

The Shelton Planning and Zoning Commission held a Special Meeting on Monday, April 25, 2005 at 7:00 P.M. in the Shelton City Hall, Auditorium, 54 Hill Street, Shelton, CT.

Members present: Chairman Alan Cribbins
Comm. Patrick Lapera
Comm. Jason Perillo
Comm. Anthony Pogoda
Staff present: Richard Schultz, Planning Administrator
Anthony Panico, Planning Consultant
Pat Garguillo, Court Stenographer
Diana Barry, Clerk
Members absent: Comm. Daniel Oraziatti
Comm. William Papale
Comm. Leon Sylvester
Comm. Karen Tomko-McGovern

Tape (1) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

Chairman Cribbins opened with the Pledge of Allegiance.

APPLICATION # 05-11, ONE MOUNTAIN VIEW ASSOCIATES, LLC FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR-46,060 SQ. FT. OFFICE BUILDING) ONE MOUNTAIN VIEW ROAD (MAP 65, LOT 12) LIP DISTRICT – REQUEST FOR WITHDRAWAL

Chairman Cribbins read a letter from James Rotondo requesting withdrawal.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to accept the letter of withdrawal on Application # 05-11.

APPLICATION # 05-04, PETITION OF CUMINOTTO, INC. ON BEHALF OF DEKSON, INC. FOR PDD ZONE CHANGE (PROFESSIONAL/MEDICAL OFFICE DEVELOPMENT) IVY BROOK ROAD (MAP 79, LOT 1) LIP DISTRICT (CONTINUED FROM 3/22/2005)

Chairman Cribbins stated the latest revised site plans have been filed in the City/Town Clerk's Office. Comm. Lapera abstained from this hearing as he done with this application in the past.

Comm. Pogoda read the call of the hearing. There was no additional correspondence. Chairman Cribbins stated that this is a continuation and I ask if there is anyone in the audience wishing to address the Commission for or against this application. Hearing none he let Mr. Cuminotto address the Commission.

Vincent Cuminotto, representing Dekson, addressed the Commission. There was an additional note added to the map for a proposed future use access here. That was not part of the original plan.

Anthony Panico stated that there was a question at the hearing what drawings were submitted. Chairman Cribbins stated that was the statement I made at the beginning that the revised site plans have been filed. We have had discussions with the City Engineer, Staff including myself and that is ongoing.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was voted to close the Public Hearing on Application # 05-04

APPLICATION # 05-14, SCOTT WASILEWSKI FOR SPECIAL EXCEPTION APPROVAL FOR A 5-LOT CRD SUBDIVISION (ROBERT'S PLACE) WABUDA PLACE/EAST VILLAGE ROAD (MAP 152, LOT 51) R-1 DISTRICT

Comm. Pogoda read the call of the hearing including two pieces of correspondence.

One piece of correspondence was from Valley Health and one from the Conservation Commission were read into the record.

Alan Shepard, Engineer with Nowakowski, O’Bymachow, and Kane Assocs., addressed the Commission.

We are going with a Conservation Residential District and we think this enhances the features that are out there and the layout of the property. Scott Wasilewski has his house on the top of the hill.

The advantage of going with the CRD even though this doesn’t have the total acreage needed it gives the Commission control.

We have a trail system proposed for under the power lines and we think that is worth saving. The Open Space has some wetlands but it is not all wetlands.

Wabuda Place will be aligned using the grades that James Swift, Engineer for Toll Brothers calculated. There are 5 lots proposed and there is City water there.

Chairman Cribbins stated that there is one existing and 4 new lots. That is correct, stated Alan Shepard.

We meet the septic and grading requirements and the road has been moved up. There will be slope rights taken into the Wasilewski’s property. Other than the housing there will not be significant grading.

Chairman Cribbins questioned what the total Open Space would be? 2.35 acres, answered Alan Shepard. There are significant opportunities for connecting trails. It is a scenic road now. It has stone walls and nice falls.

Alan Shepard showed what the standard subdivision would look like. The change is where the development is. There would be a house here and 25 feet would be taken of the right of way. By moving this house, move the houses here you are pushing Lot 2 in front of Lot 4. That is the difference in the conventional and the conservation, stated Alan Shepard.

The CRD allows more land up in here and allows the grades and slopes. The City Engineer stated that this subdivision is married to Toll Brothers subdivision.

