

The Shelton Planning & Zoning Commission held a Special meeting on May 3, 2005 at 7:00 P.M. in the Shelton Planning & Zoning Commission, Room 303,54 Hill Street, Shelton, CT.

Members present: Chairman Alan Cribbins
Comm. Patrick Lopera
Comm. Daniel Oraziotti
Comm. Jason Perillo
Comm. Pogoda
Comm. Leon Sylvester
(arrived late)

Staff present: Richard Schultz, Planning Administrator
Thomas Dingle, Zoning Enforcement Officer
Diana Barry, Clerk

Tapes (2) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

PUBLIC PORTION:

Chairman Cribbins asked if there was anyone in the audience wishing to address the Commission concerning any item not on the agenda. Hearing none he asked for a motion to close the Public Portion.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to close the Public Portion.

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

Tom Dingle reported there are Standard applications numbers 1-24. I recommend that they be approved. Comm. Pogoda stated what is number 6, detached structure? It could be a shed, stated Thomas Dingle. We put down sheds, stated Comm. Pogoda. It is a two car detached garage, stated Tom Dingle. We will add that to the wording, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve the Applications for Certificate of Zoning Compliance, Standards 1-24.

SEPARATES

3705 LUCIAN LESZCZYNSKI, 217 LONG HILL CROSS ROAD, ADD/PARK RECON/& EXPANSION & CANOPY

Tom Dingle reported that this was previously approved, this is Anco Engineering. It is an addition and parking reconfiguration. This is the Certificate, stated Tom Dingle, and I recommend approval.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve Separate # 3705.

5189 NEXTEL COMMUNICATIONS, 162 BIRDSEYE ROAD, NEW COMM. CONST.

Tom Dingle reported that this is on the Hudak Farm next to the antenna. It is a generator. I reported that this was pending at the last meeting at the Citing Council, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve Separate # 5189.

5208 GERALD GLOVER, 606 WALNUT TREE HILL ROAD, FARM KITCHEN & WINE TASTING FACILITY

Richard Schultz stated that this is under the new regulations that we adopted over a year ago. The footprint is shaded and it is up by the barn. You won't see this from Walnut Tree Hill Road. This shows the elevations, he added as he passed around the maps. We adopted new regulations and this allowed the Jones to take the growing of the grapes to the next level.

So what is this building for, questioned Comm. Pogoda? This will allow the public to participate in the wine tasting which the building will house, answered Richard Schultz.

Gerald Glover, addressed the Commission. He stated that there are bathrooms here. They are putting in public bathrooms for the entire Christmas tree farm. In the basement there will be a commercial kitchen where they will make jelly and jams from the berries. On the second floor they will sell coffee and donuts and wine tasting parties in the big room up there. Mrs. Jones would like also to do some nutritional cooking classes with an office in the back.

Richard Schultz stated that we have approval from the Lower Naugatuck Valley Health District, we have Inland Wetlands approval permit and we have made a referral to the watershed.

Is there any concern about traffic, questioned Comm. Perillo? There is always concern about the traffic during peak times there, answered Richard Schultz. They do regularly hire officers and other people to handle issues with traffic, he added.

Could the walk in cooler be shaded or made part of a shed or something, questioned Anthony Panico? That is the elevation that you would see from Walnut Tree Hill Road, correct, he questioned? That is correct answered Richard Schultz, and that is why it is important to look at the architectural.

What are we approving here, questioned Comm. Sylvester? Richard Schultz answered the ability to construct a new building on the site to accommodate the wine tasting experience. We brought in farming allowances in the residential district, he added. We were advised two years ago, so we rehabilitated the buildings at the Old Nike Site and issued a permit for that. This will allow the public to taste the wine that is being bottled there. All the vats are in the back buildings. Under the new regulations we allow the construction of these agricultural related buildings, in this case specifically for the wine industry.

So are you saying if I wanted to sell ice cream on the site, I could, questioned Comm. Sylvester? Is that agriculture, if you are baking pies, are we approving a bakery up there, he questioned? No, answered Richard Schultz. I don't have a problem with this but Gerry described baking of pies and selling pies. In this case it is the wine industry component of this stated Richard Schultz.

I am not sure the pies in the cellar even offend me so what is it we are approving. Are we approving a wine tasting facility, questioned Comm. Sylvester? You are approving the building component and the uses, answered Richard Schultz. I don't understand what goes with the uses, stated Comm. Sylvester. What Leon is saying is what goes with the use, questioned Anthony Panico? The uses need to be a little more defined, he added.

I don't want to be the only negative person at this table, stated Comm. Sylvester. It seems that Jason brought up a good thought. We are all familiar with the site and it is restricted in access with on and off being a problem. It all blends together with the trees and the wine is a new addition but are we opening this up for more and more and more, he added.

I think that the intent was to provide some ancillary sales that would take advantage, that is not the right term, but to provide a service to people that are up there at other times for berry purchases or tree purchases, stated Anthony Panico. What drove this by what I understand is the total lack of toilet facilities up there.

That began to grow with hot chocolate being added to get them warm. The wine added to that stated Anthony Panico.

