEP. It is an exhibit that was handed out to the Board. He noted the copy of the State of Connecticut Department of Environmental Protection Approval for a limited processing recycling facility that was issued on August 15, 2007. The certificate was issued by Robert Eisner on December 15, 2008.

As Mr. Sulkis had stated at the Public Hearing for the consideration of the zone regulation change, State DEP approval is not the only step in the process. Local zoning approval is also necessary. That process was started shortly after the DEP issued its permit. At the same time, this Board sought to undertake action to change Sec. 3.12.5, resulting in the vote at the last Planning and Zoning meeting to make recycling facilities prohibited uses in the Housatonic Design District. Prior to the change of that zone regulation, it was a special use. That is what they are here tonight to pursue an application for a Special Permit.

In the minutes of the Public Hearing, Mr. Sulkis stated in part this approval was necessary because, "We don't need a crystal ball to see what is coming down the road."

Mr. Lynch stated everyone knew what was coming down the road because on June 18, 2009, Ms. Chapdelaine filed applications which are being presented tonight. Despite his request to Mr. Sulkis, to follow the process that is laid out in Sec. 7.1 and 7.2 of the zoning regulations for departmental review of applications; for comment from staff; for the normal give and take that goes back and forth between Staff, City Departments and applicants, that request was denied. The application was presented to this board tonight for an immediate public hearing without following the procedures that are laid out in 7.1 and 7.2 of the Regulations for the Planning and Zoning Board's consideration of Site Plan applications and Special Permit applications. This is a denial of his client's due process. In terms of land use in the State of Connecticut, "due process" refers to fundamental fairness.

Mr. Lynch gave an example what would be an instance of denial of due process in a court case.

Referred to another exhibit he had distributed, Sec. 8.2h of the Connecticut General Statutes, "If an application is filed prior to the Board voting to change a zoning regulation, then that change in the zoning regulation has no effect on the application". In effect, it is grand-fathered and on June 18<sup>th</sup> when Ms. Chapdelaine filed these applications in the zoning office, the Board's change in the zone regs had not gone into effect as of that date. So under Sec. 8.2h of the State statutes, that was a timely filed application.

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The Milford Zoning Regulations speak of a process that applications are not accepted and brought to the Board for a public hearing until they go through a review process. The previous application heard tonight had done that. It had gone through review by the Police Department, City Engineer's office and return comments and that is the normal process that is laid out. That was not allowed to take place here.

These applications were not given the due process that they should have been given.

Mr. Lynch stated he thought the matter should be continued under State statute 8.7 to allow for a 65 day continuation of this public hearing. During that time Staff can review the plans and the plans could be distributed to the City departments in accordance with 7.1 and 7.2 and give these applications the due process they are entitled to. If the Board wishes not to take this option, he was prepared to continue his client's presentation in its entirety to preserve a record for appeal.

**Mme. Chair:** Stated the Board was prepared to hear the testimony on his application.

**Darlene Chapdelaine, Action Consulting, Inc., Dayville, CT.**

Stated there has been a lot of controversy between the difference of a transfer station, volume reduction and a limited processing facility, for which there has been State approval.

Gave a history of the meetings and applications and time span that went back to June of 2007.

She submitted a looseleaf notebook with 22 tabs, which was a chronology of the attempts and lengths she has gone to in order to submit her applications to the City of Milford on behalf of Recycling, Inc., for a Special Permit and Site Plan Review to construct a recycling volume reduction facility, such as has been ongoing on that site for over sixty years.

Stated the difference between a transfer station, volume reduction and a limited process facility is the equipment each is capable of using under the State of Connecticut DEP regulations. The City operates the transfer station on one acre. They take in 100 tons a day. They are allowed to take in no sort separation and just remove it to another facility. There can be no processing at a transfer station.

A limited processing facility is usually privately owned. Recyclables can be brought in; constructed related debris and bulky waste; tip it on a tipping floor; source separate it for resale. A permit can include wood grinding into the operation.

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A volume reduction permit allows you to take in construction related debris, bulky waste and reduce all the commodities in volume. It allows for easier shipping, get better pricing, and get more from recyclables. It is a more refining system. All operations at the reduction facilities in Connecticut are done indoors. The noise, water and other areas that people are concerned about regarding contaminants have been addressed by the State and are monitored by the State. The site in question just had a surprise visit from the DEP this past week and passed.