There is one rear lot that I could make a frontage lot, stated Alan Shepard.

Where would you envision the trails and how would you envision the CRD facilitating them, questioned Comm. Perillo? In the standard subdivision I would have to come back out through here to get this. I could take the strip through the power line and use this as Open Space, answered Alan Shepard. Some of the wetlands could be cut off here. A lot of people would walk through the trails here cutting down through here, he added. Wabuda also owns a large track here. This would allow that to go through here. There is an existing cart path here and we won’t touch that.

There is a mark here, dirt road, by the looks of this map, it shows that you don’t own that dirt road, correct, questioned Comm. Lopera? That has been the subject of debate for a couple of months now, stated Alan Shepard. My opinion is different from others. It is one of the old roads, like many in towns that you can’t find a deed for. The surveyors boundaries on this map are outside the property line, so you don’t own it, the surveyor says that you don’t own it, stated Comm. Lopera. This stone wall abuts here and up to the barn is what the City takes money on. Past the curve and up here is considered a paper road. We don’t have the title but if it was abandoned we would get half as abutters. It is like an orphaned road. If it was brought up to standard the City would have to accept that, stated Alan Shepard.

Richard Schultz asked Alan Shepard to speak about the natural features. Alan Shepard stated it is not so much the natural features or considering the power lines as natural features. Now they are considered to be utilized as Open Space. We have no problem giving the City a quitclaim deed to the road. This system will stay the way it is. Stonewalls run along the right of ways and they will be relocated through an agreement with Toll Brothers.

With the conventional subdivision there would be fee in lieu of instead of Open Space, stated Anthony Panico. By way of background it should be mentioned that we want to try to accommodate the urgent need that the City sees to open up and improve Wabuda Place. We need to establish a proper Right of Way. We want to save Wabuda Place and the impact of the development of the area. The City would have had to purchase that right of way and everyone gets what they are entitled to, he added.

Attorney Dominick Thomas, representing both Toll Brothers, developers of the Vistas at White Hills and the Wabuda's (Joseph and Lorraine) the adjacent property owners, addressed the Commission. We are in favor of this proposal and it has been the result of a long and argues negotiation process. This has several benefits that include the Waslewski subdivision.

After numerous discussions with the Conservation Commission and numerous presentations with this Commission the Open Space is designated in such a way with the Vistas at the White Hills as to create the possibility of using the powers lines. Connecting trails between French's Farm, the upper Open Space at the Vistas of White Hills including to the power line through the Bona Vista lots including the Wasilewski subdivision. The Wabuda's have agreed to give the Right of Way to the City and designate the power line easement as connecting. The end of the easement then connects to the Shelton Land Trust property. With the trail system you can go from French's Farm all the way down to Indian Wells, stated Attorney Thomas.

With regard to title and the questions that Comm. Lopera asked, stated Attorney Thomas, Wabuda Place is a paper road. There is no evidence it exists as a City Road. As a paper road in the areas that it traveled it probably was a farm road. When you see a paper road there are abutters right. When we developed our subdivision we did develop that inside the Wabuda stonewall. Along the right is Wasilewski. The lot, which I think is Lot 10, doesn't encroach on the road. The Wasilewski's will quit claim to the City. The narrow strip will be connected into the conservation subdivision.

There will be access to stonewalls. The strip will be protected and walk through some of the stonewalls. On the Wasilewski side it will be Open Space. In addition as part of the agreement with Toll Brothers there will be an existing farm wall. Toll Brothers will rebuild those in the same fashion along the right of ways. There will be breaks for driveways, stated Attorney Thomas. You have discretion with the CRD and use them to benefit the town. You will be able to create access to the Open Space and looking ahead you might be able to connect and incorporate more Open Space by the Wasilewski Old Grist Mill.

Comm. Lopera questioned the CRD – Lot 5 the Open Space is on the right. Does the Open Space abut the power line in the back? Yes, answered Alan Shepard. There are two stonewalls here and the area here would be deeded to the Wasilewski's.

Comm. Perillo questioned the pent way? Alan Shepard stated when the road comes here there are two walls here.

This is identified as Old Farm Road and this will be quit claimed to Wasilewski, stated Attorney Thomas. You will deed that to the subdivision, stated Comm. Lopera. The title search indicates that this goes through each piece and each interest abuts the Farm Road will go into Wabuda Place. Then you will be out of the Farm Road and that will deeded as Open Space, questioned Comm. Lopera? Yes, answered Attorney Thomas.

