

**MINUTES FOR TWO (2) PUBLIC HEARINGS
OF THE PLANNING & ZONING BOARD HELD
TUESDAY, OCTOBER 16, 2012; AT 7:30 P.M. AT THE
CITY HALL AUDITORIUM, 110 RIVER STREET**

Chairman Mark Bender called to order the October 16, 2012 public hearing meeting at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

B. ROLL CALL

Members Present: Benjamin Gettinger, John Grant, Ed Mead (Vice Chairman); Michael Casey, Joseph Della Monica, Tom Nichol, Ward Willis (8:40)

Not Present: Jeanne Cervin.

Staff: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk

Chairman Bender: An item needs to be added to the agenda for a subdivision bond return. Also, Item D3, 42 Westmoor Road will be tabled to the next meeting. There were issues with the Special Permit public notice on the property. It was not up today, and possibly has been removed due to adverse reactions. The applicant will re-post it for the next meeting.

EdMead made a motion to add item E7 to the agenda for a subdivision bond request by 88 Bryan Hill Road.

Mr. DellaMonica: Second.

Ms. Harrigan: Asked that 42 Westmoor Road be continued to the specific meeting date of November 7th.

Chairman Bender: The next meeting will be held on Wednesday, November 7th.

All members voted in favor.

C. CONNECTICUT GENERAL STATUTES 8-24 APPROVALS

1. **CAPITAL IMPROVEMENT PLAN** – Request by Mayor Benjamin G. Blake for CGS 8-24 approval of the City of Milford Capital Improvement Plan 2012-2017.

Mayor Benjamin Blake: Presented the 2012-2017 Capital Improvement Plan to the Planning and Zoning Board. It is no different than the Capital Improvement Plan that has been presented in the past. One change is more money is being allocated to sidewalk improvements as part of the initiative to make Milford a more walkable city. The document that is being approved is not a formal commitment to the City. There is a separate process for funding individual projects, but this gives the City a pathway over the next five years.

Ms. Harrigan: The Board should make sure that the Capital Improvement Plan is consistent with the policies recommended in the Plan of Conservation and Development.

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Mr. Rindos: Referred to \$12 million bonding. Asked what is currently being bonded and what has been bonded over the past five years. Also, what is the term of the bond.

Mayor Blake: It depends on the particular item that is being bonded. Approximately \$20M has been bonded each year. There is reimbursement from the State. The State reimbursement for school construction has increased from 40% to 55% presently. Recently, in excess of \$20M has been bonded due to the sewer treatment plants. For the next bonding cycle a little less than \$20M, however, that could change.

Chairman Bender: This is just a plan that is being approved, not a budget.

Mr. Rindos: Made a motion to approve the request by Mayor Benjamin G. Blake for CGS 8-24 approval of the City of Milford Capital Improvement Plan 2012-2017.

Mr. Casey: Second.

All members voted in favor.

1. **EASEMENT AGREEMENT** – CGS 8-24 request for drainage easement in favor of City of Milford 395 Burnt Plains Road and Robert Dennis Drive (Map108, Block 836, Parcel 66AA)

Chairman Bender: Noted he spoke to the City Attorney's office. It is an easement agreement under CGS 8-24 request for a drainage easement in favor of the City of Milford, 395 Burnt Plains Road and Robert Dennis Drive, Map 108, Block 836, Parcel 66AA.

Mayor Blake: This is an order for the Public Works Department to do a drainage up and around Alexander Road. This is an easement that was required in order to do the construction for that drainage project.

Chairman Bender: Gave an explanation as to the need for this project. There is an existing drainage pipe at Burnt Plains Road, for which the City has a prescriptive easement. The pipe has failed and is causing drainage issues on Alexander Road. The purpose of this easement is to clean up the record and put the existing prescriptive easement into the land records. The City needs to replace the pipe on Burnt Plains Road and it will be extended onto the Robert Dennis Drive open space parcel where it will drain into a retention pond.

Mayor Blake: The City will work with the necessary departments, i.e. Inland Wetlands agency on this project, as needed.

Mr. Mead: Made a motion to approve CGS 8-24 request for drainage easement in favor of City of Milford 395 Burnt Plains Road and Robert Dennis Drive (Map108, Block 836, Parcel 66AA)

Mr. Willis: Second.

All members voted in favor.

