

The Shelton Planning & Zoning Commission held a Regular Meeting on August 9, 2005 at 6:45 P.M. in the Shelton City Hall, Auditorium, 54 Hill Street, Shelton, CT.

The Chairman reserves the right to take items out of sequence.

Members present: Chairman Alan Cribbins
Comm. Patrick Lapera
Comm. Daniel Orazietti
Comm. Jason Perillo
Comm. Anthony Pogoda
Comm. Leon Sylvester

Staff present: Anthony Panico, Planning Consultant
Richard Schultz, Planning Administrator
Corporation Counsel Thomas Welch
Pat Garguillo, Court Stenographer
Diana Barry, Clerk

There was also an additional Court Stenographer from Shipman & Goodwin representing Avalon. (This was done at all the previous meetings as well).

Members absent: Comm. William Papale
Comm. Karen Tomko-McGovern

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.

Chairman Cribbins opened the meeting with the Pledge of Allegiance and asked everyone to remain standing. Chairman Cribbins asked for a moment of silence for Michael J. Adanti, Chairman of the Plan Update Advisory Committee who passed away in a tragic accident last week. He was a very, very special person. I worked with him both on the Plan Update Committee and Griffin Hospital Board. He was a special person and it didn't take more than 5 minutes in his presence to like him.

Chairman Cribbins then asked for a motion to go into Executive Session to discuss some pending litigation.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to go into Executive Session and invite Corporation Counsel Thomas Welch, Richard Schultz, and Anthony Panico.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to come out of Executive Session. There were no votes taken.

PUBLIC HEARINGS:

APPLICATION # 05-33, DOMINICK THOMAS ON BEHALF OF SHIRRON ASSOCIATES FOR MODIFICATION OF SPECIAL EXCEPTION APPROVAL (EXISTING PROFESSIONAL OFFICE) 163 LEAVENWORTH ROAD (MAP 153, LOT 5) R-1 DISTRICT AND APPLICATION # 05-34, DOMINICK THOMAS ON BEHALF OF SHIRRON ASSOCIATES FOR RESUBDIVISION APPROVAL (2 LOTS) 163 LEAVENWORTH ROAD (MAP 153, LOT 5) R-1 DISTRICT

Comm. Orazietti read an additional piece of correspondence from the Shelton Land Trust.

Attorney Dominick Thomas, representing the applicant, addressed the Commission. He presented the notices and postings on each of the properties. I also would like to address the last paragraph of the letter just read concerning the leaching fields, the engineer Ted Witek is here to address it, there is a letter from the Naugatuck Valley Health Department. They have been to the site and they have approved the septic system on the site.

The reason that there is 2 applications before you tonight is because this is actually 2.66 acres and we have an application to resubdivide it to establish a conforming R1 residential lot in an R1 zone, stated Attorney Thomas.

Sometime ago a Special Exception was granted for the professional offices and the residential property that exists on what I would call the upper portion of the lot. This lot is located on Leavenworth Road, 163 Leavenworth Road. If you are driving towards Monroe it is on the right just short of the White Hills Shopping Center.

The reason it was suggested by your Staff that we should apply for a modification of Special Exception, even if we really are not modifying the Special Exception. The Special Exception Resolution was approved in September of 1983. That had a sentence in it, Paragraph 3 of its findings that was drafted by Anthony Panico. The sentence said the property totaled about 2.66 acres and to reduce this to still be a special conforming lot. To properly address that issue and because of that one sentence we decided to file an application to modify that Special Exception. The only way is to clarify the special exception lot and the remaining lot is the conforming lot in an R1 Subdivision.

The Commission should have received a report and letter from Mr. John Cook. Attorney Thomas read from the letter. Old Leavenworth Roads boundary and old research shows that there was never any action to discontinue the road. If a City takes no action then this can be abandonment by issue.

When that happens the abutting property owners have claim to the road from the centerline because in those old days until recently the town has the right to not have fee title to the road, stated Attorney Thomas. There is a map that we will show you that has approximate amount of land that is involved and includes the open space requirements. What our proposal is to clear title is for the applicant to quit claim to an entity that you determine.

I am not 100% sure that all of the property abuts back to the land trust but some of it is the City of Shelton. There is a natural buffer that exists there and Mr. Witek will explain to you there are certain things that you put in a drainage galley. We have no problem in preserving it, and marking it. We do believe that there is sufficient enough buffer there and in the roadway. We did go to Valley Health and they have approved it.

Ted Witek, Project Engineer, addressed the Commission. He stated he has a letter from the Wetlands Commission dated 5/6/2005 which concerns the project. This letter is part of the Planning & Zoning file on these applications.

He then went over the project stated this is Leavenworth Road with the houses and the access is at the upper end of the property. The sewer service area will be at the lower end of the property. The galley system as outlined will be 25 feet from the stonewall.

We have approval from the Health Department from January 11, 2005 and approval from the DOT for the proposed curb cut, stated Ted Witek.

Is it a common driveway or separate driveways, asked Chairman Cribbins? The driveway to the existing driveway is there and there will be a separate driveway on Lot 2 coming off here, answered Ted Witek.

There will be onsite detention to take care of the back end at the northwest corner of the house, he added.

Attorney Thomas stated there is a stonewall at the rear of the property at the end of Leavenworth Road. This maps shows the proposed drawing of the Land Trust property. We will release any claim to them and there is a buffer coming out. The claim of fee interest may create public access, if in fact the owners need that. If a piece of land is abandoned by issue or its use discontinued the land becomes landlocked. They have a Statue 13A-55 the right of way to the nearest public road. That is only the right of way, not title. Mr. Witek estimates that there are 2 lots here.