Comm. Lapera stated the pent way will be part of the Open Space. That can be deeded to the City, stated Attorney Thomas. The City has agreed to this and they will receive a Warranty Deed. The Wabuda's and the Wasilewski's have also quit claim to the City any interest they may have, he added. Comm. Lapera stated my concern is that any owner giving up ownership of pent way understands that will go into the Open Space.

Anyone wishing to make a comment, if not I will ask for a motion to close the hearing, stated Chairman Cribbins.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to close the Public Hearing on Application # 05-14.

APPLICATION # 05-24, ROYAL WELLS FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: DRIVE THRU) BUILDING III, WHITE HILLS SHOPPING CENTER, LEAVENWORTH ROAD (MAP 144, LOT 15) CA-2 DISTRICT

Comm. Pogoda read the call of hearing. There was no additional correspondence.

James Swift, Professional Engineer and Landscape Architect, representing the Applicant, addressed the Commission. He presented the mailings receipts and secondly by way of disclosure the site was not properly posted, as of yet. I will present the application and then the Commission can make a decision as to leave the hearing opened to allow us to properly post the site, stated James Swift.

End of Side 1A of 1B, Tape 1 of 2 at 8:00 P.M.

Maple Avenue is in this location here with the supermarket being here. There is plenty of parking on the site and we are currently at full occupancy.

The proposal is for a special exception for a drive thru in this corner of the parking lot. We have stacking along the bottom of the hillside to the front of the building. The uses are speculative at this time, stated James Swift. These facilities could be used as a laundry pick-up service situation, perhaps a bank drive-thru all the way up to a coffee shop drive thru, he added. There has been some discussion on a deli pick-up. There is no support for any large national change for a food pick-up window. This is a small scale for smaller uses.

There will be 8-9 parking spaces to the back of the drive-thru. If a bank would come in then that could be doubled to 16 spaces with a second teller station here.

Chairman Cribbins stated could you discuss the trash because that is always a mess back there and it is an eyesore. James Swift stated there will be two new trash areas, one in this location and another toward this side. We promised last year that we would reorganize the trash organization.

Comm. Pogoda asked the size of the new building? The size is 9001 square feet. It has the potential for 8 tenants. There are double doors for the potential tenants, stated James Swift. Why without knowing the tenants are you applying for a drive through, questioned Comm. Pogoda? It is a judgment call for this Commission and if the Commission feels uncomfortable with this drive thru then you could ask the applicant for more information. You see the value of drive- thru and we have no specific users in mind, stated James Swift.

It seems to me that you are putting the cart before the horse, stated Comm. Pogoda. I would feel more comfortable knowing what may go there, he added. You have an unused drive thru in Building A, don't you, questioned Comm. Lapera? The Doctors and Nurses that occupy that the building love to park there and they have a nice private lunch area, stated James Swift.

If another use comes in then we will have a second drive-thru, stated Comm. Lopera. I would suggest that the Commission looks at putting this drive-thru over here that they may put a restriction on converting the drive-thru in that particular drive-thru. We have talked about relocating the other driveway, stated James Swift.

I share Comm. Pogoda's concerns about building something for something that we don't know what it is yet, stated Comm. Lopera. I think that the suggestion is if the drive-thru is approved then you limit the drive-thru in the other areas, stated James Swift.

Chairman Cribbins stated my concern is the hours of operation. The way the parking lot operates today it is O.K. The IGA is busy and the lot is full. I can see if a coffee shop is opened later at night, I don't see how that could work, he added. I hear a lot of concerns stated James Swift and if the Commission is so inclined we could keep this hearing opened. Comm. Perillo stated perhaps if you would have a perspective tenant they could come over and then we could get a degree of comfort.

Does that other drive-thru in Building A is that permitted as of right, where the Doctor parks his car, questioned Comm. Lopera? It is being used for a Doctor to park his car, it is not being used as a drive-thru unless they are passing prescriptions out that window, added Comm. Lopera. The Commission needs to establish the abandonment, stated Richard Schultz. It is your opinion that the use has expired, questioned James Swift? We allowed that, stated Anthony Panico. That was an action of this Commission and you can't just abandon that. It was a nonconforming use. Did they remove the door, questioned Anthony Panico? If that is a consideration in your deliberations then you put that on the landlord to say if this goes in the other one has to go away, he added. It is not an active use.