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D. PUBLIC HEARINGS – CLOSE BY 11/20/2012; expires 12/20/2012

1. **42 WESTMOOR ROAD (ZONE R-12.5)** – Petition of Buddy Field for a Special Permit and Coastal Area Management Site Plan Review approval to construct a single family residence and regrading within 25 feet of a flood plain on Map 30, Block 644, Parcel 7, of which Field and Son Builders LLC is the owner.

Hearing postponed to the Wednesday, November 7, 2012 meeting.

2. **2007 BRIDGEPORT AVENUE (ZONE CDD-3)** - Petition of Thomas Lynch, Esq., for Special Exception and Site Plan Review approval to allow the establishment of a hookah lounge to be located on Map 43, Block 432, Parcel 00025, of which Jaser Enterprise, LLC is the owner.

Thomas Lynch, Esq., Lynch Trembicki and Boynton, 63 Cherry Street, Milford, representing Sammer Karout, the lessee of the unit at 2007 Bridgeport Avenue, the subject of this application. He is presenting a Special Exception and Site Plan Review to open a Hookah Lounge at this location.

It was noted that Mark Bender and Ed Mead were the only two members who were sitting on the Board at the time of the previous hearing.

History of this application: In June 2009, Linda Stock, the City's Zoning Enforcement Officer at that time issued a Cease and Desist order to Mr. Karout because he was attempting to use a prior retail space within the strip mall at 2007 Bridgeport Avenue for use as a hookah lounge. Sammer has operated the Oliver Tree Restaurant and Deli for the past eight years. The strip mall is owned by the Jaser family. He signed a lease for this space to commence operation of the Hookah Lounge and has been paying rent on this space since June 2009, during the time he has been pursuing this application.

At the same time the C & D was issued, Dr. McBride and the City Health Department got involved because there were questions as to the sanitary nature of the operation as well as the whole issue of smoking and whether this was a violation of the State regulations as to smoking in public places and specifically, whether or not this infringed upon the State regulations against smoking in restaurants. The decision by Dr. McBride to close down the operation was appealed to the State Department of Health and in December 2009, Mr. Karout received a favorable decision from the Department of Health to allow the use on this site. The Memorandum of Decision on this case stated that since this was going to be within the confines of public space and was not going to be a restaurant or any other public facility that the smoking regulations prescribe against smoking, the use was allowed.

In December 2010, Mr. Karout made his first application to the Planning and Zoning Board to try to legitimize the use. The hearings stretched from December 2010 up until March 1, 2011. Upon review of the minutes of the previous hearings, there was a great deal of discussion around the fact as to whether or not this was going to be a public or private use; the cleanliness of the operation; as to the hours of operation and then there were specific concerns that Mr. Sulkis had with the site plan that has been addressed as part of tonight's

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application. It will be clearly shown that this application differs from the prior application that was presented in 2010 and 2011.

A Memorandum of Approval had been prepared for the meeting of this Board on March 1, 2011. This Memorandum of Approval contained certain stipulations and the Board voted 6 to 2 to approve the application of Mr. Karout to operate the Hookah Lounge. It was denied because it required a super majority of all the board members, and two members were not present at that hearing. Seven votes were needed to approve the application. It can be argued why wasn't the meeting recessed and asked for a full board vote at the next meeting. Subsequent media interviews of the two board members who were not present indicated that they would have voted affirmatively for the application with the conditions set out in Mr. Sulkis' Resolution of Approval.

An appeal was filed in the Milford Superior Court. There were meetings with the City legal officials and the present Board Chairman and Vice Chairman, as well as Executive Session with the Board members. The decision was made not to overturn the vote or to take another vote because an appeal had been filed in court, so let the court system take care of resolving the issue. He advised his client to withdraw the appeal due to the length of time this process would take. He suggested going back to the drawing board; incorporate the recommendations that the Board members had made at that time and hire a local architect who the Board is familiar with and come back with revised plans. That brings the application to tonight's hearing. Sam has hung in for the past three years. He is a good man and runs a great restaurant. He has been part of the Milford Chamber of Commerce for the past 6-8 years. He wants to open this type of lounge which is very popular amongst individuals of Middle Eastern descent. It is a very popular social activity.

The application is being presented under the same tenor as the 2010 application, in terms of the operation of the business. The business will be open 7 nights a week from 7:00 p.m. to 1:00 a.m. There is a limit of 66 persons to be allowed in the building at any given time. The floor plan has been revised not to include a dance floor in the middle of the room. There will be booths in the middle. The renovation looks wonderful.