I guess what I am saying then is if someone grows produce and wants to sell pies in a commercial venture on their site, does this regulation allow that, questioned Comm. Sylvester? If it was a secondary, accessory use, stated Anthony Panico. It is a matter of degree. In any residential zone, any homeowner whose hobby is baking pies can make some extra pies and sell them. It is an ancillary thing and that is what we are talking about here, he added. We don't want to see this become a major Oronoque Pie Facility thing. That was my concern, stated Comm. Sylvester. We debated about the opening of the Oronoque facility on a main highway, he added. That was a high traffic generator, stated Comm. Pogoda.

If you allow for the processing of agricultural products, we are not going to be selling ice cream, we are not going to be selling hamburgers, they might make a strawberry shortcakes, even muffins, jellies or jams, stated Gerald Glover. Theoretically, though if they had cows on the premises they could make ice cream, questioned Comm. Sylvester? I am just asking what our regulations allow, he added. When the permit is written up it is important to keep them to scale stated Anthony Panico. You can't suddenly let some part of it become overpowering, he added.

I like this I think it is a great use, stated Comm. Perillo. My question is on the larger scale, is something that the public would have wanted to weigh in on, why didn't we bring this to a public hearing, and is that something that we could have done, questioned Comm. Perillo? It is a freestanding building and it is significant in size and structure, he added. It is not like you are going into an area where it is virgin land and you are injecting this use, stated Anthony Panico. You have this, an active farm use there with an active farm operation. There is another barn right behind this and all this is part of the agricultural use that already exists. It falls within the regulations and we did have a public hearing to clarify those regulations.

I was looking for clarification as to what the regulations allow, stated Comm. Sylvester. It is the first one of these kind under the new regulations and the discussion at this time was important stated Richard Schultz. The major uses are the wine tasting facility and the other uses are ancillary, questioned Comm. Lapera? This is accessory stated Richard Schultz, and staff will monitor it. They are all accessory to the farm use, stated Anthony Panico. The major use is the farm use, he added. The growing of the trees, the berries, the grapes and all of these are related to that use.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5208.

5215 CT COCONUT CO., LLC 88 TRAP FALLS RD., BUSINESS

Tom Dingle reported that this is for the leasing of 3 offices at Trap Falls Road. This is the new building across from Raveis, added Richard Schultz. They will use 3 offices totaling 750 square feet out of the 8 that are available. It is a marketing and sales Rep office. There are two employees, added Tom Dingle. It is a sales office with no client activity, stated Anthony Panico.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5215.

5220 GOKUL R. BARAL, 549 HOWE AVENUE, BUSINESS (CHANGE OF OWNER)

Tom Dingle reported that is a change of owner at the Mill Variety store.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5220.

5199 CT COMMERCIAL INVESTORS, 711 BRIDGEPORT AVENUE, NEW COMMERCIAL CONST.

Tom Dingle stated that this is in the Sears Complex. It is the drive-thru for the Sikorsky Federal Credit Union. The site has been previously approved as PDD # 24.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve Separate # 5199.

5193 BOBBI DEANGLIS, 45 HUBBELL LANE, HOME OFFICE

Tom Dingle reported that this is for a home office for a tennis league. There will be no impact to the neighborhood. She needs a commercial checking account, he added.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5193.

5194 GALE CARLISLE, 62 ARMSTRONG ROAD, HOME OFFICE

Tom Dingle reported that this is on Armstrong Road. She does crafts and sewing for shows. She is the only employee and this is for craft shows and no retail at the home or visitors to the home. She sells crafts at shows off site.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5194.

5206 ENHANCED LEARNING CENTER, 48 BEECH TREE HILL ROAD, HOME OFFICE

Tom Dingle reported that this is a home office for off-site services. She will provide tutoring services to her client's at their homes.

On a motion made by Anthony Pogoda seconded by Leon Sylvester it was unanimously voted to approve Separate # 5206.

5221 W. BAKOTA, 27 WOPOWOG TRAIL, HOME OFFICE

Tom Dingle reported that this is a subcontractor and he works full time as a subcontractor. He needs a commercial checking account. There will be no deliveries, no storage on the site, no signage. Everything is done off-site. They have 2 small trucks.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5221.

5222 ARCHER SIGN SERVICE, 15 ARMSTRONG ROAD, SIGN

Tom Dingle reported that this is the St. Vincent's Immediate Health Care Center. This is to replace a sign. They want to bring the sign closer to Armstrong Road. This Commission determines where it can go. There are pictures being passed around. Did anyone look at the stop coming out of the shopping center, questioned Comm. Pogoda? I can have the Engineer look at it and he determines where the sign can go, stated Richard Schultz. How far away from the street line is it now, questioned Comm. Pogoda? It is 10 feet stated Richard Schultz. I will leave it up to the City Engineer's office, he added.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve Separate # 5222 with conditions.

5228 CADCON, LLC, 884 BRIDGEPORT AVENUE, BUSINESS

Tom Dingle reported that this is in Shelton Square. It is next door to Simonetti's. It is where the unit was split. There are two requests tonight, the occupancy and the sign stated Richard Schultz. There is a picture being passed around. There should be some consistency up there, stated Anthony Panico. We have had enough fights up there stated Comm. Pogoda. We can approve the use but we don't have to approve the sign, he added. We want it to be in conformity of what is in the center. I can make the motion to approve the use but not the sign.

As far as the colors, I thought that you could not dictate the colors, stated Comm. Oraziotti. We can control that because it is a PDD, stated Chairman Cribbins. The last time we had a fight up there with regard to the colors we got Corporation Counsel involved in that, stated Richard Schultz. So in answer to your question this exceeds anything that we have seen in the last ten years.