Comm. Perillo stated it is not the unused drive-thru that bothers me, it is the unused overhang. It is just an eyesore. Do you have to put, if the actual use doesn't require the drive-thru do you have to have the overhang? Could you make this work without, on the proposed building, he questioned? In this area it is a single lane, stated James Swift.

Abby Wilhelm, 116 Maple Avenue, addressed the Commission. My house is across the street. That is my doctor and the window is where he has files against it. The problem I have with the drive-thru is the same I have with Dunkin Donuts is that the sound echoes to my house. I hear people's orders now and why is that we have to repeat the same thing we have here already.

The other issue is the trash. I have a mess all the time. This is an awesome center.

This area can't handle more traffic stated Abby Wilhelm. I had to change the bus route so that it could stop right in front of our house. I am opposed to this, she added.

Comm. Perillo questioned if this is one story? James Swift answered there is a slight second story that will accommodate an office. Comm. Perillo questioned that this is existing parking lot? Yes, stated James Swift and through this process we have expanded the islands and the lighting.

Abby Wilhelm stated the lights from Dunkin Donuts shine on our house right now. At the time I bought this house there was no Hubbell Lane and if this goes through I will see everything.

Jill Bishop, owner of property at 180 Leavenworth Road, adjacent to her mother's property (Beverly Tate) at 190 Leavenworth Road, addressed the Commission. My concerns are that there are guardrails here and there is an entrance way here. There is a driveway here, driveway here, and the driveway from Dunkin Donuts. There have been numerous accidents on this road. They can't wait for people turning into here. I am not opposed to the building but my concerns are the traffic, the hours of operation for what is going in there, and the litter. I go to my Mom's about once a month to pick up all the trash.

P & Z COMM.

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There is a hole in the fence here. Currently there is a Goodwill drop-off. I have closed the hole in fence with wire the best I can but someone always opens it up, stated Jill Bishop.

The noise from the drive thru is a concern as well the noise from the bar at 2:00 P.M. from the traffic exiting the bar.

I am not opposed to this but this will create a dangerous situation.

Chairman Cribbins asked if there was anyone else wishing to address the Commission. Hearing none he stated that he would allow the applicant to properly post the site.

On a motion made by Patrick Lopera seconded by Jason Perillo it was unanimously voted to recess the Public Hearing on Application # 05-24 and continue the hearing until May 10th.

PROPOSAL OF SHELTON PLANNING & ZONING COMMISSION TO AMEND BUILDING ZONE MAP BY CHANGING PLANNED DEVELOPMENT DISTRICT # 40 TO COMMERCIAL CA-3 DISTRICT, HOWE AVENUE/WHITE STREET

Comm. Pogoda read the call of the hearing and there was no additional correspondence.

Richard Schultz stated Staff reported to the Commission at last months meeting that the Schaible's previously approve application on this property was for a PDD that they wish to eliminate now. They want to bring a bank to that location. They will be using the drive-thru at that facility.

There is a letter from Schaible Reality addressed to Chairman dated 4/12/2005 requesting the elimination of the PDD and convert that back to the Commercial CA-3 zone. This is the process to amend the map back, stated Richard Schultz.

Chairman Cribbins stated we are all familiar with this. We have had applications for housing and some commercial. We went through the process giving approvals and they have sense had a change of heart. They wish to put a bank there and return this to the under laying zone.

Ken Schaible, Jr, Schaible Reality, addressed the Commission. Several years ago we came in with an application to put apartments here. Sense then we have decided the apartments weren't the way to go. We wanted to stick to the office and retail along Howe Avenue and we want to go back to the Commercial CA-3 zone.

Anyone else wishing to address the Commission, hearing none then I ask for a motion to close the Public Hearing, stated Chairman Cribbins.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to close the Public Hearing on the Proposal of the Shelton Planning & Zoning Commission to amend the Building Zone Map by changing Planned Development District # 40 to Commercial CA-3 District, Howe Avenue/White Street.

On a motion made by Jason Perillo seconded by Patrick Lopera it was unanimously voted to adjourn at 8:30 P.M.

Respectfully submitted by,

Diana Barry
Clerk