

The Shelton Planning & Zoning Commission held a Special Meeting on March 28, 2006 at 6:30 P.M. in Shelton City Hall, Room 303 and Room 104, 54 Hill St., Shelton, CT.

Members present: Chairman Alan Cribbins
Comm. Virginia Harger
Comm. Jason Perillo
(sitting in for Comm. Papale)
Comm. Leon Sylvester
Comm. Karen Tomko-McGovern
(sitting in for Comm. Oraziatti)

Staff present: Anthony Panico, Planning Consultant
Richard Schultz, Planning Administrator
Pat Garguillo (Court Stenographer)
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 City website.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to go into Executive Session and invite Assistant Corporation Raymond Sous to participate.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to come out of Executive Session. There were no votes taken while in Executive Session.

APPLICATION # 06-14, DOMINICK THOMAS ON BEHALF OF CROWN POINT REAL ESTATES, INVESTERS, LLC FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: TWO RESTAURANTS AND ONE BANK DEVELOPMENT) 828 BRIDGEPORT AVENUE (MAP 18, LOT 19) IA-2 DISTRICT – REQUEST TO RESCHEDULE PUBLIC HEARING

Chairman Cribbins read a letter requesting to reschedule the Public Hearing on Application # 06-14 until April 25, 2006.

On a motion made by Jason Perillo seconded by Leon Sylvester it was unanimously voted to accept the letter requesting the Public Hearing on Application # 06-14 until April 25, 2006.

APPLICATION # 06-20, ONE MT. VIEW ASSOCIATES, LLC FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: LIGHT INDUSTRIAL BUILDING), ONE MT. VIEW DRIVE (MAP 65, LOT 12) LIP DISTRICT

Comm. Perillo read the call of the hearing. There were two additional pieces of correspondence, one from the Fire Marshall and one from City Engineer.

Jim Rotondo, Rotondo Engineering, LLC, 20 Brook St., representing One Mt. View Assocs., addressed the Commission. He presented the receipts of mailing.

Jim Rotondo stated that this might like familiar to you because it has been the subject of a temporary Special Exception for earth removal that was granted back in December. This is about 3.1 acres and is located in the LIP zone. It also has an SDA designation on it.

The property is bound on the North by Ivy Brook Professional block, to the West is a large wooded area and Mica Corp. To the South is Mountain View and California Closets. To the East is Ivy Brook Road and land of the City of Shelton.

The applicant is proposing a light assembly and office use for this building. The building is approximately 35,560 square feet. It consists of an upper level and lower level that will be accessed from the front.

The site will be accessed from Mountain View Drive and we are proposing two driveways, stated Jim Rotondo. The first driveway is along the westerly property line and will enter the rear part of site in the parking area. They will access parking in here and the loading zone.

The easterly driveway located on Mountain View Drive will access the lower portion or the office portion of the building. There are driveways circling the building and the parking area provides circulation around the site.

Based on the proposed use we calculated that we require 74 spaces based on the 3.5 spaces per 1,000 square feet for the office component and 1 space per 1.5 employees for the light assembly/warehousing area and the upper level, stated Jim Rotondo. Based on the site plan we are providing 84 spaces, he added.

There is existing water at Ivy Brook Road and Mountain View Drive along with sanitary sewers. We will provide services from Mountain View Drive. There are also storm drainage facilities within both of those roads. There is also an erosion and sediment plan in place.

Chairman Cribbins asked if there was any information on the external materials? Jim Rotondo answered I have the preliminary elevations. At this time the architect is looking at a masonry block material. I am not familiar with what he is proposing or the colors he is looking at, he added.

Chairman Cribbins asked if there were any questions from any Commissioners? Hearing none he asked if there was anyone in the Public wishing to speak for or against this application.

Lisa (inaudible). She lives in the 4 Winds Development and her main concern is the two proposed driveways. I have an issue with the traffic going up and down that hill. There is no stop sign at the bottom of Ivy Brook at this time.