The hookah pipes are cleaned with removable tubes. The hookah is smoked through the pipes individually, and each time a hookah is passed onto another person the pipe is cleaned. All the sanitary conditions will be part of the supervision of the Milford Health Department.

There will be no food or beverages served in the lounge. Patrons can bring in their own food and beverages. Patrons will have to be over the age of 18. Anyone who would be utilizing alcoholic beverages on the premises would have to be 21 years. There is a screening process that will be followed to ensure that, similar to that used at Stonebridge Restaurant. These were all the items made at the previous presentation made to the Board two years ago.

There have been revisions made to the plans. In 2010 the parking count was higher than the current parking count, due in part to changes in some of the other uses in the plaza. In 2010 the required number of parking spaces needed for the entire site is 146. Mr. Sulkis'

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Staff Memo of October 10th, stated based upon the square footage of the space to be occupied by Mr. Karout, 40 spaces would be required for use by the Hookah Lounge, a total of 103 spaces would be needed for the nighttime use of that building. Under Section 5.18 of the zoning regulations, when there are multiple uses on a property, the Board can take into consideration, a situation like a mixed used building, where there is shared parking usage between daytime users and night time users. In the Statement of Use there was a calculation that approximately 60% of the parking would not be used at night. That is where the 103 space calculation by Mr. Sulkis was made for night usage.

Mr. Lynch explained how he differed from Mr. Sulkis' determination of the number of parking spaces that are required and the number of spaces to be waived. He described the rear parking area that has been improved since the last application, which he considers adverse possessive utilization of this area and is a viable parking area for the use. Mr. Sulkis has taken the position that those spaces cannot be used in the parking count. However, even if those 16 spaces are eliminated, there are a number of spaces there that create a waiver request of 47 versus the 90 spaces that were part of the waiver from the 2011 motion for approval. He believes the waiver is only for 30 spaces. Whether the waiver is 30 or 47 spaces, that is far less than the waiver that was approved in the Memorandum of Approval that was voted on in March 2011. That is the big distinction between the prior plan and that plan that is currently being presented.

A lighting plan and photometric plan has been provided, which was not provided two years ago. He noted the interior improvements to the plan that were made. There will be parking lot illumination on the easterly side of the plaza as well as all the rear parking area. These are major improvements to the application and site plan that were made two years ago, which the Board voted 6 to 2 for approval.

No negative comments from City departments, including the one from Dr. McBride, which stated there are no public health standards that the Milford Health can apply.

John Wicko, Architect, 50 Broad Street. The survey has been updated. The parking data is under Section 5.14 in the Zoning Data Chart for further explanation.

Landscaping Plan SP-2, asking for a waiver since it is an existing property and there is no opportunity to do front landscaping due to the amount of paving. Can do some landscaping at Dorsey's. SP-2 also shows the improvements of vehicular traffic signs and new striping to clearly show points of entrance and egress. Also shows the one way drive aisle that accesses the rear parking and dumpster locations. The exit which is on a right-of-way that is off the site that goes to the nearest side road they are proposing to maintain and improve. Also show one dumpster location as part of the Hookah Lounge to take into consideration the new regulation of having an enclosure that matches the character of the building. An alternate plan is shown on SP-3, shows how in the future as other tenants move in and out, the other dumpsters can be built at the time they are needed.

Lighting Plan. Sheet L-1 shows the values of the light meter. John and a professional engineer went out and did an as-built of the light that is currently out there and evaluated the rest of the site for safety purposes as to whether it is adequate. He described the lighting evaluation.

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The interior of the building meets the deficiencies in the fire and building code. The seating plan was redone and occupies the center of the room that had been the dance floor. He noted the other interior changes and renovations that were made. The basement is for mechanicals and storage. It goes through a fire rated corridor and has direct access out to an area of refuse in the rear parking lot.

EX-1 Shows the conditions of the lounge when he became involved in July 2011.

Mr. Lynch: One of the conditions made at the prior hearing for front parking along Bridgeport Avenue was to obtain a lease from the State DOT, for which the owner, Mrs. Jaser has paid the \$500 administration fee.

Mr. Sulkis: Clarified that the 103 parking spaces was provided by the applicant on SP-1. He did not do that calculation. He did not know if that includes just the tenants that are there now or of all the spaces.