The applicant addressed the Commission. The reason the sign is like that is to appeal and attract the children's eye. It would catch their eyes but if you have any other suggestions I will work with Staff. Staff will work with the applicant, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to approve Separate # 5228 just the use, not the sign.

5229 NORTH STAR, LLC 88 TRAP FALLS TOAD, BUSINESS

Tom Dingle reported that this is an additional occupancy at 88 Trap Falls Road. It is for healing and massage therapy. They will use 1200 square feet. They will need 10 parking spaces. It is by appointment only.

How many spaces do we have left, if this is approved, questioned Comm. Pogoda? We just approved 6, stated Tom Dingle. The place was critical with traffic and it is a critical point with the driveway, stated Comm. Pogoda. I will do an analysis of what parking is there now and what they need and bring additional information back to the Commission, stated Richard Schultz.

On a motion made by Anthony Pogoda seconded by Patrick Lopera it was unanimously voted to table Separate # 5229.

5231 ROBERT CLARKE, 29 CAMEO DRIVE, ACCESSORY DWELLING

Tom Dingle reported that this is an in-law. We have the affidavit from the family that this is for a relative. The floor plan shows 753 square feet that is below the maximum. There will be conversion of the old garage into the in-law. The house is isolated at the end of Cameo Drive. The road ends where the driveway begins. Staff recommends approval, he added.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5231.

APPLICATION # 04-41, PETITION OF AUSTIN WOLF ON BEHALF OF SHELTON REALTY ASSOCIATES, LLC TO AMEND THE ZONING REGULATIONS BY ESTABLISHING AN AFFORDABLE ELDERLY HOUSING DISTRICT (R-6 DISTRICT) (PUBLIC HEARING CLOSED ON 1/25/2005) DISCUSSION AND POSSIBLE ACTION

Chairman Cribbins stated we can take these one at a time. They are unique enough and we will take them independently. The second item takes the zoning from the first to put it on the second, stated Anthony Panico.

As Staff indicated you will create the text for amendments and the second is to apply the new zone to this site. There was a hearing that closed on January 25, 2005. They want to create a new zone. They are requesting to create a new use line into the permitted use, stated Richard Schultz. They want to add additional standards and definitions, he added.

They want to require a minimum of 10 acres and no more than 4 story high buildings. They will allow 50% of lot coverage by building and 50% of floor perimeters, stated Anthony Panico.

They want to include elderly definitions including construction, bedrooms, covenants and set-aside coverage. They want to change the site plan wordings to include traffic study and standards, stated Richard Schultz.

They want to establish this use and then they apply site plan standards, stated Anthony Panico. In the standards they want this approved just by the Zoning Administrator not this Commission. Even a single family house, it's approval goes by this Board, he added. That would need to be dealt with.

We have to talk about the second half of this request. If the zone is created, they would apply it to a 33-acre parcel on Long Hill Avenue known as the Tall Farm. If we set the standards and the use is allowed as of right, then we are obligated to look at the worse case scenario. The worse case scenario shows me 350-370 units, which is more, then what they are talking about putting on that parcel. The proposal was predicated on 250-260 units. The Commission looks at the 30%, which is 110 leaving the other as marketable rates and adult occupancy. What does that do to the traffic in the area, questioned Anthony Panico? They put in language in regard to traffic and the ½ trip per unit at peak times, he added. If you did the 360 you would handle another 180 cars during the peak hours. Which is excessive.

If we take these two individually and just talk about Item B, there is enough opportunity within our regulations today, without establishing another district which gives us a matter of right to handle an application to come to us within the zones we have, handling that through the PDD or the PRD, and just on the first application, I think our regulations are flexible and we don't need to establish another district, stated Chairman Cribbins.

That is just exactly what the Commission went through back in 2001 when we were presented with another application for the creation of the zone, again, stated Anthony Panico.

End of Side 1A of 2B, Tape 1 of 2 at 7:45 P.M.

This Commission has done analysis before and we have come to the decision that we do have inclusionary zoning and mechanism to accommodate the applicants and the City. We cited these techniques have been used like in Trolley Bridge and the State Housing downtown. We used that technique to fit that into the nitch, stated Anthony Panico.

Comm. Perillo stated that this property can't handle something of this magnitude.

On Application B then I need a consensus from this Commission that the detail and facts can stand the challenge. So what I am looking for is direction for the Staff to work on a resolution to deny, stated Chairman Cribbins. Do I get that feeling from the table, he questioned? Yes, answered Comm. Pogoda. For the reasons so stated, added Chairman Cribbins.

Anthony Panico stated I think that is a wise course of action, I feel more comfortable sitting with Corporation Counsel to make sure of the detail. I want him totally aware of what we are trying to do. We have run out of time and in case of a zone change it is not mandatory or are we in threat of automatic action. Hopefully we will get a draft out to you by next week.

**APPLICATION # 04-42 PETITION OF AUSTIN WOLF ON BEHALF OF
SHELTON REALTY ASSOCIATES, LLC TO AMEND THE BUILDING ZONE
MAP BY CHANGING FROM R-1 TO RESIDENCE R-6 DISTRICT, 628 LONG
HILL AVENUE (MAP 41, LOT 45) (PUBLIC HEARING CLOSED ON 1/25/2005)
– DISCUSSION AND POSSIBLE ACTION**

Chairman Cribbins stated if I read this and I don't believe that we need this district that says to me that this also should be denied. In the previous application on this property, with a lower density, we ended up in our minds, saying that there were a lot of good reasons in that resolution for that denial. If the feeling is the same what I would like the Commission to do is direct Staff to deny. Take some of the language from the previous application with regard to traffic, the school, and the other community.

