CALL TO ORDER

Alderman Anglase called the public hearing to order at 7:00 p.m. All present recited the Pledge of Allegiance.

ROLL CALL

Alderman John F. Anglase, Jr., President – present
Alderman Lynne Farrell - present
Alderman John “Jack” Finn – excused
Alderman Stanley Kudej – present
Alderman Noreen McGorty - excused
Alderman John P. Papa – excused
Alderman Eric McPherson - excused
Alderman Anthony Simonetti – present


PUBLIC HEARING

Alderman Anglase stated that this is a Public Hearing on the Discontinuance of Access Road. He continues to say that if anyone wishes to be heard, if there is, to come to the podium and state your name and address for the record, and let us hear what you have to say.

Atty, Dominick Thomas, Cohen & Thomas, 315 Main Street

Alderman Anglase, President of the Board of Aldermen, representing the abudding property owner. Hopefully, passed out to you was a packet of information relating to Access Road. Briefly, Access Road is a road that was given to the city by virtue of a deed, which is the first item I have given to you. In 1948, it was given solely for highway purposes. Over the last, actually I can go back to the last 15 years, there have been efforts to close Access Road, especially with respect to its intersection with Nells Rock Road; and this began when Walmart was proposed and there were efforts made at that point. Now, as a result of the proposed development and the approved plan
development district number 70, and coordination with the State of Connecticut Department of Transportation, there is a proposal to close Access Road. The procedure that is to be followed was that we were to get the initial approval from the Planning Development District. The city was then, to discontinue the road. The reason I gave you the deed, highlighted for highway purposes, was that throughout the research that was involved; it was discovered that the 1948 deed is what as known as a “reverter deed”. Being, if the city does not use any portion of those areas that were given to it, for Access Road, for highway purposes, the property reverts back to the State of Connecticut. All of this property was taken by eminent domain in the late 1940s, for the purpose of establishing what was then, a proposal for Route 8. Route 8 was obviously relocated; it does not follow Bridgeport Avenue.

The next thing you have in your packet is a copy of the discontinuance map that was prepared in 2009, by the developers and engineers submitted to the city and submitted to the State of Connecticut, Department of Transportation. As a result of the progress that was made in the approval of PDD, number 70, it went to the State of Connecticut and coordinated with how they wanted to achieve this. First of all, the State of Connecticut did an appraisal of the entire property. There were at the time they did it: 2 abudders; there are now there are 3 abudders, because each of the 25-foot strips are owned by different individuals but we have an agreement with everybody, and the money has already been set aside. You will see later on that the total cost is $300,000. That $300,000 is not just for the land; it is also for the break in the non-access line, which is why the opening that you see there, the opening that you used hundreds of times is actually an illegal break. No one can find any proof that it was approved by the State of Connecticut, Department of Transportation. Reason there was a non-access line in the course, because this was a dependent of Route 8.

Aldermen Anglace asked Atty. Dominick Thomas to give Ruth Parkins a copy of the packet that he has provided to the Board at the beginning of the hearing.

Atty. Thomas proceeds: So in the map you will see there, the notations I have made. First of all, pursuant to the State of Connecticut Department of Transportation, 714 LLC, which is the owner of the abudder, my client, will block the state the right of way at those two locations. You see that the two locations have barrels and jersey barriers. The reason the south bend is not at the very end is because the state asked my client if we can put a temporary cut in the non-access line, in the island there. The state engineers and districts said no, we don’t want it done at this point. Greatest to great, let’s wait until they do the construction. So we agreed to put it and to keep it open. Now the reason that we had to agree to it was this: The minute that I say the state right-of-way is the minute the City of Shelton discontinues road, it reverts back. The state has asked for a quick claim deed for its own records. In as preparing the deed, it goes back to the city has no more involvement. By the deed, it reverts back. My client has agreed to assume the responsibility with blocking it off with barrels and jersey barriers, which we were prepared to do tomorrow, if you voted on it tonight, but now the vote will take place on June 14, which would be your next regular meeting. We will have it ready to be blocked off on June 15, so that it is telling the courts that it would stay. Then on the bottom I wrote there, per agreement with the state, the illegal cut on Access Road will
remain open until the new entrance with the traffic signals be constructed; 409 and 411 will have vehicular access to Bridgeport Avenue through the illegal cut and of course, through the southerly intersection of Access Road, on Bridgeport Avenue, what is known as the Walmart, at the end of Access Road. So, there is no issue with access for anybody that is along Access Road.