Mr. Lynch: It is a night plan that was calculated on behalf of the applicant.

Mr. Sulkis: Parking for any use in the city is not differentiated by night or day parking.

Mr. Lynch: The calculation was based on the parking regulation for a mixed use property, such as this. The parking is calculated based on the bifurcation of the use between the night use and the facilities that are open during the day.

Mr. Sulkis: The base square footage of the building, and the businesses in the plaza, which was done in the first application must be presented so the Board can make a proper evaluation as to what businesses are there and what their hours of operation are.

Mr. Lynch has shown the DOT application for a lease is in process, which is correct.

With regard to the rear parking and the question of adverse possession, he has consulted the City Attorney on this and has been advised that the City cannot consider any part of a site plan or use on somebody else's property. If a court document can be produced that will prove that they have possession of it, the Board can consider it. In the parking calculation, if the Board was to approve this, there would be a greater waiver needed for the rear parking. Upon review of the site plan, it does not work without the adverse possession.

With regard to the future trash enclosures for future tenants as outlined by Mr. Wicko, if those tenants are not Special Permit applicants, the Board will never see those applications and the trash enclosures will not take place. Because this is a Special Exception, the Board has always looked at the regulations and determined you try to get a property to conform in its entirety.

Mr. Casey: With regard to the back lot is there more than one abutting land owner to this property?

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Mr. Lynch: Yes. There are a number of residences along Robert Treat. The hospital property is furthest to the east, but the others are all residences.

Mr. Casey: Will he try to acquire title to these?

Mr. Lynch: This application has been going on for three years. Filing an Acquire Action Title can take another 3-4 years. This is one of those situations where it is what it is. Those spaces are there. This is a strip mall that has been there for 50 years. The spaces are there. None of those residences will stop him from using those spaces. The lounge will be open from 7:00 pm to 1:00 p.m. People go out to socialize, especially on weekends at 9:00-10:00. The maximum usage of this space is probably going to be between 10:00 and 1:00 a.m. There is nothing going on at this plaza after 10:00 pm.

Mr. Sulkis: The area that is being adversely possessed contains more than parking. The circulation around this plaza is a one-way traffic flow. Without the adverse possession claim they cannot exit that lot. Also, that lot has recently been improved.

Chairman Bender: The City Attorney has stated the back area cannot be used for parking. The Board cannot consider that rear property.

Mr. Lynch: The dumpsters do not go out that back roadway. They back out. They do not go around.

Mr. Sulkis: The enclosures do not move. The dumpsters are on wheels and are moved out.

Chairman Bender: The work area looks like it is a food prep area. It has a range hood. What will take place there?

Mr. Wicko: The work area is where the pipes will be stored when not in use. The exhaust hood is not for a stove or cooking. The Health Department has asked for this. It is a ventilation hood.

Mr. DellaMonica: Will there be large parties where food can be catered in and perhaps alcohol used?

Mr. Lynch: There will be no catered parties.

Chairman Bender: Asked about smoking in public places and how it applies to State Statute.

Mr. Lynch: This is a private enterprise. Individuals are going there on their own accord to smoke and is not creating a public nuisance. It is different from a restaurant where someone may be bothering someone if they are smoking.

Mr. Willis: Noted this property is in his district and he is well aware of it. He believes there are more than 60% of the businesses that will be closed during the hours of operation of

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the lounge that will be open from 7:00 p.m. to 1:00 a.m. In this case he was not sure if the rear ---

Mr. Sulkis: Interrupted to ask if Mr. Willis had a question.

Chairman Bender: The hearing will be kept open to receive the parking table and uses in the plaza.

Mr. Wicko: He had prepared a chart that was based on the present tenants and their uses during the evening hours, which is the critical aspect of the parking. This information will be submitted to the Board.

Mr. DellaMonica: Clarified that Dorsey's bar is open until 1:00 a.m. during weekdays and 2:00 a.m. on the weekends.

Mr. Willis: Asked if this was a public/private club. Do you have to pay a membership fee?

Mr. Lynch: There's a \$20 fee paid at the door that allows someone to come in to smoke the hookahs, which is the private aspect. That is the way the State Public Health Department looks at smoking in these types of establishments.

Mr. Wicko: There is no selection process to make it a club that you join. The \$20 fee is ticket in.

Mr. Rindos: Asked if there was state licensing or state program that has to be followed?

Mr. Lynch: No.