Excuse me, Chairman Cribbins, but with the first application being denied the second application would be denied automatically because there would not be a Zone 6 in our regulations, questioned Comm. Sylvester? That is true but it sounds like but in addition to the technicality with the previous application was denied, stated Anthony Panico. I wanted some supportive language in there stated Chairman Cribbins. We will aim to do that for Tuesday, stated Anthony Panico.

**APPLICATION # 04-47 SHELTON DEVELOPERS, LLC FOR PRD OVERLAY
ZONE (10-LOT SUBDIVISION: TURKEY HILL ESTATES) BUDDINGTON
ROAD (MAPS 39 AND 44, LOTS 51 AND 54) R-1 DISTRICT (PUBLIC HEARING
CLOSED ON 1/25/2005) DISCUSSION AND POSSIBLE ACTION**

Richard Schultz stated that the applicant is proposing to use the PRD technique on an 11-acre piece. This is closely located to Grace Lane. This will be the cluster type technique. You are considering the relaxation of the zone in the R1 and allow the developer to reduce the lot size. There is Wetlands approval and public water is available.

It all starts with a conventional plan to determine what you have a right to develop on the property. It shows 8 lots all together and that the grading can work, stated Anthony Panico. He can create the appropriate Open Space. It does comply with the subdivision regulations. There is a determination for the 8 lots and the alternate plans state that the same piece of land showing reduction in the lots and the Open Space is a wider band. If there is less lot size the lots will go to 10 with a wider band of Open Space.

The principal benefit to cluster is more suitable Open Space and bringing in the utilities that would not be brought in for the conventional plan. There is a way to collect the sewers to tie that into the sewer at the end of Grace Lane. Water will be brought into by way of Buddington Road, stated Anthony Panico.

The Open Space Comm. recommends approval. Conservation had reservations with regard to the retention system and the fencing around the pond. They felt it would be unsafe for public use, stated Richard Schultz. The road system would be less maintenance for the City with this proposal, he added.

Chairman Cribbins questioned where is the Open Space? Richard Schultz stated that there is Open Space in here that we purchased from Bridgeport Hydraulic. This is Open Space # 62 and they will add to this making a connection. This will enable hikers to go through this property to Shelton Lakes, the Far Mill River corridor and out to Roosevelt Park, he added. The applicant will provide assistance with the trail systems and some drainage improvements on Mill Street. On Open Space, under the cluster plan it is 4.1 acres as opposed to 1.3 under the conventional, stated Anthony Panico. They have already preserved the stonewalls, stated Richard Schultz.

When we look at an application like this we need to see the benefit to get the multiplier and originally we put these things on the books and say that the multiplier we give will compensate the City with a benefit of Open Space. That is why we should confirm that this is part of the Green belt that is the benefit to the City, stated Chairman Cribbins.

Anthony Panico stated one of the things we learned is that when they run the line in for the sewers a few other homeowners can tap into that line.

Comm. Sylvester stated will there be any restrictions on these homes in this area? In what respect, questioned Anthony Panico. Is it designed to accommodate children, asked Comm. Sylvester? I am sure it is market rate housing and I am sure they will be 3-4 bedroom homes, answered Anthony Panico. Yes they will accommodate children and the design is conducive to children. By the nature of the way that this lays out, we have re-proportioned lines to have a good side yard. To many lots with huge houses have narrow spaces in between buildings and we don't want the houses butting up against each other.

To address Conservations concerns about not being happy with the detention facility, we look to the Open Space without counting that space. By maintenance way we need to get in there and it is easier to do it on land that we own, stated Anthony Panico.

We have two interior lots, questioned Comm. Sylvester? Yes, answered Anthony Panico. Why are there no City utilities on the conventional plan, questioned Comm. Perillo? They can make the on-site septic system work, stated Anthony Panico. The only way to go with the expense is to have 20% more development off setting the cost, he added. They need to go to Grace Lane through here to get to line.

Chairman Cribbins asked for a motion. Comm. Pogoda made the motion and Richard Schultz asked for the effective date to be May 13th. Anthony Panico asked for a roll call vote, which followed with all Commissioners voting I to approve.

On a motion made by Anthony Pogoda seconded by Daniel Oraziotti it was unanimously voted to approve # 04-47. A roll call vote followed with all voting I to approve.

APPLICATION # 05-05 PETITION OF CUMINOTTO, INC. FOR ZONE CHANGE (LIP TO R-1) PORTION OF LOT 32, ROCKY REST ROAD (MAP 65, LOT 1) (PUBLIC HEARING CLOSED ON 3/22/2005) DISCUSSION AND POSSIBLE ACTION

Comm. Lopera excused himself from this Application and 05-06 as he has done previously.

Chairman Cribbins stated that this is for the homestead. Richard Schultz laid out the maps on the table.

Richard Schultz stated the applicant wants to change from LIP to R1 on a .97 acre piece of property shown as proposed Lot 1. They will construct a single-family home. The LIP went that far.