Now, the next thing I gave you is the letter that was sent to me today by Atty. Sous. It was generated to Aldermen Anglace and it is from the City Engineer. A similar letter was presented to the Planning and Zoning Commission during the 824 referral. I forwarded this letter to the Department of Transportation, with certain points and my responses. That is why I labeled it red, with responses from Department of Transportation, which are attached to it in the e-mail string. The first two things on the 409 in front of 411 will become a land lock. That is not the case, the answer with the Department of Transportation is no. When the DOT receives this property, when you discontinue it, it becomes part of their right-of-way. So those properties that are all along the discontinued portion have frontage on Bridgeport Avenue automatically. The third thing that he says that Access Road will be a dead without a turnaround for all vehicles, including Highways & Bridges and all other emergency vehicles. Well at the time that we went through Planning & Zoning, as you are aware, whatever they are going to do over there involves state property. The reason is this: on the left side of Access Road as you are coming down the property that is owned by Raymond and Janet Blanchette, at the right side of Access Road, the remaining portion as you are coming down the property of the State of Connecticut. So, as a result of our proposal before Planning & Zoning, we went to the DOT State Traffic Commission process and said to them: do you want us to put in a hammerhead? Do you want us to put in a traffic circle? They looked at it, their traffic engineers looked at it; they looked at the flow of traffic with limited amounts instances, and said no it’s not needed. For the temporary purpose of when this is discontinued, we are keeping the illegal cut pursuant with the state, so no one is going to have a problem driving in and out.

The next thing it says is that the present northerly intersection of Access Road on Bridgeport Avenue will become a private driveway curb. Honestly I have no idea what he is talking about. There is no northerly intersection of Access Road on Bridgeport Avenue. If it’s northerly, it intersects with Nells Rock Road. If he is talking about the illegal curb cut, I have already explained what we are going to do with that. The other thing is as the State said in its e-mail is that, everyone agrees that the intersection with Nells Rock needs to be closed.

The next thing he says is that the DOT requires the city to close Access Road. No, we have an agreement with the DOT in the e-mail that we are doing it we are closing it. The next thing he says is that the city will be constructing predevelopment public improvements in traffic signal modifications that will benefit the present future of 405 Bridgeport Avenue. The public improvements and signal modifications are the responsibility of the developer, per the STC. However, if the city wants to pay for all of these developments, the developer will be eternally grateful to you. So if you are going to do...oh you are not going to do, I just thought I would ask since he raised the issue, but you know if you want to for it, it would be required of a million or so dollars, we
would be glad to let you do it. The improvements and modifications in his last thing, any improvements and modifications to the Nells Rock Road intersection are controlled by two things: they are controlled by the PDD approval by the Planning & Zoning Commission and more significantly, by the State Traffic Commission. And I will give you one example: the PDD map that was submitted contained an island at the end of Nells Rock Road, with a right hand turn land and a telephone poll, that the developer did not want to move. It took the State Traffic Commission about 30 seconds to look at that and say no, that is going away, you are moving the telephone pole and there is not going to be an island there. So they control everything that takes place at the intersection.

Attached to the two-page letter is the e-mail string from Christine LaBella, who is, I don’t really know her specific title. She is the property agent, I believe, the State of Connecticut DOT, Department of Rights of Way, in which, we have gone back and resolved all of the issues. On the second page, you will see a hyphen that begins with: Hi Dominick, in response to your bullets, and there on them, she goes down and explains everything. Nobody is land locked, that the Office of Traffic has identified the intersection as being undesirable, the hammerhead is not necessary. After the discontinuance, it will need to be blocked off. The developer’s response was that it was blocked off; we have agreed to do it. It was discussed that the illegal break will remain open and that the developers were to construct a permanent illegal break. We had to pay for that break, as part of that $300,000 and the department does not want the responsibility of the roadway at any point in the interim. It says that the city’s last developer is responsible to carry all liability for the roadway until the transactions between the department and the abudder are finalized. What that means is, and we had a generic discussion with her because she is not a lawyer. One the city discontinues it, you are no longer an owner so it is not going to be covered under your umbrella policy. Once the state gets it back, which they do the minute you discontinue it, they realize it will be covered under their umbrella policy because it becomes part of their right-of-way. They have asked us in the interim period, however, whether it is days or weeks, until they complete the deed to us, and the money that we have in escrow will be given to them. We have already obtained an insurance policy to the satisfaction of the state as a backup to their blanket policy. The state is in the process of drafting the deed. I talked to them today and by June 14; they hope to have the deed to Atty. Sous for his review, so that then it could be executed by the Mayor, sell it to them and then, they can begin the process with they have to turn around and sell the property to us. During that interim of time, we have agreed to assume, we meaning the developer, has agreed to assume responsibility.