Jim Rotondo stated that we are working with a Traffic Engineer. The use proposed right now is light assembly so we don't see a lot of truck traffic coming in and out. The tenant that the applicant is talking with will be more of a warehouse for storage of his product. We don't know what his schedule will be and this is something that the Commission can regulate. The traffic with what is being proposed here won't be a lot of traffic coming and going to the site.

Comm. Harger questioned the Fed-Ex trucks coming? There was someone in Shelton that the Fed-Ex trucks would all gather in that parking lot to swap material.

Anthony Panico stated that the back wall is devoted to the trucking activity. We are showing 5 loading docks and they won't all be installed at the same time, stated Jim Rotondo.

Comm. Perillo stated I am concerned with the steep hill and the site line concerns. We are probably in the 7-8 grade range, stated Jim Rotondo. It is not overly steep. The survey shows a stop sign and there is a stop coming out of Mountain View Drive. There is a site line issue going up Mountain View Drive, he added.

Anthony Panico stated you have the tail connected to the adjacent property. They have the right to pass but will be interconnected, he questioned? No, stated Jim Rotondo. There is a viable access way with the driveway utility easement onto the Ivy Brook Professional property. There is no proposal to connect them but it could be connected in the future. If that was ever made it was my understanding that the Ivy Brook owner would have to come back, he added.

On a motion made by Jason Perillo seconded by Leon Sylvester it was unanimously voted to close the Public Hearing on Application # 06-20.

APPLICATION # 06-21 R.D. SCINTO, INC. FOR SPECIAL EXCEPTION APPROVAL (PARKING EXPANSION) 5 RESEARCH DRIVE (MAP 27, LOT 2) LIP DISTRICT

Comm. Perillo read the call of the hearing. There were two additional pieces of correspondence, one from the City Engineer and one from the Fire Marshall.

Robert D. Scinto, addressed the Commission. This building will have a call center going into it, stated Mr. Scinto. They have high requirements for parking. They are requiring 6 spaces per 1,000. So the first floor is roughly 60,000 square feet giving you 360 spaces. Wachovia will be a tenant on the second floor that we are allowing 4 cars per 1,000. That is another 80 bringing you up to the 440 that the tenants require for this piece. We are at 454, which is over what is asked for by the tenants, he added.

It is exciting that this will be a call center because there will be 360 jobs in this region, which is a plus.

The parking is in the front of the building and we are expanding adhering to the Fire Marshall's 26 here, stated Mr. Scinto. We will redo the parking back here.

There is a scenic buffer here, along here, which is a 100 foot buffer that we will not go into. We will maintain that. Phil Tiso will hand in the legal stuff for you and speak to you about the retention for the storm water, stated Mr. Scinto.

Philip Tiso, Rose Tiso & Co, 418 Meadow St., Fairfield, addressed the Commission.

We are adding a strip of pavement to the front of the building. There will be a ground flotation system here. We will add a small pavement area here so that we can refigure the parking here, stated Phil Tiso.

From an engineering stand point this is straight forward. There is a retaining wall here and we will add a second wall similar to what is there but not as high. There is a guard rail that is required in this area. We have a generator area with utility structure in this area.

Comm. Perillo questioned the amount of the additional square footage of asphalt toward Huntington Street? Phil Tiso answered 2800 square foot. That is not encroaching into the buffer area at all, questioned Comm. Perillo? No, answered Phil Tiso.

Joe Welch from the Shelton Land Conservation Trust, addressed the Commission.

The Land Trust owns about 20 acres along the Far Mill River that comes along this way. Drainage has always been issue. We have has some severe erosion problems. I saw this and came to check the bigger parking area out. It is definitely what the Land Trust wants to see. How much will this add to the net flow to the river in that area? It won't increase the peak stated Phil Tiso.

On a motion made Jason Perillo seconded by Leon Sylvester it was unanimously voted to close the Public Hearing on Application # 06-21.