As the City is an abutting property owner they have a continued right of use the half right of way that you are implying to, stated Anthony Panico. This is just half stated Attorney Thomas. The City has the right to use your half of the right of way, stated Anthony Panico. If they are landlocked stated Attorney Thomas. You can't make a claim as long as you have access but it is difficult for these properties to make a claim that they use this as access because of the frontage on Leavenworth, which is a public highway, he added.

The property for the Land Trust is back here and if it doesn't come out to Leavenworth and under Section 13A-55 they have access over that old roadbed and the easement for ingress and egress and if you continue you will come out to the parking area out to Leavenworth. Rather these properties have an access this same way is at question? That access is not fee, it is an easement and what we are saying is that we are going to give up any claim that we have to them to that ½ portion of Old Leavenworth Road and we can settle title in whoever you decide, the Land Trust or the City.

Chairman Cribbins questioned what is conforming in the zone? The original Special Exception was rendered on the larger parcel, answered Anthony Panico. There can be office in an R1, added Chairman Cribbins. The Commission can render a finding that is an appropriate special exception to grant.

I have done some research, gone back to the 80's, there was some talk about commercial work all the way up and down Leavenworth Road, stated Chairman Cribbins. That is how the shopping center got there.

There was never any consideration given to increasing the commercial dwelling, stated Anthony Panico. The shopping center was just a large industrial area carried on the road and then it was reversed, he added.

The only other parcel was the Griffin Hospital building on the corner of Maple and Leavenworth Road but that never came to fruition. The size of the property is not in the motion. This is only identified, stated Attorney Thomas. The Commission can very well find that was a consideration when they ruled on the appropriateness of the Special Exception, stated Anthony Panico.

When you read it nowhere does it refer to the size as being an issue, stated Attorney Thomas. In fact if you were to permit this Special Exception in this zone, minimum lot size would be 60,000 square feet. That is what we are saying is that we are reducing and in fact the setback that Mr. Panico addresses if the size was a concern with the motion that Comm. Severson moved it and Comm. Russell approved it there should have been a phrase in there that said conditional about the (inaudible), stated Attorney Thomas.

Comm. Lopera questioned is it your intent that this proposed second lot would not fall into the special exception and that there would be no professional office space in there? Clearly, stated Attorney Thomas that is why we are going with the modification. You would stipulate to that, stated Comm. Lopera. Absolutely, stated Attorney Thomas.

The Conservation is looking for a 25 foot setback minimum rear lot and at least 30 feet and would you agree that you would extend the Conservation Easement at least as far as the rear lot line to avoid the 25 foot, questioned Comm. Lapera?

You have two issues in there stated Attorney Thomas. The galley would be sticking into it and the drainage detention would stick into it but other than those two factors it would not be a problem for us. I can't tell you how far in that would go. On this map you can see the edge of the galley and the septic system is 25 feet from the rear of the property. As you can see this is a detention facility for the roof and this is underground. We can mark this at 25 feet and the septic won't be involved.

There are several conversations all taking place at the same time at the table. It is very difficult to understand what is being said.

Anthony Panico stated you are concerned with what is coming from the right of way? Where did 25 feet come from he questions? Conservation had wanted at least 25 of the rear line back here, stated Comm. Lapera. They want the rear at least 30 feet, he added. We have already shifted this, stated Ted Witek.

This is simply a conveyance of a conservation easement that doesn't preclude the use of it if we determine that to be appropriate, stated Anthony Panico.

Conservation made reference to and with all due respect to Mr. Walsh, who is not a sanitarian, he went to the sanitarian, he is making a reference to a stream. When ever you have a road that is at a low point water runs downhill. That was addressed by John Cook and addressed by Naugatuck Valley Health District. Everyone looked at it and in there professional opinion this is what they settled on, stated Attorney Thomas. So it is really a drainage easement, stated Anthony Panico. Right, it is a drainage channel and that was taken into consideration when we got approval, stated Attorney Thomas.

Chairman Cribbins asked if there was anyone in the audience wishing to speak for or against this application, please come forward. No one responded.

Comm. Lapera questioned the fee in lieu of Open Space and what is the Open Space requirement and is this it? The Commission will make that determination. The requirement for a subdivision is 10% of the lot area or payment in fee in lieu of, stated Anthony Panico. You can give credit in part or in whole for benefit of the abandonment of the easement and the establishment of the additional conservation easement, he added.

How far does this go, asked Comm. Lapera? This goes all the way back and it is where Leavenworth Road used to be before it was built in this location, stated Anthony Panico.

The property owner is here and he is claiming half of the roadway how far, questioned Comm. Lapera? So it doesn't come out next to the house, he added? No answered Anthony Panico. It comes down and goes up further. It comes out opposite in the approximate location of the shopping center stated Attorney Thomas. There was a proposal in the development to put a parking lot to park in and walk down from, he added.

To get back to your point Comm. Lapera it is a matter of what value you would place on the 25-30 foot easement to what degree it mitigates against the Open Space, stated Anthony Panico.

We could have come in with a map that shows a line in the center of Old Leavenworth Road even subject to an access point down here, stated Attorney Thomas. We showed it at the property line at the side of it. When you take the Open Space our claiming of our rights, which is actually part of it and conditional subject to it, he added.

There are several conversations all going on at the same point. The owner of the property joins the conversations.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to close the Public Hearings on Application # 05-33 and 05-34.

PUBLIC PORTION

Chairman Cribbins questioned if there was anyone in the audience who wished to address the Commission on any item that is not on the agenda.