For the past sixty years this site been used for recycling. At the time of its inception, the process was called salvaging, scrapping or demolition.

Ms. Chapdelaine reviewed and described all the tabbed items contained in the looseleaf book she distributed to the Board.

Described the property as being a water dependent site for the use of the recycling business and that it meets the requirements of the DEP for its operations.

Truck traffic has been ongoing in this high trafficked and industrial area for many years.

There are 51 parcels in the HDD zone of which 44 are industrial and 7 are residential.

Stated she submitted to the Board the approvals required from the Traffic Division of the Police Department; Fire Department; Health Department; Tree Commission and comments with regard to the sewer connections for a previous application, and would have received that approval had they been given the opportunity to submit the application to the City departments. Nothing had changed between applications.

Stated that the City has already approved a similar facility, doing the same work in the same zone. There had been no changes in the zoning regulations that would limit their right to a special permit that they have been trying to obtain for two years.

The State has asked all municipalities to develop a Disaster Debris Management Plan and the City has not developed such a plan as yet.

The proposed facility will create 10 to 20 jobs.

**Mme. Chair:** Asked the number of employees and hours of the work shift.

**Ms. Chapdelaine:** 20 employees minimum. One shift at this time, five and a

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half days. Closed Sundays.

**Mme. Chair:** If Milford added this facility it would be the only city in the State to have two such facilities and would be the second one to be on the water. Asked if Groton was on the water.

**Ms. Chapdelaine:** Could not answer about Groton. Recycling, Inc. would be the only facility on the water capable of having water access to the recyclable markets, other than Gateway Terminals. They are a recycling facility.

**Mr. Goodrich:** There are 20 such facilities in the state. Every town needs to have their own? If so, there are 169 towns. Where are the other 129?

**Ms. Chapdelaine:** Replied she had not gotten to those towns yet. Stated she had said every town needs to handle their own waste, which is the State's plan.

**Mr. Liddy:** Asked about the Fire Department's previous memo of 12/5/06.

**Mme. Chair to Mr. Sulkis:** What was the last known legal use of this property?

**Mr. Sulkis:** On 12/6/83, a Certificate of Zoning Compliance was granted for a commercial kennel and training of dogs facility. Not sure how long that use was located on the site, but the company was dissolved in 1987 and the name forfeited in 1990.

**Mr. Vetter:** Asked that the time factor for tonight's meeting be determined. There was another application scheduled to be heard and there were people in the audience who were waiting to speak on that matter.

It was estimated another hour would be needed before the completion of this presentation.

**Mr. Sulkis:** Said the Board could hold off on the public hearing for Grillo until the next meeting date.

**Mme. Chair:** Determined that the hearing for 990 Naugatuck Avenue would be completed this evening.

**Benjamin Alderton, Esq.,** representing Grillo, Inc. stated his client would be amenable to rescheduling their public hearing to the next meeting.

**Mr. Vetter:** Moved to hold the public hearing for 1183 Oronoque Road to the next Board meeting date which would be August 4, 2009.

**Mrs. Golden:** Second.

**Mr. Goodrich:** Asked if changing the date for 1183 Oronoque Road's hearing

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would be affected in any way by the newly adapted regulation change in the HDD.

**Mr. Sulkis:** Explained that the change of hearing date for 1183 Oronoque Road would not be affected by the regulation change.

All members voted in favor of rescheduling the public hearing for 1183 Oronoque Road to the next meeting date of August 4, 2009.

**Mme. Chair:** Continued that the last known use of the property was a dog facility.

**Mr. Lynch:** Indicated that the zoning file indicates that that is the only evidence of a request for Certificate of Zoning Compliance that has been issued by the zoning office. That does not establish what legal uses may have been utilized on the property, i.e., nonconforming uses that predated the zoning regulations or conforming uses that were being conducted in accordance with the zoning regulations for which an applicant did not come in and request a certificate of zoning compliance.

**Mme. Chair:** Stated it was her understanding whether a certificate of zoning compliance is issued or not, it is the last known use of the property.

Referenced what was said at the last Planning and Zoning meeting (7/7/09) and asked who was conducting the unpermitted activity on that property and who was aware of it? What is the relationship of the people who were conducting this unpermitted activity that created the mess with the Attorney General.

**Mr. Lynch:** There is no relationship. Associated Carting was the entity that was the subject of the lawsuit that was brought by Attorney General Blumenthal. Investigation showed that there was a transfer station being operated there that was not permitted. This application envisions a recycling facility that has no relationship to the prior use that was going on.