Chairman Cribbins stated I don't think that there was any opposition from neighborhood. The neighbors didn't care if we put another single-family home in there, they just didn't want the traffic from the industrial park area onto Rocky Rest Road. That was our safety concern as well, he added.

This is for the lot on Rocky Rest Road, questioned Comm. Sylvester? This is for the zone change and we are rezoning it from LIP to R1 answered Richard Schultz. Wasn't it established that we could not have gotten from the industrial to Rocky Rest Road because of the terrain, questioned Comm. Sylvester? That is correct because of the terrain and the watercourse answered Anthony Panico. It doesn't make any sense then to use the property in a residential way, added Comm. Sylvester.

The only argument to leaving this as it was there is a technical issue with the fact that the main parcel contemplates two industrial buildings. The second one would become landlocked unless he has the minimum frontage requirement, stated Anthony Panico.

Anthony Panico stated if you try to separate these into two buildings lot, this Lot # 2 would have no frontage. If you took this away you can't make that lot. To avoid that issue he leaves this as part of the lot and then he has the required frontage on the street. The driveway is then internally private, he added. We are leaving that LIP because you can't go through residential, stated Richard Schultz. For all intense and purposes it is there but it is not useable. Go to River Road with the subdivision and private road. There is frontage on River Road and Quail Court is there actual access, stated Anthony Panico. They have frontage but you can't use it, he added. We could put a conservation easement and a non-access line that will make sure it never gets used.

I can make that motion, subject to, stated Comm. Perillo. To approve it as is requested with a conservation easement of the proposed lot, stated Anthony Panico.

On a motion made by Jason Perillo seconded by Daniel Oraziotti it was voted to approve Application # 05-05 with conditions. Comm. Lapera did not participate as he has done in the past with this application. A roll call vote followed and all participating Commissioners voted I to approve.

APPLICATION # 05-06, CUMINOTTO, INC. FOR RE-SUBDIVISION OF LOT 32(3 LOTS), IVY BROOK ROAD/ROCKY REST ROAD (MAP 65, LOT 1) (PUBLIC HEARING CLOSED ON 3/22/2005) – DISCUSSION AND POSSIBLE ACTION

The first action changed the zone, stated Anthony Panico. Richard Schultz stated that this is for 3 lots with two accessing the LIP and the third is the residential home with access only from Rocky Rest Road. The City Engineer recommends approval, he added. Comm. Sylvester questioned that there was an issue with the driveway on this? That is the other application on Mountainview answered both Richard Schultz and Anthony Panico.

Given our action on 05-05 I will make the motion on 05-06, stated Comm. Perillo. Comm. Pogoda stated I will second that. Subject to the Engineer's report and Wetlands, added Anthony Panico. Richard Schultz read the City Engineer's report. Wetlands has approved this but I haven't got a letter on that.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was voted to approve Application # 05-06. Comm. Lapera did not participate as he has done in the past with this application. A roll call vote followed with all participating Commissioners voting I to approve.

APPLICATION # 05-25, PETITION OF JOHN GUEDES ON BEHALF OF BIRMINGHAM DEVELOPMENT FOR APPROVAL OF DETAIL DEVELOPMENT PLANS AND ADOPTION OF PDD ZONE CHANGE (100 CONDOMINIUM UNITS: BIRMINGHAM ON THE RIVER) 5 BRIDGE STREET AND CANAL STREET WEST (MAP 129, LOTS 20, 22, 23) – DISCUSSION AND ACTION

Chairman Cribbins stated the more I drive by this the more I say I can't wait for this to get started. Anthony Panico read the attached resolution.

End of Side 1B of 2B, Tape 1 of 2 at 8:35 P.M.

Anthony Panico continued to read the attached resolution.

Comm. Sylvester questioned if the parking spaces (that were being read about in the resolution) were reserved for this project? Yes answered Anthony Panico. These spaces and all of this parking would be for that project, he added. Private parking for this, through a lease, questioned Comm. Sylvester? There has been agreements made in the past making spaces available for parking issues, stated Anthony Panico. This is common practice.

We had a lot of discussion on the second piece that we thought was owned by CL&P but it is not. It is owned by Shelton Canal Company and it will be used for widening of the road and add to the future plans for parking expansion, stated Anthony Panico.

There was an oversight with regard to street trees and the parking deck would project out onto those trees. So they need to look at that again.

There is some issue with the drawings and scales. I looked at these and ran into problems with the scales. Anthony Panico stated that this needs to be corrected.

The utilities will be located underground. The utilities end here but the electric company can access that from the existing facility.

Chairman Cribbins asked for a motion? Comm. Lopera made that motion and Comm. Orazietti seconded that. Chairman Cribbins asked for further discussion. Comm. Perillo voted I to approve. Comm. Sylvester stated that I will vote I because I believe that Item 4 on the resolution is the factor that sways me, the growth and economic development of downtown, I would like the record to show that I am not a believer of this and further development of downtown without first addressing the flow of traffic, the tie up of the infrastructure in that area many times during the week, I just can't accept that. That will stand on its own, it will become obvious that a Southbound will become imperative to the future well being of the people in that downtown area. Comm. Sylvester voted I. Comm. Orazietti voted I to approve. Comm. Lopera voted I. Comm. Pogoda voted I. Chairman Cribbins stated I and that is unanimous.

