I. CALL TO ORDER
Chairman Kurtz called the public hearing to order at 7:31 p.m.

Chairman Kurtz read the fire safety announcement.

II. ROLL CALL
Mr. Maidelis called the roll.

III. DETERMINATION OF QUORUM
Following roll call a quorum was determined to be present.

IV. PLEDGE OF ALLEGIANCE
The group Pledged Allegiance to the Flag.

V. BUSINESS
Mr. Maidelis read the call of public hearing for each application.

1. Special Permit Application
   Ruth A. Podgwaite
   353 Mount Sanford Road
   3-lots
   Application withdrawn
   PH 7/26/10
   PH 7/12/10
   MAD 9/29/10

2. Subdivision Application
   Ruth A. Podgwaite
   353 Mount Sanford Road
   3-lots
   Application withdrawn
   PH 7/26/10
   PH 7/12/10
   MAD 9/29/10

3. Resubdivision Application
   Saddlebrook LLC
   Huckins Road
   2 – lots
   Application withdrawn
   PH 7/26/10
   PH 7/12/10
   MAD 9/29/10
4. Special Permit Application

RLJ Properties LLC

680 South Main Street

Four – 2 bedroom apartments

To existing office building

Attorney Anthony Fazzone represented the applicant. He stated that this application is pursuant to Para. 3.B, Section 30, Schedule A which allows residential units in an R-20A zone. This section of the regulations allows one unit for every 10,000 s.f. of land over the minimum lot size (20,000 s.f.). This parcel is 118,745 s.f. and less the 20,000 s.f. allows for 9.8 residential units. The site plan has been presented to the Planning Department, and it is an actual “as built” of the property at 680 South Main Street. The property houses a number of medical offices and other professional offices.

The proposal before the Commission is for four apartments on the top level of the building, with the floor plan presented which shows a corridor down the middle from the central stairwells, elevator, and wheelchair lift to the 4th level. There would be two apartments on each end of the building with a common laundry area. All the apartments would be the same with handicap access.

With regard to parking, Mr. Fazzone stated that the original computation was for 139 spaces needed, and with the new parking regulations 101 spaces are needed. This application has gone to IWW and because there are no changes to the site, IWW determined an application was not necessary for the proposal.

Mr. Fazzone explained that from the front, this building three (3) stories; from the rear, it has four (4) stories, with an elevator serving the first three levels from the rear of the building.

In the file for this property there is a memo which correctly points out that in December 2001 this site and building were approve for a mix of offices and eight residential units. When the applicant built the building there was interest from the medical center for space and the applicant revised the plans for strictly office space. There is now space available for residential units and people have expressed an interest in apartments in the building.

Regional Water Authority has no objection to the residential use. The Engineering Department has asked about exterior changes, and there are none. Drainage calculations remain the same.

The applicant has hired an expert in the building code, has gone to the State, and correspondence has been provided to the Town departments. The determination by the State building inspector is that the building qualifies for handicapped accessibility and is within the building code to have the units on the upper levels of the building.
Attorney Fazzone informed the Commission on the status of the Fire Department and Fire Marshal offices asking for additional time to review the materials submitted and the inner workings of the State building code with the fire safety code. The applicant is agreeable to the continuation of the public hearing. Mr. Fazzone said he will be delivering additional documentation to the Fire Marshal this week.

Chairman Kurtz asked about residential units on the top floor of the last application.

Mr. Fazzone said the residential was proposed for the upper floors. He noted there are four stories in the building; the ground level entrance is from the rear and the front. In the front of the building there are three stories; in the rear there are four stories; and the original residential apartments were from the second to third floor. In this proposal the apartments are on the third and fourth floors.

Mr. Todisco asked about what is on these floors are used for now.

In response, Mr. Fazzone said part of the third floor is storage. The last application had a portion of the building for additional office space, and this space will be removed.

With the new application, Mr. Todisco asked if the apartments will be regular units or town houses as proposed in the last application.

Mr. Fazzone said they will be apartments on one level, not townhouses.

It was stated by Mr. Maidelis that he thought the first application was a good idea with the apartments, and he questioned why the applicant is not going for the maximum number of apartments in the subject application. This would eliminate returning to the Commission at a later time for more units.

Mr. Fazzone explained that some of the lower floors are under long term leases as office space, and there is no space available for eight townhouse units.

According to Mr. Maidelis the first application was market driven and the Commission approved the mixed use. He was disappointed with removal of the apartments in the second application.

At this time the space is not available for eight town house units, there are longer term leases in place, and Mr. Fazzone said that approval of eight units using the other floor would probably be in violation of the law.

According to Mr. Dawson, being market driven is the answer.
This development was the first mixed use allowed in Town and Mr. Maidelis said the Commission really wanted to see it go forward. Then the apartments were removed, all office space was disappointing for Commissioners, and now it is back for these residential units.

It was a good idea to have residential units in the central area of Town and Mr. Fazzone noted there are sidewalks from this building to the commercial area and to the center of Town.