Mr. Mead: Asked Staff how the applicant could be asked to upgrade dumpster areas if the rear property cannot be used by the applicant for parking.

Mr. Sulkis: Asked Mr. Mead to look at the site plan. The area for the dumpsters is not where the parking and the access and egress is. There are two different areas to the back. He explained that the dumpster area is sited on their own land, which is fine and not the issue. The issue is the utilization of land that does not belong to them.

Discussion followed with regard to the site plan; the use of the rear property; dumpster location; where the parking is and the area of travel along the rear of that property, which is a one-way traffic pattern around the building.

Mr. Lynch: Explained how the location of the dumpsters on the site plan would not affect driving through the rear of the property.

Chairman Bender: Asked if there was anyone in favor of the application.

Mike Shaheen, 26 Reed Street. Lives near the lounge. In favor of the application.

Anas Chwika, 180 Robert Treat Drive. In favor of the lounge.

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Rebecca Maula, 132 Bernier Terrace. She is a Milford resident and owns and operates a cigar and hookah lounge in Fairfield since 2007. She has operated without any problems from the State or City of Fairfield. Hookah lounges are a fun and safe way for adults to socialize outside the bar scene. Milford would benefit from this venue for people who do not drink or do not want to go to bars in order to meet people. The City would also benefit by welcoming those people whose culture and traditions include hookah.

Christophe DiFiori, 300 Meadowside Road. In favor of the application. Agreed with Ms. Maula about giving people another alternative for socialization. Also gives more cultural diversity to Milford. He enjoys the Middle Eastern food at the Olive Tree and the hookah lounge will add to that.

Danielle Bercury, 162 Melba Street. She is a land use attorney in Milford, but is speaking as a resident and citizen in support of the application. She is a patron of the Olive Tree restaurant and knows that Sam will hold the lounge to the same standards that he holds the restaurant to. He has done a tremendous amount of work there. She lives and works locally and drives by the plaza all the time at night and knows there is ample parking. She hopes the Board will work with the applicant to approve the application.

Andrew Rice, 47 Oakland Avenue. Supports this application. It brings diversity into the city and a new set of consumers will add to the City's business revenue.

Chairman Bender: Anyone to speak in opposition to the application? (No response).

Will leave the public hearing open awaiting the parking table that Mr. Wicko will provide. He would like to see something that shows with or without that property (adverse possession area). Does anything change (dumpsters, etc.) without that property.

Mr. Lynch: Will have the area redrawn not showing the parking spaces there.

Mr. Sulkis: Cautioned against a site plan and a survey that does not represent what is actually out there. If they submit something, shade the area. Cannot submit a survey that does not show what is actually on the property.

Chairman Bender: Mr. Lynch will not change the A-2 survey. He is going to show the area in question and the parking spaces that will not be considered.

Mr. Lynch: Suggested accepting the site plan that has been submitted; there is an opinion from City Attorney, Jon Bercham, which says you cannot approve a site plan with improvements that are not on the deeded area of Mrs. Jaser's property. His response is don't consider those parking spaces. The dumpsters can be relocated and enclosed. He had stated there are 56 other spaces in the front which, he believes are sufficient to serve the use that is being proposed.

He reiterated that when this was going to be approved in 2011, this situation was not an issue. The same site plan was submitted. The whole issue of the parking in the back was never raised. It was raised along the lines that it was not on the property but there was no city attorney input and it was considered part of the parking count and it was calculated to

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create a 90 space waiver. Even if 16 spaces are eliminated, 103 are required. There are 56. That creates a 47 space waiver that is being requested. It is far less than the 90 that the Board approved as a waiver ---

Chairman Bender: The only thing that the Board wants changed is the parking spaces. In the back area, if they were to go on the actual property line, the only thing it would affect is parking?

Mr. Sulkis: No. The utilization of the rear lot is a one way traffic flow. The applicant has represented to him that people who utilize the back, (not the garbage truck), but patrons who park there --- the site plan that is shown tonight shows parking and talks about how the patrons are going to be leaving the property out to the west, which is through the area of adverse possession.

Also noted that this is a new application to a new board. In addition, the rear parking issue was brought up in the previous application.

Mr. Lynch: Showed on the displayed site plan how driveway is used for traffic and dumpsters.

Mr. Sulkis: Their Statement of Use shows the rear area being improved and exiting out the west.

Chairman Bender: Suggested a modification of the Statement of Use removing the rear parking area.