The last thing in your packet, and I have obtained this by FOI during the presentation of the Planning & Zoning in 2009, is the evidence from the engineer’s office, that the city attempted to close Access Road in 2007, 2008 and in 2009. It contains all of the correspondence and facts, if you wish to go through it. The interesting thing is that the city at that time; that the city and state were not aware of the reverter clause, and also the proposal that was made, while Mr. Kulacz makes reference to the fact that the DOT had approved it, the DOT wanted to close, the city wanted to close the intersection. District 3 said that it was only a temporary solution. No one ever intended that the illegal break would stay there forever, and that was taken care of by our proposal. We
are, as in my client, is preparing to pay the money to purchase the property, to create the new legal break, and I will say this for the record that we have full easement that is being reviewed by all the properties: 409, 411, 405; and that easement path that has been agreed to by all departments. I’ll be prepared to answer any questions that you have.

Aldermen Anglace makes a remark saying that Atty. Thomas’ statement was quite comprehensive, and very interesting. Alderman Anglace further stated that he did not have any questions for him and asked any other member of the board if they had questions or comments.

Alderwoman Farrell said that his presentation was well done.

Alderman Anglace told Atty. Thomas to stand by if anyone else had any further questions.

**Ruth Parkins, 21 Meadowlake Drive, Shelton, CT**

As a Shelton resident, I just came out to that I am very much in favor of the closure of Access Road. I travel Nells Rock Road on both coming and going to work and returning home, so I am well aware of the traffic issues that remain open causes. I would also like to suggest that, that property may be developed hopefully soon, but until that point, if something could be done, I am not sure that it can, but if something can be done with the striping perhaps that the expense of the applicant, to make the traffic flow a little bit better such as painting a right turn arrow and making two lanes for the people that are going to go straight or making a left, go in one lane and for the people that are going to take a right onto Bridgeport Avenue, which is where most people seem to head and be unobstructed and turn right off red. I think that would ease the congestion a little bit. Also, right now the yellow striping is separated in that area, because once you come out of Access Road, naturally the yellow striping cannot be there because you would not know to cross over. I am not sure if the loop is there, but it help alleviate a lot of the congestion, and as my role as Chairwoman of Planning & Zoning, I will say that the 824 referral that we passed along to you was unanimous. That is all I have. Thank you.

Alderman Anglace stated that that was based on a very practical basis. It is an excellent suggestion about the striping on the right and the left, but I doubt very much if we are closing it off by June 24, that the Mayor would spend the money. Is that what you have suggested?

Atty. Dominick Thomas responded if the developer might be the reference to Alderman Anglace’s question.

Atty. Dominick Thomas then stated that he will certainly bring up the suggestion to the developer, what is being referred to as the striping on Nells Rock, not on Access Road. Once we put up the barrels and barrier, the remaining portion of Nells Rock if you look
at the map, will be wider once it is developed. Subject to two things: where the traffic loops are to traffic triggers and subject to the state DOT because that is an intersection that is under their control. I looked to the developer whether or not he could arrange to approximate and paint a centerline down, then paint an arrow either way. However, I will tell you that, those are in the control of the DOT, so we could not do it without their permission; but I represent that we will raise the issue with them. With then with the property people, they will then have to refer to us to a traffic engineer.

Alderman Anglace allows Ruth Parkins to speak:

I was just thinking about Nells Rock Road, so the striping there and perhaps a white line closer to the light, because right now people still stop, being creature of habit, still stop at Access Road. Don’t go all the way up to the intersection, and if they stop there, they will stop at the middle of the intersection, rather than pulling over.

Alderman Anglace continued to say that he wanted to be sure that your suggestion is clear and for the record it can be accurate.

Ruth Parkins continued that it is the re-striping, perhaps laying indicators on Nells Rock Road.

Alderman Kudej asked when the barrels and barriers are blocking Access Road, are the people the utilize Blanchette’s or the other businesses that are there, they are coming down from the valley; from Shelton or Derby or wherever they are coming from, they are coming from that illegal cut and when they leave the business they normally would come up from Access Road, up to Nells Rock and back onto Bridgeport Avenue to go down. When you close it off, are the people going to be forced to go all the way down to Walmart to back down on the road? Will they be able to use that cutoff?