Mr. Cobern said he was glad to see the residential units return, and asked about the elevator reaching all four floors.

The elevator does not serve to the fourth floor. Mr. Fazzone said it goes to the floor below (2nd or 3rd level), and there is a wheelchair lift that goes to the level where the apartments are located.

Mr. Cobern commented on the fact that the PZC cannot allow a site plan that says this would be an apartment or office depending on the market…it is too flexible for the regulations. He is pleased to see the apartments back into the building, as long as the Fire Marshal signs off on the plans.

Ms. Marinaro asked about the only outstanding issue on this application being the fire department comments, if the building is up to code.

That is correct and Mr. Voelker said we do not know what the comments from the fire department will be. The applicant will be interacting with the Fire Marshal on the fire codes, access, trucks, etc. and these comments are what the Planning office is waiting for. There is sufficient parking on the site.

The fire department is asking for more time to review the State building codes and Mr. Fazzone said the applicant went to the State Fire Department to insure these apartments complied with the building code. The Cheshire Fire Department has this information but wants more time to review it.

Ms. Nichols asked if it was possible to create the units with the State Fire Codes before, why is this different today. And she asked about the size of these units.

In response, Mr. Fazzone said they are 1,000 s.f. each and they are two bedroom units.

Regarding the fire code differences for this application as opposed to the prior one, Mr. Voelker explained that he could not speak for the Fire Marshal. He did state that this is not the same layout as approved before; there is no sign off from the State Fire Marshal; there is a sign off from the State Building Official. The Fire Chief wanted time to review, react, make recommendations which may or may not affect the site plan.
If this is zoned properly and has the parking and meets the Cheshire criteria and PZC passes it, Mr. Dawson said that whatever the State and local fire marshals come up with would have to be adhered to by the applicant.

Mr. Voelker said that is correct, and the permit would not be signed by the fire marshal until the State is okay with it.

This building has a sprinkler system and Mr. Dawson said the parking area is good, and he sees the application as a little different. It was accepted before, and if the fire rules are changed the Commission has no power over them. Even with approval tonight, and the fire marshal has no problems, there would be a mandate to meet the codes.

The Commission was informed by Mr. Fazzone that the building must meet both codes. The application meets all the zoning regulations, and the fire department may have sight adjustments they want, signage, etc. which the applicant will accommodate.

THE PUBLIC HEARING WAS CONTINUED TO SEPTEMBER 9, 2010.

5. Earth Removal, Filling or Regrading Application
   Krista and Jeffrey Ostuno
   Sindall Road

Dan Kroeber, P.E. Milone and MacBroom, represented the applicants. He noted there are three properties on the composite plan, and the subject of the application is off Sindall Road to the east of Cheshire Street. Property #1 is 10 acres in Meriden CT; #2 is 3.1 acres and the subject of this application; and #3 is east of the subject property, 13.5 acres with some frontage on Allen Avenue. A letter was sent to Mr. Voelker on July 21st with a history of the property. There was a sand and gravel pit removal operation on property #1 in Meriden and a cease and desist order for this activity because it was over-excavated in portions. Slopes on the property were reaching one to one grades; they were over steep; and subject to erosion and had gone past the allotted amount of material that could be removed.

Conklin and Soroka prepared the map on the property which is the base map used, and they recommended that all slopes on the Meriden parcel be put back at grades of 3 to 1, but this was never done. The Ostuno family purchased the property; it was still under order from Meriden to have the restoration work completed; and they knew a significant amount of work had to be done to bring it into conformance with the City of Meriden.

The Ostunos retained Milone and MacBroom. The firm went back to Meriden to update the approval to do the work, and received them in March 2010. An
approval was received to fill a wetland in Meriden and on parcel #2. Minor work is being done on parcel #2, the 3 acres of land in Cheshire.

The applicants are requesting approval to fill 500 yards of wetland (which no longer exists) and received IWW approval in June 2010. Work shown on the map has been completed with some material on the top slopes. The original work on the site did not encroach into Cheshire, and when it did, approval was needed from Cheshire. The applicant submitted a survey with the application prepared by Juliano Associates in 2008.

Mr. Cobern asked about the start of the Quinnipiac Trail on Sindall Road on the map.

Mr. Kroeber pointed out this area on the map, noting the house in the front is being restored by the applicants.

Mr. Maidelis stated that this area is a big problem with many studies done, many problems, culverts replaced over the years, people complaining about the area. To go ahead and do work without authorization upsets him because this area has been well known as a critical area of the water shed and water flow for over 20 years. This work should not have happened without approvals.

Mr. Linder asked about it being difficult to determine where Cheshire and Meriden are on this property, i.e. walking through this area.

It is very difficult and Mr. Kroeber said the surveys are different, and the town line varied by 30 to 40 feet.

In that regard, Mr. Linder said the earth moving equipment could have gone into Cheshire inadvertently, not on purpose. In looking at the map, he estimates the surface area of the fill to be 40' x 40', and the IWW memo mentions 1685 s.f., and this is a small patch of land.