Joseph Szarmarth, addressed the Commission as the owner of two businesses in Shelton. His concern was with his retail business. The reason I am here is the retail business. When you want to open a business you look at the zoning laws and what competition you would have. I understand that this Commission wants to be open and have tax revenues for the City. When you change zoning laws it is not only pro business when an area can become saturated. I have competition directly across the street and so does my neighbor. So I am here to tell the Commission to consider the idea of being pro business and changing the rules is not pro-business and can hurt the business.

I want to understand what you are saying, I need more information, are you saying that we changed a zone to a commercial zone, questioned Chairman Cribbins? I am not talking about anything specific stated Joseph Szarmarth. You might allow higher density stores in and you only have to go as far as Milford to see stores vacant and the area saturated. I know there is a store two doors from me that is vacant. I want the Commission to consider that when they rezone an area of retail. It is not always best for the taxpayer.

Where are you located asked Anthony Panico? I am on Bridgeport Avenue, I own P J & Company Hair Salon, answered Joseph Szarmarth. I don't want to see this area get saturated, he added.

What I would do is take a copy of those comments and give that to Mr. Osak at the Plan Update Committee so he can look at them when he determines some of the zones for that Plan.

Tom LaTulipe, 91 Toas Street, addressed the Commission. I had mentioned that down by the Sports Center on Route 110 that there was some parking on the street. This was an isolated situation that has been taken care of. There was another complaint that was solved in a very professional manner. He is keeping on top of things down there, he added.

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

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

Richard Schultz stated that there are Standards numbers 1-42 for zoning compliance. Staff has reviewed them and they are in compliance with the regulations.

On a motion made by Leon Sylvester seconded by Anthony Pogoda it was unanimously voted to approve the Applications for Certificate of Zoning Compliance, Standards Numbers 1-42.

5497 JOAN ZABBO, 231 DIVISION AVENUE, 3 FAMILY TO 1 FAMILY WITH IN-LAW

Richard Schultz stated that this is an existing 3 family house. 2 units on the first floor with a dwelling unit in the basement. They had 2 utility meters and they now want to eliminate one of the utility meters and convert it to a one family with an in-law. So what we are seeing is a consolidation. This is right down here at the end of Division Avenue. The family is getting older and they no longer, stated Richard Schultz.

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

There is a reduction of one stove and this is in the R5 zone. They will eliminate the stove and one unit. The in-law is on the first floor with the other unit on the other side.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5497.

5402 PHYLLIS HOMA, 6 JENIFER COURT, IN-LAW

Richard Schultz reported that this is another in-law that involves a two-story addition. The basement floor plan shows two means of egress. The walk out from the basement and the stairwell to the first floor. The lot complies with the zoning requirements. This is for a mother. This is a two-story addition and they will maintain the appearance of a single-family dwelling.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5402.

5490 JOSEPH COCI, ONE WATERVIEW DRIVE, COMM. CONSTRUCTION

Richard Schultz reported that this is the building on the corner of Constitution Boulevard. It does have multi-tenants. This is NBC Investment Properties, they will use 47,000 square feet and have 12 employees. There is sufficient on site parking. They do office research and development

On a motion made by Anthony Pogoda seconded by Daniel Oraziatti it was unanimously voted to approve Separate # 5490.

5244 STEVE KIMAN, 4 OAK VALLEY ROAD, HOME OFFICE

Richard Schultz reported that this needs to be tabled.

On a motion made by Anthony Pogoda seconded by Daniel Oraziatti it was unanimously voted to table Separate # 5244.

5450 ALAN VICARIOLI, 127 SAW MILL CITY ROAD, HOME OFFICE

Richard Schultz reported that this is for home improvement. He has one truck with no signs. He will use a 10 by 12 office area for a himself, the handyman.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5450.

5470 JENNIFER DISANTI, 17 OAK HILL LANE, HOME OFFICE

Richard Schultz reported that this is a home office for a speech therapist. She will provide after school speech therapy at the homes of the clients. She will visit the students at their home. That is a condition of the approval that no one comes to the home.

On a motion made by Anthony Pogoda seconded by Daniel Oraziotti it was unanimously voted to approve Separate # 5470 with conditions.

5481 REAL RESULTS RIGHT NOW, 14 SURREY DRIVE

Richard Schultz reported that this is a marketing consultant with will use 100 square feet for an office.

On a motion made by Anthony Pogoda seconded by Daniel Oraziotti it was unanimously voted to approve Separate # 5481.

5430 JOSEPH MARRONE, 185 CANAL STREET, TEMPORARY STRUCTURE

Richard Schultz reported that this is the Tilcon Asphalt Plant on Canal Street. Dan Beard is still the owner with a long-term lease. The City of Shelton has been working with them to remove structures on the site. They have removed portions of the building, generally metal add-ons, that were neglected. They have two storage spaces for materials that need shelter.

Richard Schultz read a letter explaining what they are proposing. That letter is part of the Planning & Zoning file on this application.

Chairman Cribbins asked for a time frame and an explanation of what the request is for?

Frank Lane, Director of Real Estate for Tilcon Conn., Inc. There is no specific time line. We are actively seeking another site. There is no site in mind and there is no time line. This will be constructed in a temporary manner and it could be moved.

The Commission can put a time line on it for approval and they can come back to the table once they get a handle on that time line, stated Chairman Cribbins.

Comm. Perillo asked what is the time frame on Birmingham? I have heard late 06 and mid 06, he added. The full operation will be late 06 stated Richard Schultz. I would assume there marketing then would take place in mid 06 and think that is a reasonable time, stated Comm. Perillo. I would say one year from approval and I will make that into the motion, he added.