On a motion made by Patrick Lopera seconded by Daniel Orazietti it was unanimously voted to approve Application # 05-25. A roll call voted followed with all voting I to approve.

PROPOSAL OF 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 (PUBLIC HEARING CLOSED ON 4/25/2005) – DISCUSSION AND POSSIBLE ACTION

Richard Schultz read from the attached Report/Resolution.

Once again tonight the applicant will have 6 months to get the plans in.

Once you adopt a PDD the owner applicant has to fulfill that. In this case the applicant allowed that to expire so the PDD is the only thing on this property, stated Richard Schultz.

There is application, pending application for the New Milford Bank and the Commission had to eliminate the PDD # 40 before you can consider the re-occupancy of the building.

The use of the drive-thru was discussed at the hearing. The District downtown prohibits drive-thrus. The Commission several years ago said we don't want any drive-thrus but this is grand fathered in. The removal of PDD # 40 is where we are tonight. We will process applications on Certificate of Zoning Compliance at our next meeting, stated Richard Schultz.

Comm. Pogoda questioned the drive-thru is grand fathered in and there is nothing we can do to eliminate it? That is a major problem and that corner especially the right lane being used for through traffic. I can't see that many people entering traffic at that point, stated Comm. Pogoda. I see that to be a problem with cars trying to get out of that parking lot.

Anthony Panico stated we will work with them on the site plan. I don't think they could possibly make that left turn out. Right only, stated Comm. Pogoda. That is an accident waiting to happen.

Anthony Panico stated we created the non-conforming situation downtown. The window is there. They never pulled the window out.

We approved a PDD there, questioned Comm. Sylvester. With the PDD it gives us the control to develop that site. We have no obligation to undo the PDD zone there. If you vote to keep the PDD there they could develop the site anyway they want except they can't have the drive-thru window, stated Comm. Sylvester. I supported the PDD and everything that they wanted to do downtown and I believed that the PDD was the right way to develop the downtown area under that. The only reason they are giving up the PDD is to gain access, it is a ploy, to the drive-thru window, he added. If this Board believes that they want to give the drive-thru window back then eliminate the PDD. I believed in the developer and it is not about that. It is about how much do we have to give up constantly to get whatever. I know the drive-thru window didn't work under Connecticut National Bank. Howe Avenue wasn't easy to access then. It is not an appropriate site and this doesn't work there now.

It could work if there was some way to circulate back into the parking lot utilizing White Street, stated Anthony Panico. I agree and I think that is the advantage of the PDD, stated Comm. Sylvester. If you give up the PDD it is not a proper thing to do. Keep it and work with the developer, he added.

Chairman Cribbins stated the original PDD was to control that particular corner. We were creating a standard there on that corner and we thought it was important at that time. It is a matter of right, it exists today. They have it already today and it is a matter of right. The drive-thru is a matter of right, stated Chairman Cribbins. I don't think it is a ploy.

I would love to see the PDD downtown and I think it is an appropriate way to develop the City, stated Comm. Sylvester. I respect your views, he added.

Chairman Cribbins stated I only deal with what I heard. You only heard what you choose to hear, stated Comm. Sylvester. I believe the developer who does a good quality job, he added. What I meant by ploy is the only way you can get the drive-thru is to abandon the PDD. I didn't mean it in a negative way at all.

Comm. Pogoda stated Leon made a point that by leaving the PDD we would have control in that area. I don't want to deny the developer, he does quality work. If there is something that we could do, working with the developer as to bring in the traffic. Don't bring the traffic onto Howe Avenue stated Comm. Sylvester. If we could come in from Howe Avenue into the window, stated Comm. Pogoda. You can't do that because you will have traffic waiting on Howe Avenue, stated Anthony Panico.

There was trouble back when it was Connecticut National Bank and it is a very difficult site, stated Comm. Sylvester. They did have a Guard but they coordinated parking on the site, he added. It was a very difficult site already.

We have an opportunity to redo the building and my mind is saying lets work with the applicant and get more vitality downtown, stated Chairman Cribbins. That is what I am saying but do it under the PDD, don't give up the control of it, stated Comm. Sylvester.

Comm. Pogoda stated I am wondering if that becomes a problem, if the window is being used starts to create a logjam exiting or people making that left hand turn, could that be closed down or we can't do anything about it, once it is opened, he questioned? Once it is opened and maybe the right hand turn only will work and is enforceable stated Anthony Panico.

I am troubled by the concept of the PDD that allows for a unique type of development. If one of the party falls by the wayside I don't know if the other party could preserve the intent but after a 5-year window plans are voided and all you have is text in the regulations.

If a development doesn't succeed then we just eliminate the PDD. This is the second or third that we have eliminated, stated Anthony Panico.

Comm. Lapera stated this is a CA-3, that was what it was before and if the applicant had not asked for the housing he would have been able to put the bank in and we would not be having this discussion. Right, stated Anthony Panico. The concern is we are reestablishing the use of the bank, he added. I don't have a problem with the bank, stated Comm. Pogoda. If they could go out on White Street we would all be happier, stated Anthony Panico. Most banks have drive-thrus, added Comm. Lapera. I have made my point and I don't want to be argumentative. Whatever will be will be, stated Comm. Sylvester. Would it help if the applicant came back to us, questioned Comm. Perillo?

Chairman Cribbins stated that I was thinking the applicant would say if I can't have this then I will let it go 5 years and now I am saying there is another building downtown. So I am saying lets get going, he added. I am saying lets go without a drive-thru, stated Comm. Sylvester.