**Mme. Chair:** How did Associated Carting end up conducting that business on that property?

**Mr. Lynch:** Replied he could not address that as he does not represent them and has no knowledge of what they were doing on the property.

**Joseph Barrett,** one of the owners of the property since 1955. Ran an oil and construction business. Gave a history of his family's ownership and businesses conducted on the property located at 990 Naugatuck Ave. Stated there were no problems with neighbors and that he could not recall any problems with noise or traffic in the area. The property has had two business owners in 98 years. In the

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time his family has owned the property they have never been before the Board until tonight. The State of Connecticut has issued a permit to the tenant that is there now. Why would the State do that if there was such a problem there?

**Mr. Vetter:** Asked who would be running the new facility.

**Mr. Barrett:** Jimmy Barrett, his oldest brother's son, who is in charge of recycling.

**Manuel Silva, PE, Rose Tiso & Co., Fairfield, CT,** described the site plan components, the location and its relation to the surrounding area. Described the changes that are proposed inside and out. Proposing a 45,000 SF building where a majority of the processing will take place, as well as a railroad spur because they are interested in using rail to bring materials on and off the site. Will be rehabbing the bulkhead so that barges and boats can utilize the bulkhead for transportation. Per DEP, the oil tanks will not be used or removed. Increasing the landscape area. A new storm management system will be installed. There will be two gallery systems.

**Mr. Liddy:** Made a motion to extend the meeting to 11:30 p.m.

**Mr. Goodrich:** Second.

All members voted in favor.

**Mr. Silva:** Continued his presentation. Described the Soil Erosion Plan and Landscaping Plan. Transportation will take place via river, truck and rail. Estimate rail will be the preferred and more effective use.

**Mr. Goodrich:** Questioned if the rail cars that would be used for transport would be covered as requested by the DEP.

**Mr. Silva:** Showed where there is a covered shed called a "Rail Shed Canopy". This was necessary in order to receive the permit from the DEP.

**Mr. Liddy:** Asked how the barge facility would be used.

**Ms. Chapdelaine:** Material would come in via truck. Material would be transported out via the barge.

**Mr. Silva:** Reviewed the traffic study: At AM and PM peak hour 37 vehicles trucks and other vehicles. Traffic occurs during off peak hours. Not subject to peak hour traffic. Submitted the Traffic Impact Study for the record.

**Mrs. Golden:** Made a motion to keep the public hearing open for 30 minutes.

**Mr. Vetter:** Second.

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All members voted in favor of keeping the public hearing open for 30 additional minutes.

**Mme. Chair:** Asked if anyone wished to speak in favor of the application.

No reply.

Asked if anyone wished to speak against the application.

**Mayor Richetelli:** Thanked the Board for their patience and attention to this matter. This is very important to the City of Milford and the people who live and around this proposed facility. The residents' quality of life will be made much worse by this expansion. You cannot get to this facility without going through the residential neighborhoods. There will be hundreds of trucks on these streets every week. The Housatonic River has not been used by the power companies in that area because the river has not been dredged in over 20 years. It is not safe to bring barge traffic up the river. Rail transport is dangerous. Potential for disaster is apparent. When the unpermitted use was in effect there were complaints by the neighbors due to the odor, flies, loud noises from trucks. This application will adversely affect the health and safety of the residents and impact the quality of life for the citizens of Milford. Urged the Board to deny the application.

**Laura Lattrell, 889 Naugatuck Avenue.** Too much truck traffic. She pays her taxes and is a responsible citizen. Mr. Barrett has not paid his taxes. He is an irresponsible landlord and non-taxpayer.

**Joe, 889 Naugatuck Avenue.** There are numerous issues. The precedent that there have been industrial facilities there is no reason to expand them now. Noise from the grinding machines and trucks that speed by. Dangerous for children that want to play on the residential streets. Lowering the home values. Perspective homebuyers are noticing the increased truck traffic. Who will compensate the homeowners?

**James Harvey, 1041 Naugatuck Ave.** Lives in the area. Two young children. Truck traffic passes even though it is a no trucks passway. As a 21-year veteran of the US Navy, he has experience with commercial naval traffic. Does not believe any commercial ships will meet the standards for operating on this river. They will not be maintained and will leak oil. Two years ago when the carting company was there the residents could not go outside the smell was so bad. Stuck inside all summer because they could not breathe outside.