I would make the point as long as the facility operates under permit that the enclosures are required, stated Frank Lane. They will be required to be in place as long as it operates even in the non-conforming site.

I hear you and understand you, stated Chairman Cribbins. All we are saying is that we want to review it in one year as a temporary structure. If in one year you need something more permanent as in the sand and salt structures for the state, he added.

On a motion made by Jason Perillo seconded by Leon Sylvester it was unanimously voted to approve Separate # 5430 for a one-year period.

5353 CONTI ASSOCIATES, 415 HOWE AVENUE, SIGN

Richard Schultz reported that this is for a wall sign. This is green with white background. This is the overlay zone that gives you more discretion. This was given to me in white and black and it is a very busy sign.

Mr. Chairman we tabled this at the last meeting because we thought the applicant had to do some additional work, stated Comm. Perillo.

What is it about the graphics that you oppose, questioned the applicant? In general the Commission has been getting away from phone numbers and advertising, stated Comm. Perillo. We are trying with signs for more of an identification then marketing. This is marketing. We are making head way downtown to include the look and this is not that headway, he added.

If you could look at the above and not the whole piece. Tell me exactly what you would like to have. This billboard has been up for as long as this facility has been in operation in downtown Shelton for 18 years, stated the applicant.

The Conti Family has been very close to mine for many years as well, stated Comm. Perillo. Back to the concept of marketing versus identification. I am at the left hand side of sign, lowest rates in the area, is marketing. Heated, is marketing, access, marketing, sized to meet your needs is marketing, sprinkler system is marketing, and that is not consistent with where we are headed, he added. 203-924-5840 is a phone number we are doing that. We really are trying desperately not to and those are things we (I) personally don't want to see on the signs.

You have to take into consideration and bring in business to downtown Shelton, stated the applicant. We are trying to respect the integrity of the old style building. We have invested heavily. The sign is down because we replaced all the windows on that side of the building. It looks fantastic, stated Comm. Perillo.

It cost a lot of money and now that sign is down we need to make the building viable by bringing in business. If we remove lower rates, sprinkler system, and heated, etc. it would be, we could do it stated the applicant. We have a telephone number, he added.

I don't want to pin myself to anything and I don't think the Commission does either, but if you work with Staff. I am sure they would give you good guidance, stated Comm. Perillo.

You are all here and if you could make a decision it would be greatly appreciated, stated the applicant.

I agree with Jason stated Comm. Pogoda. We are trying to get away from phone numbers. The self-storage even the warehouse denotes what the business is. The reputation is there and it has been there for years, he added.

What Comm. Pogoda is saying is take everything from the green point down off including the phone number, stated Chairman Cribbins. If you are looking for a consensus from the Commission, he added. I will go back to the powers that be, stated the applicant.

Then because there is no representation of just how the sign will look, I need a motion to table, stated Chairman Cribbins.

On a motion made by Jason Perillo seconded by Anthony Pogoda it was unanimously voted to table Application # 5353.

Comm. Sylvester questioned why he can't come back and do this through Staff? He will work with Staff, stated Chairman Cribbins. When we first rented space in our property there were real estate people who wanted signs in our windows, wouldn't that be more detrimental, asked the applicant? Yes, it would stated Chairman Cribbins.

#5448 SIGN-A-RAMA, 425 RIVER ROAD, SIGN

Richard Schultz stated this is the sign for the newly constructed Lia's Pizza. It is a ground sign that is 8 feet high. It is 5 feet wide by 4 feet and it is consistent. It is white and red and non-illuminated. There also is a box sign and that has a panel for the second occupancy. We will process this permit so the Commission will see that.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5448.

5471 AMERICAN SIGN, INC., SHELTON SQUARE SHOPPING CENTER, SIGN

Richard Schultz stated that this is the replacement panel for Shelton Square Shopping Center. They are replacing the panel. They have the website address on the sign. This is the first that we have seen in a retail setting. Wouldn't the email site be the same as the phone number, questioned Comm. Pogoda? I will approve that without the website stated Comm. Perillo. I agree with Jason, stated Comm. Pogoda and I will make that motion.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to approve Separate # 5471 without the website address.

5480 SIGNS UNLIMITED, 22 COMMERCE DRIVE, SIGN

Richard Schultz stated that this is the new location for Latex Foam. They are proposing a ground sign that is consistent and will have the Corporate Logo that is the same as the one for the River Road location. The proposal complies and Staff recommends approval.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5480.

5484, 5485, 5486, RICHARD RIZZO, 502 HOWE AVE., 506 SHELTON AVE., 375 BRIDGEPORT AVE., SIGNS (WEBSTER BANK LOCATIONS)

Richard Schultz stated all three of these applications are for Webster Bank. They are changing their logo and colors. There are pictures of all three locations and the proposals for the new signs. Howe Avenue they want two wall signs.

Richard Rizzo, 39 North Main Street, Wallingford, CT., representing Webster Bank on these applications, addressed the Commission. He goes through the application for Howe Avenue. What you see is the site plan.

Chairman Cribbins asked if all three are illuminated? The applicant is aware of the regulations, stated Richard Schultz. Webster Bank wanted to go ahead with this, he added.

I think it is a clean look, is it illuminated with floodlights, questioned Comm. Perillo? The regulations don't prohibit internally illuminated, questioned Comm. Sylvester?

Richard Schultz continues to pass around the pictures showing Huntington Center next. Everywhere we have a branch of Webster Bank that is what they are proposing asked Chairman Cribbins? Yes, answered Richard Rizzo.

Mr. Chairman I will make a motion to table this and direct Staff to work with the application.