Chairman Cribbins asked for a motion. I will make that motion, stated Comm. Lapera. Do I have a second, questioned Chairman Cribbins? I will second that, stated Comm. Pogoda. Chairman Cribbins then asked for a roll call with Comm. Pogoda voting I, Comm. Lapera voting I, Comm. Oraziotti voting I, Comm. Sylvester voting nay, Comm. Perillo voting nay and Chairman Cribbins voting I to approve. The motion then passed 4 to 2.

On a motion made by Patrick Lapera seconded by Anthony Pogoda it was voted to approve 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. A roll call vote followed with Comm. Pogoda, Comm. Lapera, Comm. Oraziotti and Chairman Cribbins all voting I to approve. Comm. Sylvester and Comm. Perillo voted nay. That is effective May 13, 2005, added Richard Schultz.

APPLICATION # 05-08, PETITION OF DOMINICK THOMAS ON BEHALF OF JAMES BOTTI, SR., FOR SDA OVERLAY EXTENSION, 360 BRIDGEPORT AVENUE (MAP 77, LOT 18) OP DISTRICT (PUBLIC HEARING CLOSED ON 3/22/2005) – DISCUSSION ONLY IF TIME PERMITS AND APPLICATION # 05-09 PETITION OF DOMINICK THOMAS ON BEHALF OF JAMES BOTTI, SR. FOR PDD ZONE CHANGE (MIX USE DEVELOPMENT) PORTION OF 360 BRIDGEPORT AVENUE (MAP 77, LOT 18) OP DISTRICT (PUBLIC HEARING CLOSED ON 3/22/2005) – DISCUSSION ONLY IF TIME PERMITS

Comm. Sylvester excused himself and left at 9:10 P.M.

This is early and we need time to get additional data, stated Chairman Cribbins. You are not ready for any action but if the Commission wants to give us some direction, stated Anthony Panico. I like what I saw, stated Chairman Cribbins.

Anthony Panico stated the reason that I am concerned is that we don't have a lot of time in the next few weeks. Once we open up Avalon that is what we will be eating and sleeping in the next few weeks, he added.

The entrance right now comes around to a perspective drive-thru window. There is a restaurant site and other retail, stated Anthony Panico. There was a range of floor space on the plans and this illustrated that it is smaller but that depends on the tenant. The parking is predicated on a major restaurant, he added.

We over loaded the site down the road, stated Chairman Cribbins and I don't want to do that on this site.

I am not sure that I am in favor of the zone change here, stated Comm. Orazietti. You hit the nail on the head with what is going on down the road. You overloaded down the road there. You have to be careful, what does the plan of development call for, do we have an updated plan, he questioned? No, answered Anthony Panico. We haven't gotten into site specific yet, he added.

We did a lot of work on this site over here where the car wash is coming, down the road, here, stated Chairman Cribbins.

This is SNET and this is Platt Road, he added. We took the restaurant out of here. When I first looked at this in the scale it was in, with the square footage and uses, to me if it was financial services during the day, the restaurant at night, didn't bother me, it looked like it would support that. I didn't want any expansion, stated Chairman Cribbins.

The developer in the presentation was trying to create the size that he could accommodate, stated Anthony Panico. Understand that this doesn't have to be a restaurant, it could end up being retail. There is a family of uses within the permitted use and what you need to establish is the square footage to be developed on the property. Then you think how that could be used.

I am not opposed to any restaurant going in there, I am leery of changing the zones on Bridgeport Avenue, stated Comm. Orazietti. I have only been on the Board for 4 years and we have changed a lot of them. Sooner or later you have to stay the course. You ask for and we give you what we give you, he added. This is OPD all the way up to the parking lot, stated Anthony Panico.

End of Side 2A of 2B, Tape 2 of 2 at 9:25 P.M.

This will need more dialogue, stated Chairman Cribbins.

Over the months a lot of possibilities have come forward including another automobile facility. What does the Commission think about that, stated Anthony Panico? You won't put an automobile agency there, he added. It is not a pure site, it is utility and heavy material there. This is developable in between a lot. Nothing jumps up to say it should be this or that.

Does this site dump a lot of traffic onto Bridgeport Avenue, questioned Comm. Lapera? Not much, answered Anthony Panico. The medical is not much coming out, the parking lot then Route 8, stated Comm. Lapera. This should be when you set the square footage, whatever number that is, that is it. Not well it might be this or it might be that, he added. It looks like there is enough parking on that site for just those two buildings. There is more than enough parking, stated Anthony Panico. If there is reduction in the restaurant space that will then drive the amount of parking. The circulation and parking works fine.

This doesn't jump out to me as something that there should be a whole lot of concern with, stated Chairman Cribbins. The auto agencies are gone at night and we have concerns with Wal-mart that I hope will be eliminated with the additional light being installed there. We have Crown Point with a restaurant that has not opened yet, we have Split Rock with a restaurant that hasn't opened yet, so it is something to consider, stated Comm. Perillo.

APPLICATION # 05-26, KEY DEVELOPMENT, LLC FOR CRD SUBDIVISION APPROVAL (6 LOTS: THE WOODS AT LAKE ROAD, PHASE II) LAKE ROAD (MAP 115, LOTS 4 AND 5) ACCEPT FOR REVIEW

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to accept for review Application # 05-26.