Mr. Sulkis: Any change in the traffic pattern would have to be resubmitted to the Police Department for their review, because there is a change in the plans.

Mr. Mead: If the rear driveway cannot be used, how can the buildings that are now there continue to use it for dumpsters and traffic?

Mr. Sulkis: If this had not been brought before the Board as a Special Exception, the Board would not have known the issues that are going on there. Now the Board has been aware that there is a utilization of property that is not theirs. They are presenting an application using property that is not theirs and have been advised that the Board cannot take this into consideration. It goes beyond the dumpsters.

Mr. Gettinger: Asked for the City Attorney's opinion in writing so the Board knows exactly what he means.

E. NEW BUSINESS

3. **1201 BOSTON POST ROAD (ZONE SCD)** Petition of John Schmitz, BL Companies for Minor Amendment to a Special Permit and Amendment to a Site Plan Review approval to do minor exterior work associated with the conversion of existing retail space to Buy Buy Baby, on Map 78, 79 and 89, Block 811 and 812, and

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Parcels 40A/A, 32, 40C, 13A, of which The Connecticut Post Limited Partnership is the owner.

John Knuff, Esq. Broad Street, Milford, on behalf of the Connecticut Post Mall. Also present: Jonathan Krautsche, John Schmitz, PE, BL Companies and Ted Bubnowski, Architect. Two applications: A Site Plan Review and a Minor Amendment to the Mall's Special Permit to add Buy Buy Baby within an existing mall space. Approximately 30,000 SF of space directly adjacent to Sears in the rear of the mall will be occupied by Buy Buy Baby. The Board does not usually see an application for a tenant fit up. In this case, it was determined that because the applicant is proposing some small exterior modifications to the mall and the sites, that a Minor Amendment to the Special Permit is warranted. They are also taking this opportunity to make some other improvements to the traffic flow, landscaping and elevations in the mall.

Buy Buy Baby is an upscale store that sells products for babies and young children. This will be their first store in Connecticut and their first store and their first non-freestanding store. They will be located directly across the first floor hallway from LA Fitness. It will be a shot in the arm for that end of the mall. The newer area with the cinemas, Target, Dick's and the food court have been the focal point of the mall. The newer tenants at the other side will be a draw to that side of the mall.

The exterior changes are to the building elevations and changes to the site and building layouts. Most of the changes are due to the need to relocate an existing loading dock on the site. This has allowed Westfield to make some additional changes in terms of landscaping, pedestrian egress and making a more defined accessway adjacent to the mall for vehicles.

The applicant has worked with Sgt. Sharoh on the traffic plan. His report discusses the location of four new proposed parking spaces. He recommends that those four spaces be deleted. The addition of the new loading dock adds 400 SF to the mall. A loading dock does not generate the need for more parking, but under the regulations the 400 SF of gross building area requires two more parking spaces, even though they are not necessary. In addition, a cart corral is being proposed in the parking field adjacent to Buy Buy Baby. That takes up two parking spaces. Proposing to add four spaces directly adjacent to the mall. Sgt. Sharoh prefers those spaces not be located there. Under Section 3.9.3.5 of the regulations, the Board is provided with the discretion as to how many spaces are required for mixed use buildings in the SCDD zone.

The area where Buy Buy Baby is located, in between entrances 4 and 5 is also currently the location of the bus pickup area. Milford Transit and the Mall are very close to signing an agreement to relocate the bus stop in a more convenient location, not only for the transit company but for the mall as well. It is very likely by the time Buy Buy Baby has completed construction, the bus stop will be relocated. Sgt. Sharoh wanted to make sure that in the event the bus stop is not relocated by the time Buy Buy Baby is done, that an alternate location is chosen. If Buy Buy Baby is completed before the new bus is completed, there will be a new provision for the buses to operate at that exit.

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John Schmitz, BL Companies, Meriden, CT. Reviewed the site plan for the new tenant and the rear of the premises with a loading dock, trash compactor and the necessary parking spaces. This was the former Steve and Barry's on the second level of the mall at Entrance 4 and 5.

Showed where the old open air loading dock was located and the new loading dock will be an enclosed space of 437 SF projected away from the existing building. The existing entrance and signage and facade will be kept in this location. The present loading dock space will be replaced with landscaping and trees. A landing will be placed at the bottom of the stairs where there is none at present. There will be a free standing vertical wall to screen the trucks at the loading dock. He described the proposed landscaping in that area.