There is a lot of discussion and conversations all going on at the same time with the applicant and members of Commission.

On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to table Applications # 5484, 5485 and 5486. To direct the applicant to work with Staff.

5503 CROWN POINT ASSOCIATES, LLC, 504 BRIDGEPORT AVENUE, SIGN AND 5504 MADISON'S RESTAURANT, 514 BRIDGEPORT AVENUE, SIGN

Richard Schultz stated that these are two last signs from Crown Point. One is for Madison's. Staff recommends approval stated Richard Schultz. The dimensions on the signs are 18 by 24.

On a motion made by Anthony Pogoda seconded by Daniel Oraziotti it was unanimously voted to approve Separates # 5503.

Comm. Perillo stated for purposes of discussion I see the mock up and the pictures but I have a problem because the signs are already up. I have a problem with that. I don't have a problem with the signs, it looks great. It seems like we deal with this stuff all the time. I have been here for a year and I can't even count the number of times that this has happened. The developer certainly know the regulations, they know the process, and they know how this works, he added.

You are 100% right and we will have Staff issue a letter to the applicant, the owner and the sign company saying they are on probation. The letter will say for a period of time that is acceptable to us, 6 months to a year, you put up another one you are taking it down. If we disagree with it we won't leave it up there, stated Chairman Cribbins. When you put up signs prematurely this will happen.

Comm. Sylvester stated I don't think it is one applicant. I think it happens a lot, starting before you get approval, putting up a sign before you get approval, there is a lot going on. I think what we need to do is give Rick the empowerment, Rick and Staff, tell them these are the regulations and if you don't follow them then we will ask you to undo what you have done, he added. If you empower the Staff.

End of Side 1B of 2B, Tape 1 of 2 at 8:32 P.M.

I feel comfortable giving Staff the right from this Board to say that to them and I will enforce the regulations of the Commission, stated Comm. Sylvester. I still want the letter written to the owner of the property saying that they violated the proves and if you do it again this is the process, stated Chairman Cribbins. Ask the Commission for a vote that endorses that because we want our director of Staff to take the initiative to carry out the wishes of this Board, stated Comm. Sylvester.

On a motion made by Patrick Lapera seconded by Anthony Pogoda it was unanimously voted to approve Separate # 5504.

5483 FLETCHER THOMPSON, 120 MEADOW STREET, RENOVATIONS AND ALTERATIONS TO SHS

Richard Schultz stated that these are the renovations to the High School that are permitted as of right. They are moving ahead there.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to approve Separate # 5483.

Mr. Chairman Attorney Thomas gave me the letter of withdrawal on Application 5244.

On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to accept the letter of withdrawal on Application # 5244.

**AVALON BAY COMMUNITIES, INC., SHELTON I
APPLICATION # 05-20, JOSEPH WILLIAMS ON BEHALF OF AVALON BAY COMMUNITIES,
INC. TO AMEND THE ZONING REGULATIONS BY ESTABLISHING A NEW DISTRICT
ENTITLED HOD (HOUSING OPPORTUNITY DISTRICT) AND RELATED STANDARDS
(PUBLIC HEARING CLOSED ON 7/21/2005) DISCUSSION ONLY AND
APPLICATION # 05-21, JOSEPH WILLIAMS ON BEHALF OF AVALON BAY COMMUNITIES,
INC. TO AMEND THE BUILDING ZONE MAP BY CHANGING FROM R-1 TO HOD,
ARMSTRONG ROAD/DAYBREAK LANE (MAP 19, LOTS 2, 3, 4, 5) (PUBLIC HEARING
CLOSED ON 7/21/2005) DISCUSSION ONLY AND
APPLICATION # 05-22, JOSEPH WILLIAMS ON BEHALF OF AVALON BAY
COMMUNITIES, INC. FOR SITE PLAN APPROVAL (302 APARTMENT UNITS),
ARMSTRONG ROAD/DAYBREAK LANE (MAP 19, LOTS 2, 3, 4, 5) (PUBLIC HEARING
CLOSED ON 7/21/2005) DISCUSSION ONLY**

Chairman Cribbins stated tonight we thought we would have some discussions on the two Avalon Bay applications. Richard Schultz stated I have prepared a Staff Overview on all of these applications. There is still some Staff reports that have to be submitted. Richard Schultz went over attached overview.

I know that all of us are working through the stacks of data we received on both hearings. I think both the applicant and public portion provided us with a lot of data to make our decision. One of the things, I asked Rick to put this on for discussion because I wanted to touch on the first application. The Housing Opportunity District, we as recently as the Long Hill property application that wanted us to describe another housing district for a project, the elderly housing, active adult. My opinion is that our regulations provide us with enough opportunity to handle the different types of housing we have in this Community, stated Chairman Cribbins. I don't see the need for the Housing Opportunity District, he added.

If you look at a time line for what we are thinking about on both applications, our next meeting is August 23 so that by August 23 I would like us to come together to provide the pros and cons for what we feel for this particular application. We can have some discussions and some deliberations. Rather we use one or use two depending on how quickly we can get through the discussions is to provide Staff with enough direction to draft a resolution, stated Chairman Cribbins.

These are so important I have had discussions with Corporation Counsel prior to going into Executive Session, I would like to enlist their help, even though I believe the process (inaudible). We have allowed the applicant and the public plenty of time to come through the process. I don't think there was any problem with the process and no one can say they did not have the proper opportunity to present their case, one way or another, stated Chairman Cribbins.