Stating that is correct, Mr. Kroeber said the work being done in Cheshire is very small, while the Meriden work is significant.

Mr. Todisco asked about the Cheshire 3.1 acre parcel abutting the Meriden 10 acre parcel, and why it was necessary to fill this small area.

The town line divides the two areas and Mr. Kroeber said it was not known that there were wetlands filled.

Mr. Voelker stated that the wetland area is large in the center of the property, and the area being discussed is a pocket wetland created by the over excavation of the property. It was not an originally mapped wetland. The previous owners have been taking material out of the area for years, and left the lower area with
accumulation of water evolving into a wetland. The applicants had permits from Meriden to do the work.

On the plans, Mr. Kroeber pointed out the slopes and said when the applicants went to restore the slope to 3 to 1 grade it came down into the wetland, and Meriden mandated this be done.

Mr. Todisco asked if the applicants can build on these parcels.

According to Mr. Voelker the long term intention of the owners is to build a home for their family on the property. It is not going to be a major subdivision application in the future. The property can be built on, can house horses, and the material on the property is good. The intentions of the applicants are to restore the property and live there.

Mr. Todisco stated that the applicants are trying to correct an error with the failure to get a permit which the previous owner caused.

The previous owner had approvals from Meriden and Mr. Kurtz said this was because most of the work was done in Meriden.

Mr. Voelker reported that the previous owners excavated out of this property for years without permits.

The work has been done, approved by IWW, and Mr. Dawson assumes that with proper permits etc. this is what the applicant is looking for.

As a matter of law, Mr. Voelker said the applicants should have come in for approvals, but did not. The Commission can deny the application and force removal of the material already put there. Once the Planning Department heard the work was going on, they contacted Milone and MacBroom and told them a permit was needed. The applicant came in immediately and were told they needed an IWW and PZC permit. For any further fill in Cheshire they would have to return to IWW and PZC, and Mr. Voelker said they want to button things up, and build a house.

THE PUBLIC HEARING WAS CLOSED.

6. Special Permit Application
   Lucinda D. Beaty
   9 Pleasant Drive
   aka 650 Highland Avenue
   Expansion of non-conforming hair salon

PH 7/26/10
MAD 9/29/10
Attorney Anthony Fazzone represented the applicant who owns and operates Lucinda’s Hair Salon at 650 Highland Avenue, assisting patients with medical hair loss.

Attorney Fazzone submitted a copy of the Assessor’s Card for this property to the Commission.

A memo on the history of the property was submitted as an exhibit. In 1968 the house was built, and regulations at that time allowed a home enterprise. There is no record of any planning commission at the time requiring any application since the use was allowed as a matter of right. In 1970 the Town adopted the current format for the zoning regulations. A home enterprise is defined in the memo, and it was similar to the 1968 version than the current version. There is no definition of a hair salon use in the 1972 regulations. The applicant applied for an expansion of the salon in 1972, and the ZEO originally objected. There was an appeal to the ZBA, and the objection was removed. A building permit was received to increase the size of the salon. Again, no PZC approval was received, and it was indicated it was not necessary to come before the PZC.

Town Planner Voelker said it appears that staff or ZBA did not consider the expansion a nonconforming use. The salons were not a separate use under the regulations in 1972, and they were looked at as part of a conforming use. It did not become a nonconforming use until after 1972 when hair and beauty salons were set forth as a separate use under the regulations.

In his research through Town records, Mr. Fazzone said he could not find when beauty salons came in as a separate use, but it was after 1972. This is important because in 1972 when the building permit was approved it was 867 s.f. Today we are looking to expand into the last remaining garage bay and Mr. Fazzone submitted photographs for the record. On the right hand side is the front of the house from Highland Avenue, and the applicant wants to expand into the garage door and use it.

Pursuant to Section 24.4 the PZC can approve an expansion not to exceed 25% and this expansion is 24.6%. The reason for the expansion is that the applicant, Ms. Beaty, has signed on to participate in a program which requires keeping of inventory of hair pieces and extensions for clients to receive immediate help and hair replacement. This is covered by health insurance and Ms. Beaty will help people qualify for the health insurance. There are no exterior changes to the building; the garage will be used for inventory and patient counseling.

Mr. Cobern asked about the increase in the home business resulting in an increase in parking requirements.
The regulations state the site must have 3 times the square footage for the parking area. Mr. Fazzone said the applicant is over this, and has more than enough spaces.

Mr. Coberon commented on the current layout of the building as an odd contour and odd shape.

This was a two car garage and Mr. Fazzone said the first bay was removed in the first expansion.

Mr. Todisco asked if there would be any further expansion planned.

In that regard, Mr. Voelker said there is no further expansion because it is a 24.6% now.

THE PUBLIC HEARING WAS CLOSED.

VII. ADJOURNMENT

MOTION by Mr. Cobern; seconded by Ms. Marinaro

MOVED to adjourn the public hearing at 8:30 p.m.

VOTE The motion passed unanimously by those present.

Attest:

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Marilyn W. Milton, Clerk