The temporary bus stop area was described if the new bus stop is not ready in time. Adequate room for four bus storage will be provided. There will be two way access in both directions and a temporary ramp. Sgt. Sharoh does not want to see vehicles parked so close to the building.

Ted Bubnowski, Architect and City Planner located in Eatontown, NJ. He was asked to orchestrate the first Buy Buy Baby within a mall. BBB is owned by Bed Bath & Beyond and has several hundred stores, all freestanding. This is their first in-mall facility.

He reviewed Drawing A2.2. It showed to the extent within the building of the 35,579 SF of this proposed tenant area. The area includes the 437 SF of addition that is being proposed. He discussed the outdoor loading dock that has a 300 SF platform that will be translated to the other side to a 400 SF indoor loading dock with one overhead door and one compactor station. This is situated between Sears and JC Penney on the south side of the mall. Making a lot of improvements to that area and increasing the nonpervious material.

Drawing A4.1 is the exterior elevation in color. The drawing shows calculations for signage. The signage had to be downsized and reconfigured due to the in-mall location. The sign is 23' x 11'6". It is going where the old loading dock was. The old loading dock will be hidden in large part by the sign. He showed the outside rendering of the Buy Buy Baby façade as it will appear when it is built.

He described how the new loading dock will look and showed the color rendering. He summarized: Existing mall entrance #4 by Sears remains – no changes. The loading dock is demolished; screen and concrete walls are gone. Landscaping is put in. An element is constructed to match the effect and materials of the building. Building one dumpster for refuse next to a retaining wall. New loading dock with a screen wall and the element of the new building for the Buy Buy Baby receiving area.

Mr. Knuff: They hope to submit a building permit application by November 1st.

Mr. Sulkis: Did a fine job explaining what they want to do. If the Board approves the application tonight he suggested the conditions of approval:

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1. Requesting a parking waiver of 4 spaces. The Plan said a waiver of 2 spaces. Police Department reviewed the plan for two spaces. The Board would be increasing its current parking waiver of 374 spaces to 378 spaces.
2. Condition the approval of the bus shelter plan being submitted approved by the Board and in place before the Certificate of Zoning Compliance is issued for the occupancy of the Buy Buy Baby site.

Chairman Bender: No exterior entrance to the store. Entrance 4 or 5 must be used.

Mr. Schmitz: Yes.

Chairman Bender: Who governs where the bus stop is?

Mr. Knuff: It is negotiated between Milford Transit and the Mall. Milford Transit is a guest on the mall property. It's an agreed upon location but the understanding is if it is in a remote part of the mall, it cannot operate efficiently.

Chairman Bender: There is an interim location. Where is the plan for the new bus stop location.

Mr. Knuff: It is directly adjacent, but a little bit further out into the parking lot from JC Penney. He objected to Mr. Sulkis' condition regarding obtaining the CZC. The agreement between the bus company and the mall is imminent to sign, but he cannot absolutely promise this. That is why there is the alternate provision approved by Sgt. Sharoh.

Chairman Bender: What is the reasonable time frame for an interim bus stop?

Mr. Knuff: If an agreement is not signed between now and May they may have to find another location or come back to the Board to modify this approval, because there are 17 spaces that will be impacted on a temporary basis.

Mr. DellaMonica: There is no bus safety refuge currently.

Mr. Knuff: People congregate inside the mall doors during inclement weather.

Mr. Schmitz: Showed the location of the proposed bus shelter. Will come back within the next few months with an application for site plan approval and additional parking waivers. There will be a total of three bus shelters.

A large number of people take mass transit in Milford. He outlined the measures for security and safety of pedestrians and people waiting for the buses.

Ms. Harrigan: Noted that she met with Henry Jadesch, Director of Milford Transit who stated over 41% the mall's employees take mass transit. You want to make sure the mall makes that commitment to support those people.

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Mr. Knuff: He will be in touch with David on a regular basis to update him on the bus shelter situation. In the spring he will be back before the Board for a relocated bus shelter or approval to remove the parking spaces for a longer period of time, if the present bus shelter plan falls through.

Mr. Grant: Asked about the elimination of some handicapped parking.

Mr. Knuff: There is more handicapped parking throughout the mall than is required.

Mr. Mead: How many spaces will be lost with the relocated bus shelter at JC Penney?

Mr. Schmitz: Guesses it is in excess of 17 spaces.