What I do want is something going forward so that our resolution is put into a package that contains all the relative information, that legally, in our decision, would hold up in Court. I not only want for us as we go through our deliberations, I want it to say after our vote was taking the package is comprehensive enough for our Corporation Counsel to believe that he would have his best opportunity to win the appeal.

Those are the two things that I wanted to talk about on both applications so the first thing I want us to consider tonight was in both cases they were asking for the establishment of new districts and I want to get some opinions of the Commissioners today because if we felt as though if we could come to some consensus on both of those items we can ask Tony to get together to draft a resolution saying these are the reasons why we don't need an additional zone to establish a new district to provide this new zoning standard, stated Chairman Cribbins.

Then I would like you to take both of these and bring them to Corporation Counsel. There has been some discussions with regard to the PDD and the court case in New Haven. We might be subjected to some criticism with regard to the PDD use.

As you know Mr. Chairman Affordable Housing Regulations don't have to follow any regulations. They have the right to choose the route they did. However, this Commission is in the position to make a decision. The bulk of the decision rests with the first application, if that should fail then obviously the next two are mute. The first application is to create the zone, the second application is to put that zone on the map, the third application is the site plan, stated Anthony Panico. It behooves us to go beyond the zoning technicalities to delft into some of the assets and liabilities of pursuing that course of action. So there is an opportunity for the application to overturn the technical zoning aspects, he is given the benefit of the conditions relative to the (inaudible). You can't say that you don't necessarily need another district, he added.

I thought I was going to take the easy way out, stated Chairman Cribbins. If this was not affordable housing I wouldn't have a problem taking that way, we all know though regardless of what the Commission's decision is it is unlikely that this proposal will stop Avalon either through the Courts or another way. If there was a follow up application we need things on the table to proceed with, stated Anthony Panico. It will be more than just a quick disposition.

I have a question for Diana, I have not seen some of the minutes yet, stated Chairman Cribbins. All of them are there, you are not waiting for anything, answered Diana Barry. So they are upstairs, questioned Chairman Cribbins? They should be, answered Diana Barry. They have all been handed in, she added. I don't know where Rick is but maybe by the end of the night we can get those. They are on-line as well, stated Diana Barry. If Rudy gets them he does post them right away and I did check the website over the weekend and you should have anything that is posted, she added. If you want a hard copy they should be upstairs and when we come back next week, we can go through them, stated Chairman Cribbins.

There was a lot of testimony with regard to environmental issues more so than some of the others and the others bordered on emotional feelings, stated Anthony Panico. One of the technical issues is the affordable housing and if they have the basis for it. My personal opinion is that there is not enough environmental issues. We don't have enough information. We need to identify those areas of additional investigation that should be filed and brought before if this project goes any further, he added.

Should this Commission, I don't think this Commission is comfortable in creating another zone. That doesn't prevent Avalon Bay from refiling this proposal because it is Affordable Housing and washing aside the zoning issues. We will at that point of time weigh the facts on that particular proposal on that particular site with regard to the environmental restraints, stated Anthony Panico. I am referring solely to the Armstrong road site, he added.

Chairman Cribbins stated that there is concerns with brook running through the center of the property and there are environmental concerns on the property.

I didn't know what the Chairman was talking about, where he started and I got confused, but he is talking about the Armstrong Road site, questioned Comm. Sylvester? Yes, answered Chairman Cribbins.

There is significant difference between both applications. Because one is Affordable and one is not, stated Anthony Panico. The Commission has more discretion on the market rate housing and zoning aspects without going any further. The first one though you don't have that luxury. We need to build our case very strongly, he added.

However the specter of Affordable Housing does exist for the Bridgeport Avenue site, as well, questioned Comm. Perillo? The Chairman's point is well taken because there is value in getting, he added. No it doesn't exist to that degree on Bridgeport Avenue, stated Anthony Panico. The underlying zone is an industrial zone or economical zone so that there are restrictions that are placed on the ability to implement an affordable housing proposal in that zone. That protection doesn't exist in this (inaudible).

Chairman Cribbins stated we will do our homework over the weekend. Getting our packages together, he added.

So, Mr. Chairman you don't want to entertain comment on the technologies on the projects until next week, asked Comm. Perillo? You can if you want what I was trying to do tonight was get to how we would handle this, the process working through this and what I was thinking of what we can tell Rick and Tony what our major concerns are, stated Chairman Cribbins.

A lot of people don't believe us when you talk about issues with traffic, etc. and there were a lot of professional people speaking to us, like Barkan and Mess & Fuss & O'Neill, they are professionals. They do have their professional reputations to regard when they are speaking to us. The traffic studies, the one done by Avalon and the one done by the City and they are not far off from each other. In some cases the study that was done the applicant is harder on the project than the one done by the City, stated Comm. Perillo.

What it does say is when we consider these things, for the public, stated Chairman Cribbins, we want you to understand that not in all cases are the professional opinions in a report that we get are far off. We will take these two weeks and start the discussion. I thought we would get a head start on thinking about the districts. In my personal opinion I don't think we need another establishment of another district, he added.

AVALON BAY COMMUNITIES, INC. SHELTON II
APPLICATION # 05-17, JOSEPH WILLIAMS ON BEHALF OF AVALON BAY
COMMUNITIES, INC. TO AMEND THE ZONING REGULATIONS BY ESTABLISHING A NEW
DISTRICT ENTITLED MFHD (MULTI-FAMILY HOUSING DISTRICT) AND RELATED
STANDARDS (PUBLIC HEARING CLOSED ON 7/26/2005) DISCUSSION ONLY AND
APPLICATION # 05-18, JOSEPH WILLIAMS ON BEHALF OF AVALON BAY COMMUNITIES,
INC. TO AMEND THE BUILDING ZONE MAP BY CHANGING FROM R-1/OPD TO MFHD,
BRIDGEPORT AVENUE/HUNTINGTON STREET (MAP 8, LOT 8) (PUBLIC HEARING
CLOSED ON 7/26/2005) DISCUSSION ONLY

The overview on this project was attached previously.