560 HUNTINGTON STREET – REQUEST FOR RELEASE OF BOND

That is not finished yet, questioned Chairman Cribbins? It is in the process, stated Richard Schultz.

Richard Schultz stated that we have a request from the applicant's to withdraw the \$10,000 Bond that the City of Shelton is holding to ensure the completion of the project and site stabilization. The project is about 90% done. All the regarding, the principal building is by and large done. They have to put the front porch on.

They are asking the Commission, Doctor Rafferty is here and she will commit that the project will be done in a timely manner to your satisfaction, they are looking for a temporary Certificate of Zoning Compliance which they will get from us first then go to the building department. We have to sign off first. The applicant is looking to complete the front porch within the next few months. They will wait to finish paving the entire driveway. They are obligated to pave the apron in the front by ordinance, stated Richard Schultz.

Has the driveway been constructed to the proper width, questioned Anthony Panico? Yes, answered Richard Schultz. The grade is all set and the final grading is done. They will put a sub base of gravel.

They also need additional time on the landscaping. What I insisted on is total stabilization of the front slope areas. I want the applicant to confirm some issues and that they will fulfill these requirements on record, stated Richard Schultz. They are requesting release of the \$10,000 Bond to finish all of the items I just discussed.

Nonpavement includes the parking in the back, questioned Anthony Panico? Yes, answered Richard Schultz.

What is to hold the applicant to completing that in one year without some sort of assurances to the City, questioned Comm. Pogoda? Just her word, stated Richard Schultz, and Dr. Rafferty is here to put it on the record. As you know they are a small business and I personally have confidence. We don't entertain these requests normally but this is a small business as opposed to the medium and large businesses, he added. Is that something we normally do, questioned Comm. Pogoda, release the bond without the project being completed? You have allowed reductions, stated Richard Schultz. Reductions but not a release, stated Comm. Pogoda. You have the authority to reduce it or release it in its entirety or anything in between. The applicant is here to assure you that they will complete that in one year, stated Richard Schultz.

We low balled the bond because that is a small business, stated Chairman Cribbins. You always can withhold the CO until the work is done but that is being taken away from you, stated Anthony Panico. It is not that you don't have faith in the applicant, he added.

Isn't there another type of bond, a letter or something different, questioned Chairman Cribbins? They are requesting the Bond be released tonight, stated Richard Schultz. Is there some sort of legal documentation, questioned Anthony Panico? What about any other type of business coming in and saying I want my Bond released, questioned Comm. Pogoda? What recourse do we have later on, he added? It is a judgment call by you, stated Richard Schultz.

I think we should talk to Corporation Counsel to see if there is something that can be done. We put a Bond on to ensure that everything will be done, stated Chairman Cribbins. I think the agreement scenario, stated Richard Schultz. We have to say that there is something that ensures that the work will be done, this is precedence setting and we have never done this before.

Dr. Rafferty, addressed the Commission. What we wanted to do tonight is, we have come into the money crunch and we wanted to complete the project. The front porch has to be put on.

You came in with the application and the proposal for landscaping and stabilization. We gave you the o.k. and I did vote against it. All we need to do is say yes and what is it if tomorrow you say lets sell this and you walk away. What is the guarantee that the project will be finished or we will say we will not set a precedence, stated Chairman Cribbins.

Could I ask, the front porch, what is that for, do customers use that, questioned Comm. Lapera? If I would make a waiver lets say waive the front porch because it is technical but lets do the site, he stated. The front porch doesn't affect the site. Let them put the front porch on next year.

Anthony Panico stated under normal circumstances, you should analysis what is needed to be done and we increase the bond to make sure that everything is taken care of.

Lets go to Corporation Counsel and see what he tells us, stated Chairman Cribbins. I know that there are provisions in there for such things as liens, stated Richard Schultz. The applicant is because of the time constraints asking for us to approve the release, he added. Give us a week and if Corporation Counsel says if the liens can be handled, we will work with that, stated Chairman Cribbins. I am uncomfortable releasing the Bond even with the agreement, stated Comm. Lapera. I won't release the Bond I don't think it is right, he added.

ZONING ENFORCEMENT: 7 AND 10 MOLNAR DRIVE : INITIATE LEGAL ACTION

Tom Dingle has been going out there and there has been no corporation. The Sheriff is coming sometime next week. The owner makes progress then goes backward. He has moved some trucks and he has some antiques on the property.

On a motion made by Patrick Lapera seconded by Anthony Pogoda it was unanimously voted to initiate Legal Action at 7 and 10 Molnar Dive for Zoning Enforcement concerns.

8-24 REFERRAL: CITY ACQUISITION OF PROPERTY (HILLTOP DRIVE/HOWE AVENUE)

Richard Schultz this request is being made from the Mayor's Office. It is a 6.9 acre piece. He read the City Engineer's letter to report favorably.

On a motion made by Daniel Orazietti seconded by Patrick Lapera it was unanimously voted to report favorably on the 8-24 Referral: City Acquisition of Property (Hilltop Drive/Howe Avenue)

PAYMENT OF BILLS

On a motion made by Jason Perillo seconded by Patrick Lapera it was unanimously voted to pay bills, if funds are available.

STAFF REPORT: See attached report.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to adjourn at 9:45 P.M.

Respectfully submitted by,

Diana Barry
Clerk