**Joe, 919 Naugatuck Ave.** When Mr. Barrett had his business in the sixties it was a lot different than what is described now. Truck traffic was limited and passed by at reasonable times. That would not be the case now. With regard to the grinding, what filters will be in place for the grinding residue that will be emitted?



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**Donna Kavish, 936 Naugatuck Ave.** Truck traffic will go by every three minutes. Children cannot go out to wait for a bus.

**Ryan Perry, 1036 Naugatuck Ave.** Too many trucks there now and they are not even allowed on the road. There is already another dump. Debris is all over the property. There are oil slicks and leaks all over the property as well. Children old and young can go and ride their bikes in this unsafe environment.

**Jim Amann, Retired Speaker of the House.** Has received numerous phone calls from the residents. Attorney General Blumenthal is aware of this matter but could not be present tonight. Speaker Amann has spoken to Mayor Richetelli, Barbara Lambert, Rosa DeLaura and hopefully, Gov. Rell to do whatever it takes to make sure that this applicant abides by all regulations and according to law.

Knows the area in question from growing up in Milford. At that time the area was called "The Pits". It was a secluded area at the time. Area has changed over the years. A lot of residential growth in the area; Caswell Cove, Glenwood Condos and Baldwin Station. The Army Corp of Engineers has not wanted any dredging on the riverfront for many years. Don't understand how the applicants plan to use the river.

DEP gave a limited permitted in 2007, but it still requires municipal approval. The Board is obligated to protect the citizens.

**Maryanne Jensen, 1001 Naugatuck Avenue.** Likes where she lives. Glad Governor Rell is investing in making this side of Milford better. Does not believe a project of this kind is what she has in mind. Environmental impact has not been addressed. Has not heard of anything "green" being used to support recycling or the construction of this project. Wants to see some assessments to know whether their methods for recycling and handling this waste are the best methods out there today given that they are going to build a state-of-the art facility. There should also be an independent assessment of their methodologies. Asked how the routing of the trucks will be patrolled. Also asked where these types of facilities have been built, what has happened to the home values in those locations.

**Erin O'Grady, 15 Overton Avenue.** Agrees with everything that was said by those who have spoken and does not support the plan.

**Mme. Chair:** Interrupted because some people were leaving and she wanted to tell the audience how much the Board appreciates that the residents take the time to come and speak at the hearings. Whether someone is for or against an application, to sit through something like this on a week night and stay until almost midnight, the Board appreciates it. It is very important for the Board to hear what everyone has to say.

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**Carroll Lively, 963 Naugatuck Ave.** Has lived in the area for over 30 years. Had previously complained about the traffic years ago. There is less traffic now and that has been a relief. There is noise from the trains. They have witnessed the presence of many rats and flies. Read an article in the CT Post about Johnson's Creek at Mount Trashmore in Bridgeport that was contaminated and what is to prevent it from going into the Housatonic? This is a step backwards for the area. There is a lot of industry in the area, but they benefit Milford. This proposal will not.

**Robert Lively, 963 Naugatuck Ave.** Saw Associated Carting going up and down the roads. Painted their trucks black but you could see it was their trucks going up the road to the facility at all hours of the night and at other times as well. Now that they are gone the rats and flies have gone away.

**Mike, 1169 Naugatuck Ave.** Lived there 30+ years. Do not want it to go back to the way it had been. Much better now.

**Mr. Sulkis:** Asked to make his comments.

The applications brought before you this evening were brought to the Board against the advice of Staff to the applicants because their applications were incomplete and defective in that they did not conform to the Zoning Regulations at the time of submission.

The applicants had argued that they were entitled to submit per Section 8-2h of the Connecticut General Statutes, which pertains to submission of applications prior to a zoning regulation change.

I was advised by the City Attorney's office that the case law regarding the interpretation of Section 8-2h was not clear, and on their advice, it was recommended that these applications should be processed even though I, and the Assistant City Planner, had advised the applicants, that their applications were deficient and not certifiable.

Please be advised that these applications do not conform to Section 7.1.1.1, in that they have not been certified by me as being in compliance with the regulations at the time of submission, nor are they as of this hearing.