Comm. Oraziotti questions the zones? Industrial zones don't allow residential development, stated Richard Schultz. There are restrictions in the industrial zones but ours don't stated Anthony Panico. Both don't allow residential development, he added. In your opinion that parcel does overlap the existing residential doesn't it, questioned Comm. Perillo? A portion of the site is Residential R1 Zone but the majority is in the OPD District. It is a stretch along Huntington Street.

Questions came up at the hearing with regard to the wetlands record being able to be part of the record? You have all those attachments, he added.

APPLICATION # 05-37, LINDA REZNIK FOR SUBDIVISION APPROVAL (2 LOTS: REZNIK ESTATES) 13 BONA VISTA TETTACE, R-1 DISTRICT – DISCUSSION AND ACTION

Richard Schultz stated Toll Brothers will provide soul access. He read the City Engineer's letter, his Staff report and a prepared draft motion.

It is very difficult to understand most of the conversations.

Chairman Cribbins we can take an action tonight with the understanding that pedestrian access way will be (inaudible).

James Swift, Professional Landscape Architect, addressed the Commission . This parcel is undeveloped and then there is the Warner property and another property. This is open to discussion with regard to this part of the property that won't be actively used. They want to keep people off their yard.

There were 2 septic systems over here and access over here. We worked the sewers on both lots.

James Swift stated that this is all rock out cropping and they are willing to discuss a trail.

Toll Brothers as they were building is going to start excavation next week. Our site is ledge and our concern is that we blast back so that they don't have a foundation when we blast, stated James Swift.

Anthony Panico asked what about access? I suggested to them they transfer this property back to the senior Rezniks, stated James Swift. If we are able to work our Open Space Corridor through here it might be nice to have it all so that you can get to it, stated Anthony Panico. There is, this is not eminent and there is no hurry, stated James Swift. They do have to file the maps, he added.

There is a fence here and a wall here, stated James Swift. We went through great lengths to preserve this, stated Anthony Panico.

End of Side 2A of 2B, Tape 2 of 2 at 9:16 P.M.

This doesn't function as a trail, stated Anthony Panico.

Chairman Cribbins stated lets have Staff work with them. It might take three separate applications, he added. My intent is that they go back to the City for acquisition of those two lots. We can always reshuffle things and recover them somewhere else. There is one lot on the other side of the overhang. There is one that goes beyond that, stated Anthony Panico. I used the power lines as the setback, stated James Swift.

Richard Schultz then read his draft motion.

On a motion made by Patrick Lopera seconded by Anthony Pogoda it was unanimously voted to approve Application # 05-37.

Comm. Pogoda questioned that the City still has to do something with that? There is an or that if they want they can give an utility easement and create one, stated Anthony Panico. I would like to request an expiration date on the easement because it is questionable if the Commission has the authority to request that since we are exempt from the Open Space, stated James Swift. Since you are making this a requirement I would like a date so that if the easement is not consummated it will expire, he added.

Comm. Lopera asked to amend his motion in concert with Rick and the Conservation Commission he wanted to be sure the walls would be maintained to Conservations satisfaction. Conservation did prepare a letter and the lesson here is to look at the whole piece.

Comm. Sylvester stated I am unsure of what and where we are? There are some technical issues with the pent way and an easement. There is a concern with providing a pedestrian corridor down to the Old reconstructive Wabuda Place, stated Anthony Panico. Comm. Sylvester stated there was discussion on gaining access from one parcel to another. If we are unsuccessful getting passage through the power lines they would consider acquisition of that lot. If that doesn't happen with the help of Toll Brothers we will just adjust some property lines. This won't effect size at all, stated Anthony Panico.

A roll call vote followed with all Commissioners, Comm. Oraziotti, Comm. Sylvester, Comm. Pogoda, Comm. Perillo, Comm. Lopera and Chairman Cribbins voting I for approval on Application # 05-37

APPLICATION # 05-39 DEKZON, INC., FOR DETAIL DEVELOPMENT PLAN APPROVAL AND PDD ADOPTION (IVY BROOK PROFESSIONAL PARK, PHASE I) 1 IVY BROOK ROAD (MAP 79, LOT 1) – ACCEPT FOR REVIEW

On a motion made by Anthony Pogoda seconded by Jason Perillo it was voted to accept for review Application # 05-39. Comm. Lopera abstained from the vote.

**APPLICATION # 05-40, HUNTINGTON WOOD, LLC FOR MINOR MODIFICATION OF
DETAIL DEVELOPMENT PLANS FOR PDD # 52A (THE CENTER AT SPLIT ROCK, PHASE I)
700 BRIDGEPORT AVENUE (MAP 29, LOT 24) – ACCEPT FOR REVIEW**

**On a motion made by Jason Perillo seconded by Anthony Pogoda it was voted to accept for review
Application # 05-40.**

**APPLICATION # 05-41, PHOENIX HOUSING OF SHELTON, LLC FOR DETAIL
DEVELOPMENT PLAN APPROVAL AND PDD ADOPTION (4 UNIT MULTI-FAMILY
DEVELOPMENT) AND CAM SITE PLAN, MURPHY'S LANE (MAP 31, LOT 76) - ACCEPT
FOR REVIEW**