Mr. Mead: Why not make the temporary shelter the permanent shelter.

Mr. Schmitz: Explained people congregate in the vestibule while waiting for the bus during inclement weather and other reasons. This is disruptive to people getting in and out.

Mr. DellaMonica: There have been many instances of police intervention due to the number of people who congregate in these areas.

[A recess was taken from 9:50 to 10:00 p.m.]

Mr. Mead: Made a motion to approve Petition of John Schmitz, BL Companies for Minor Amendment to a Special Permit and Amendment to a Site Plan Review approval to do minor exterior work associated with the conversion of existing retail space to Buy Buy Baby, on Map 78, 79 and 89, Block 811 and 812, and Parcels 40A/A, 32, 40C, 13A, of which The Connecticut Post Limited Partnership is the owner with the following conditions:

1. The parking waiver will be increased from 374 to 378 parking spaces.
2. Approve the interim bus stop per the recommendations of the Police Dept and Fire Department.
3. The property owner or designee shall appear before the Planning and Zoning Board no later than six (6) months from the date of approval for a status report on the development of the new bus shelter.

Mr. Gettinger: Second.

All members present voted in favor (Mr. DellaMonica left the meeting at 9:50 p.m.)

35 PAGE STREET - SUBDIVISION BOND RETURN – Request by Damon and Elan Daniels for full bond return in the amount of \$6,095.00, for completion of work on the above captioned property, in accordance with the memo received from Bruce C. Kolwicz, Public Works Director, dated October 12, 2012.

Mr. Gettinger: Made a motion to release the subdivision bond in accordance with Bruce Kolwicz's memo of October 12, 2012.

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Mr. Willis: Second.

All members voted in favor.

88 BRYAN HILL ROAD – SUBDIVISION BOND RETURN – Request by Arnold Peck for remaining balance of a subdivision bond in the amount of \$2,655.50 in accordance with the memo received from Bruce C. Kolwicz, Public Works Director, dated October 16, 2012.

Mr. Mead: Made a motion to release the subdivision bond in accordance with Bruce Kolwicz's memo of October 16, 2012.

Mr. Grant: Second.

All members voted in favor.

F. PLAN OF CONSERVATION AND DEVELOPMENT - Update

Mr. Sulkis: The P & Z Board approved draft was distributed to the Board of Aldermen and Regional councils. Look forward to receiving their comments.

Ms. Harrigan: Asked if the Board members see any typos, lack of maps, or other things that need to be changed, to make note of it and let her know.

The Board of Aldermen has 65 days to review the document. It can be approved at the November or December BOA meeting.

G. PROPOSED ZONING REGULATIONS

Sec. 3.1.4.2 Building Height in Residential Zones - POCD will influence

Sec. 2.5.5 Lot Access and Rear Lots awaiting CA input

Sec. 9.2.3 Prohibited Variances - awaiting CA input

Add: Sec. 5.1.4 Off-Street Parking Requirements (10) Health Clubs

Chairman Bender: Mr. Sulkis and he met with the City Attorney to discuss the changes. He believes they are all on the same page.

He noted that based on the RCG meetings, other cities and towns are experiencing the same issues (parking, waivers, bikes, pedestrians, etc.) as Milford is.

H. LIAISON REPORTS – None

I. APPROVAL OF MINUTES – (10/6/2012)

Mr. Willis: Motion to approve.

Mr. Grant: Second.

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J. CHAIR'S REPORT

Also discussed at his meeting with the City Attorney, he learned that the Board cannot go out and do any investigation when there is a public hearing application before the Board. It can bring litigation action. If the Board feels something should be done on an application, it should be asked of the applicant or staff to do it. The individual board member should not do it on his own. The person looks at something and brings back his interpretation of what he has seen. It has the potential of being biased by not having the entire board to see it as everyone else and make their own interpretation of the information given to them.

Mr. Sulkis: It is analogous to a criminal jury when they have their weekend recess the members of the jury going out to do their own research and then going back to court on Monday to talk about, in deliberations, what they found out. On those rare occasions, that person is tossed.

He reminded the Board to attend the Land Use Academy on November 10th, which incorporates this topic and many other important topics the Board should be aware of.

K. STAFF REPORT

Mr. Rindos: Made a motion to adjourn the meeting at 10:15 p.m.

Mr. Mead: Second.

Phyllis Leggett, Board Clerk