Atty. Dominick Thomas responded that they could still go into the illegal cut. If I am not mistaken, there is a sign that the state put there that says “No Left Turn”. So if they want to make a left turn, I mean, they can ignore the “No Left Hand Turn “ sign and go into the cut, but one the points that the state made, I will tell you one thing that the Planning & Zoning Commission asked us to propose a right hand turn in and a right turn out. If you are looking at the map that I gave you, if you look just to the left, in others words that the remaining portion of Access Road, if looked at it there, the Planning & Zoning Commission asked us to put a right turn in and right turn out. The state looked at it; they came down went and analyzed and looked at Blanchette’s, looked at what was in the back and said no. They said there was no need for it. You have ten people working at Viking and you do not have a tremendous amount of traffic at Blanchette’s, so they can use the other way everybody else does. It was their response (the state). I will tell you this that there is an agreement with Blanchette’s and the final proposal was approved by Planning & Zoning and by the STC. It has a cut so that the people at Viking and Blanchette’s will be able to access the project and go to the light. So that would only be a temporary thing that they would only have to go to the end. Most of the time, once the project is commenced, or even when the temporary thing is done, they will have access to get out.
Alderman Anglace asked any other member of the board if they had any other further questions.

Alderman Farrell commented that she has to travel that intersection everyday when I go to work and when I have to come home from work, and what I see going on there, coming in and out of Access Road should have resulted a long time ago in a major accident and I don’t think that has happened thank God, however, something really needs to be done now, rather than later, as soon as possible.

Alderman Anglace further commented that he was glad that he was given the letter this morning and distributed the city engineer’s letter to all the other aldermen with all other information. Everybody has everything that we have. I just wanted to state a few things for the record, because I think the responses in a way, to what the city engineer wrote; not that I am looking to take issue with him, but simply the things that he said, I don’t think it was the intent of the Board of Aldermen. The Board of Aldermen initiated the action to discontinue use of Access Road for the purpose of improving traffic flow at that intersection; traffic that was coming from Nells Rock Road and Buddington Road. That was our initial purpose and that was the reason we have been pursuing this, and this was before any development that was discussed at that intersection or at that corner. The action to discontinue is not premature; in fact the opposite is quite true. The action to discontinue is long overdue and I don’t remember whose action it was; I think it was the Police Department who eliminated the stop here on red, and the bar that was back 50 feet or so from the intersection of Bridgeport Avenue on Nells Rock Road. Once that was eliminated and you didn’t have to stop anymore, traffic can come right up to Bridgeport Avenue and turn right on red, and that freed up the traffic tremendously. So once we discontinue our use, the city use, Access Road reverts back to the state like Atty. Thomas said and that is our understanding as well and how adjoined properties are developed and what the state does with the road; these are not the Board of Aldermen issues, we do not want any part of them. If we wait as suggested by the city engineer, do nothing now and just wait until everything else is finalized, whatever his suggestion, for his contingencies to happen we will do nothing to improve the current traffic flow problems, and if the adjoining land is not developed, we will have continued a bad situation, indefinitely. That could happen and until the property is developed, we have to improve as best as we can, the traffic flow out of Buddington and Nells Rock Road. I think it is best to discontinue the city’s use of Access Road, thereby directly addressing immediately the traffic control issues. Planning & Zoning will handle development issues and the state will handle disposal and signalization issues. Our discontinuation will allow a lot to move forward.

Atty. Thomas said that Alderman Anglace reminded of something he did not mention before. In your motion to discontinue, it has asked that the Board of Aldermen to also waive its 3-14b rights. I have discussed this with Atty. Sous. What this is this: the state has the requirement once it gets the property back, and is going to sell back to an abudder. It has to offer it back to the city, which creates a delay in sending it to us; whatever time it takes for the city of to respond. The state decided that the consultation with the Attorney General that in this circumstance, you can waive it as part of your
motion to discontinue so that it did not have to go through the routine of offering it back to you, what you just gave back to them. The final thing in response to your comment is that it would create a vicious circle if we followed the advice of the city engineer because the State Traffic Commission has approved our project has issued a report of traffic investigation, and our condition to get the State Traffic Commission permit is if we buy the land. No one is going to develop it without getting a State Traffic Commission permit, so we have a chicken and egg situation here that we have to buy the land first to come in with the final plan. So I just wanted to point that out. It was a good point.

Alderman Anglace stated that this was a comprehensive coverage of the issue. He asked the audience if anyone else wished to be heard.

**ADJOURNMENT**

There being no other speakers, Alderman Anglace closed the public hearing at 7:30 p.m.

Alderman Anglace MOVED to adjourn; SECONDED by Alderman Simonetti. A voice vote was taken and the MOTION PASSED 4-0.

Respectfully submitted,

Brittany Gannon, Acting Clerk

DATE APPROVED: ______________

BY: ________________________________

Mark A. Lauretti
Mayor, City of Shelton