The applicants did not go through the review process as required by Section 7.1.1.1. The submission by applicants were not circulated to other city departments for review because 7.1.1.1 requires that they be in compliance with the zoning regulations, which they, again, were determined to be incomplete and defective by not conforming to the zoning regulations. The details of these deficiencies and defects are in the attached memoranda from Assistant City Planner Emmeline Harrigan to me dated July 20, 2009 and July 21, 2009.

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Recommendation is the applications for 990 Naugatuck Avenue should be denied on the basis that they did not comply with the regulations in effect at the time of submittal for the reasons stated in the attached memoranda.

Also spoke to what happened when the applications were made.

1. Re: Due Process. Sec. 7.1.1.1 was not complied with. Application was not and still is not complete.
2. He meets with the applicant to try to make the application comply to the regulations before it goes to the Board.
3. The application Ms. Chapdelaine referred to as having department approval was the application for Associated Carting which was never followed through on, because there were reports that asked for more information. They never provided additional information and walked away from the project in 2007.

At that point Ms. Chapdelaine took over the applications and the information to make the application complete was never submitted. Statements of Use were submitted but no plans. There was one sheet of an informal plan, but that was not adequate for site plan purposes. That is why the application has never been processed. The information that was presented tonight is the most complete application and material presented. However, it is still deficient and defective.

**Mr. Liddy:** Made a motion to extend the meeting to 12:30 a.m.

**Mr. Goodrich:** Second.

All members voted in favor of extending the motion.

**Mr. Sulkis:** Continued to list the defects and deficiencies of the application and use of the site.

Under the old HDD regulations under which they want to submit this application, they want to process items that include: asphalt, concrete, brick, soil, wood, metal, which are not permitted uses in the zone. Processing of wallboard, insulation materials and plastics are unclear as allowed in the zone.

The applicant is saying there has been a continuous use of this property for these uses. That is not the case. There has been the use for trash processing which was illegal. The site is now being used for a car repossession business, judging by the tow trucks and car carriers that go in and out of the site. There have been no site plan approvals for the current activity taking place.

**Ms. Harrigan:** Discussed the discrepancies and inconsistencies in the applications and materials received by the Planning and Zoning Office, as well as the Department of Environmental, which have been referred to often tonight. The

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Engineering Department also has a problem with the septic system they are proposing.

**Mr. Sulkis:** Interjected that Ms. Harrigan was referring to sec. 7.1.2.14. A defect because those details were not provided as part of the application.

**Ms. Harrigan:** This site is located directly on the Housatonic River and a Coastal Site Plan Review is required. This was not received until yesterday and so the Board did not see this until tonight's meeting. Although she was not able to review the report in detail due to the time constraint, she can determine that a facility of this proportion and magnitude requires site photographs, soil reports, inland wetland reports and other information that was not provided. This was a very hurried review of the site that did not provide the detail that the Board would expect.

**Mr. Sulkis:** Stated it is not that it was a hurried review, but a hurried application that rushed and is incomplete and defective.

The Inland Wetlands Commission came back with a report this date that the application Ms. Chapdelaine's handed in to their office yesterday was incomplete. There was no way the Inland Wetlands Commission could even evaluate this until they were given the proper information.

Reiterated the plans are incomplete and this application should never have made it this far, but only came this far on the insistence of the applicant.

[A brief recess was taken at 12:10 a.m.]

**Mme. Chair:** Rebuttal.

**Mr. Lynch:** Can go back and forth on this all night. It is not their fault this was rushed in. There is a difference between a filed application and an accepted application. He reviewed why this was not allowed to go through the proper process from the outset. This was a flawed process from the beginning.

Discussed the point that Ms. Harrigan brought up about the easement that goes out to Naugatuck Avenue. There is a dispute as to the width of that easement and the legal claim of that area.

**Ms. Chapdelaine:** Cited HDD regulation 3.12.

**Ms. Champdelaine:** Rebutted a number of objections and comments from those who spoke against the application. Reiterated there was never an illegal facility on the site.

**Mr. Liddy:** Continue the meeting until 1:00 a.m.

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**Ms. Shaw:** Second.

Six members voted in favor to extend the meeting to 1:00 a.m. Mrs. Golden opposed.

Truck weight and volume of materials were discussed.

**Mme. Chair:** Asked how many facilities she operated.

**Ms. Chapdelaine:** Operates her own facility in Rhode Island and two in Connecticut, as well as several site remediations and cleanup.