**On a motion made by Jason Perillo seconded by Patrick Lapera it was unanimously voted to accept
for review Application # 05-41.**

**APPLICATION # 05-42, DOMINICK THOMAS ON BEHALF OF OTTAVIO
DISANTO/DISANTO TECHNOLOGY FOR RE-SUBDIVISION APPROVAL (2 LOTS) 10-20
CONSTITUTION BOULEVARD SOUTH (MAP 53, LOT 51) AND CAM SITE PLAN – ACCEPT
AND SCHEDULE PUBLIC HEARING AND**

**APPLICATION # 05-43, DOMINICK THOMAS ON BEHALF OF OTTAVIO
DISANTO/DISANTO TECHNOLOGY FOR MODIFICATION OF DETAILED DEVELOPMENT
PLANS FOR PDD # 29 (LIGHT MANUFACTURING FACILITY) 10-20 CONSTITUTION
BOULEVARD SOUTH (MAP 53, LOT 51) AND CAM SITE PLAN – ACCEPT AND SCHEDULE
PUBLIC HEARING**

**On a motion made by Leon Sylvester seconded by Jason Perillo it was unanimously voted to accept
Applications # 05-42 and 05-43 and schedule the Public Hearing for September 27, 2005.**

**APPLICATION # 05-44, DOMINICK THOMAS ON BEHALF OF C & D CART ENTERPRISES
FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR – MOTOR VEHICLE
SERVICE FACILITY) RIVER ROAD (MAP 66, LOTS 1 AND 2) CA-2 DISTRICT – ACCEPT
AND SCHEDULE PUBLIC HEARING**

**On a motion made by Anthony Pogoda seconded by Patrick Lapera it was unanimously voted to
accept Application # 05-44 and schedule the Public Hearing for September 27, 2005.**

**APPLICATION # 05-45, JAMES P BOTTI, SR. FOR DETAILED DEVELOPMENT PLAN
APPROVAL AND PDD ADOPTION (MIX USE DEVELOPMENT) BRIDGEPORT AVENUE
(MAP 77, LOT 18) – ACCEPT FOR REVIEW**

**On a motion made by Anthony Pogoda seconded by Patrick Lapera it was voted to accept for review
Application # 05-45. Comm. Sylvester abstained from the vote.**

**APPROVAL OF MINUTES: 4/12/05, 4/25/05, 5/3/05, 5/10/05, 5/31/05, 6/15/05, 6/21/05, 6/25/05 and
6/28/05**

Chairman Cribbins asked that the Commission have time to review these and we will take care of this at our next meeting.

**8-24 REFERRAL: EXTENSION OF PUBLIC WATER FOR PORTION OF BUDDINGTON
ROAD**

Richard Schultz stated that this for homes between 145 and 298 Buddington Road. The Board of Aldermen received petitions from the residents. The City Engineer endorses the proposals for the remaining homes not served by water now. This goes up to Grace Lane. The water came to Heritage Pointe and approximately 36 homes will benefit from this, he added.

**On a motion made by Anthony Pogoda seconded by Jason Perillo it was unanimously voted to report
favorably on the 8-24 Referral: Extension of Public Water for a portion of Buddington Road.**

**WOODS AT LAKE ROAD, PHASE I: REQUEST TO ELIMINATE SIDEWALK (CONDITION
OF APPROVAL)**

Richard Schultz stated that we have a letter from Ken Schaible, Jr. requesting elimination of the sidewalks. The Commission required the construction of sidewalks within this development. The applicant didn't want to make an issue of this at the time of approval. Phase 2 the sidewalks were not required with the 6 lots. Chairman Cribbins stated what development you had? Anthony Panico stated there is a turn and open space behind it. What I am thinking about is, when you get walking across the street, can you get to the Intermediate School and then to the High School? I don't think there is sidewalks from Constitution, stated Comm. Sylvester. The sidewalk comes from the back portion to the high school. It is on the right and there is sidewalks going nowhere up at the top, he added. That is one of the problems that the sidewalks don't connect to Huntington Center. The void is going up downtown Shelton to the High School. We have sidewalks from Route 108 to the High School and we have sidewalks on Meadow Street.

Then they end and there are no other sidewalks. It is like sidewalks to nowhere. That is one area where there are sidewalks and you can walk to the High School, which is a center of entertainment. It does lead to something. The High School is the center of a great deal of activity in the Community. Going the other way, that was what I was thinking, stated Chairman Cribbins. Someone would have to install from Route 108 along Constitution and that is a beautiful area to have sidewalks, stated Comm. Sylvester. I envy the people on Long Hill Avenue. There is so much activity on those sidewalks, he added. If you extended out to Constitution Boulevard that would carry a lot of activity, stated Anthony Panico.

There was no action taken.

ZONING ENFORCEMENT: 1 HILLSIDE AVENUE

Richard Schultz reported that this is junkyard conditions. They have failed to remove contractor's equipment. This is on the Coram Avenue side.

On a motion made by Leon Sylvester seconded by Jason Perillo it was unanimously voted to initiate legal action on 1 Hillside Avenue.

PAYMENT OF BILLS

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

STAFF REPORT:

All the Commissioners received a copy, stated Richard Schultz.

Chairman Cribbins stated I need a motion for the stipulations that Attorney Thomas Welch read to us during the Executive Session.

On a motion made by Anthony Pogoda seconded by Leon Sylvester it was unanimously voted to accept the stipulations of July 26, 2005 regarding the John Ortiz matter.

On a motion made by Leon Sylvester seconded by Patrick Lopera it was unanimously voted to adjourn at 9:45 P.M.

Respectfully submitted by,

Diana Barry
Clerk