**Mme. Chair:** Asked if her job was to permit these places for private companies.

**Ms. Chapdelaine:** Responded yes, as well as for herself.

**Mme. Chair:** Declared the public hearing closed.

**Ms. Shaw:** Made a motion to deny the petition of Recycling, Inc. for a Special Permit and Site Plan Review to construct a recycling volume reduction facility at 900 Naugatuck Avenue based on the Site Plan and Floor Plan materials received on July 6, 2009, the Operations and Management Plan received on July 8, 2009, and the Coastal Site Plan Review Application received on July 20, 2009 for the following reasons:

1. The proposed application includes the processing of material types that are specifically prohibited within the Housatonic Design District zone by the City's Zoning Regulations Section 3.10.5.7.
2. A Special Permit application is required for some of the proposed uses and has not been submitted.
3. Information about increased traffic and truck volume has not adequately been provided, however the size of the proposed facility and the proposed tonnage capacity (1,000 tons/day) suggest a significant number of truck trips that will result in negative impact to the adjacent residential neighborhoods.
4. The parcel is not located on a legally accepted street, but is reached from Naugatuck Avenue via a single easement that provides ingress and egress. The access way as legally defined and shown on the submitted surveys does not provide sufficient width along its entire length and does not comply with Section 5.1.10.5 that requires at minimum 20 ft. in width.

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In absence of additional documentation and authorization to expand this easement, the access to the site is found to be inadequate, particularly given the proposed truck traffic.

5. The site can only be accessed via adjacent residential neighborhoods along Naugatuck Avenue whether through a southern route via Bridgeport Avenue (Route 1) or the northern route off Exit 35. The proposed use generates additional truck traffic that will negatively impact the adjacent residential neighborhoods.
6. Connection to the City Sewer System is required based on the site's location in the Flood Hazard zone. The applicant has indicated connection to the sewer system but has not demonstrated connection to be viable. Authorization and easements would be required from the landowners, including an active railroad right-of-way located between the subject site and the City's infrastructure on Naugatuck Avenue.
7. The application shows a rail spur and a rail car loading area, but does not provide additional information about connection into the existing Railroad right-of-way or coordination with the existing commuter traffic to mitigate negative impacts.
8. The application indicates future use of the existing bulkhead for water transport of materials, but has not provided information about this use to demonstrate that there will be no adverse impacts. The proposed water based use is also not reviewed as part of the Coastal Site Plan review.
9. The Soil Erosion and Sedimentation Control Plan does not adequately provide information about stockpiling, testing of soils, or transport of potentially contaminated soils located on site.
10. The survey provided shows area within the Flood Hazard Zone (AE-10), but the Coastal Site Plan review does not identify or address the potential impacts of the proposed development to this area.
11. The Coastal Site Plan review uses correspondence regarding the Natural Diversity Database from an earlier application from the site in 2006 that may or may not reflect current site conditions and is not acceptable for the current application.

**Mrs. Patterson:** Seconded the motion.

**Mr. Goodrich:** Tried to look at this application with an open mind. There is too much information not included in this application.

All members voted in favor to deny the motion.

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5. **1183 ORONOQUE ROAD (ZONE HDD)** Petition of Grillo Organic, Inc. for an Amendment to a Special Permit and Site Plan Review for recycling operations for leaves and grass clippings, including without limitation, for composting, volume reduction, resizing, recycling, repackaging or reuse on Map 50, Block 935, Parcels 1 and 1B, of which Blackite Corporation is the owner.

Hearing will be rescheduled to the next meeting to be held on August 4, 2009.

**E. PUBLIC HEARING CLOSED 7/7/09; exp. 9/17/09**

6. **314 BRIDGEPORT AVENUE (ZONE CDD-2 AND R-7.5)** Petition of Brian Lema, Esq. for a Special Exception and Site Plan Review to construct a 10-unit multi-family residential building with off-street parking on Map 24, Block 381, Parcel 1, of which D.A. Black, Inc. is the owner.

**F. PROPOSED REGULATION CHANGES**

**G. LIAISON REPORTS - None**

**H. APPROVAL OF MINUTES – (7/7/09)**

**Mr. Liddy:** Made a motion to approve the minutes.

**Mr. Vetter:** Second.

**I. CHAIR'S REPORT - None**

**J. STAFF REPORT - None**

Mrs. Patterson: Made a motion to adjourn the meeting at 12:44 a.m.

Mr. Vetter: Second.

The meeting adjourned at 12:44 a.m.

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Phyllis Leggett, Board Clerk

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