OLD BUSINESS:

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

1732

Richard Schultz stated that this is for Walmart, for their temporary display and sales of home garden goods. The Commission directed Staff to contact Corporate Walmart. The facility is currently without a Manager that is why my letter of last year did not go anywhere. Corporate has assured me that they will be submitting an application to deal with the dumpster enclosure that needs to be expanded to accommodate the cardboard, the waste and some sort of enclosure for the metal storage container.

This has been an ongoing situation and the Commission wanted this table until we received some sort of assurance from Corporate Headquarters. We have received that and we can now give them authorization for their temporary display, stated Richard Schultz.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to approve the Application for Certificate of Zoning Compliance, # 1732.

APPLICATION # 05-65, PERRY PETTAS FOR BASIC DEVELOPMENT PLAN APPROVAL (MIX USE DEVELOPMENT) 356 AND 366-368 HOWE AVENUE (MAP 117B, LOTS 60 AND 61) (PUBLIC HEARING CLOSED ON 1/10/06) – DISCUSSION AND POSSIBLE ACTION

Richard Schultz stated at the last meeting there was a lot of discussion with regard to this proposal. These are the basic development plans and the Commission was discussing all aspects of this including the two buildings being proposed. There is a question as to rather or not they should modify the roof, if it is safe stated Chairman Cribbins.

This is the existing building and the Salemme building. The initial proposal was to remove the single family replacing it with a three story building with commercial on the first floor and apartments on the second and third, stated Richard Schultz. He was asked to incorporate the second building as well as the garage in the back while he is doing this.

The concern then becomes this little alleyway between the house and the building. There are two exhaust fans that discharge here. That is not desirable and doesn't go along with the enhancements, stated Anthony Panico.

There is a slight grade on Howe Avenue and this looks like this is above grade. They need to drop this level. There is a portion of the stairwell that over hangs on the sidewalk. This needs to be pushed back.

I think that is something that you look at but to me I see the point of concern with the second buildings. I took a bunch of pictures that are different with brick structures next to houses in Cambridge, Mass that are still on my desk. This is just what we need downtown, stated Comm. Perillo. It is an excellent structure next to an existing house. It is moving in the right direction. It has excellent character and we should direct the applicant to work with Staff. It is a great project and a nice plan. This is the direction we should be moving in my opinion, he added.

Comm. Sylvester stated I agree and I have not discussed this with Jason but I am taken back by the strength of his comments. It is an important part of what we are trying to do. To have someone to invest dollars to improve the situation is commendable. My comments last time were not meant to be negative and I don't feel negative, at all. I feel as strong as Jason does. I am one who sits there all time talking about downtown. This project should go forward and I don't know how to do it. Work with the project owner leading them into the right direction so they can be proud of their investment and the mix use blending in. The comments that Jason made about the character of the building are true. I am a customer of the Donut Shop and that is so confined. It is a low ceiling and you wonder why save this so they need to make it work. I hope that this thing will go forward in such a way that it will impact the downtown with the positive improvements, stated Comm. Sylvester. It is not about rather it will work or not, it is about coming to a resolution where we can see something that will be a positive.

Chairman Cribbins stated the issue I have is how to incorporate the Donut Shop. That is the issue stated Comm. Sylvester. This is downtown Shelton and it is an old building.

The Commissions policy is to have one space per dwelling unit on the property and the Commission wants 1.5. They are consistent with that policy, stated Richard Schultz. There is outside parking and the Commission was glad to see. That is a plus.

Anthony Panico questioned that extra building in the back? They want to incorporate that as a garage? It is not being used as a garage, questioned Anthony Panico? No it is an office, answered Richard Schultz.

Anthony Panico stated there was concern for the wall in the back with regard to the grade. They want the wall to remain.

Chairman Cribbins stated I do have a problem with the building in the back having a business there. The applicant wants to retain the tenant stated Anthony Panico. That business is low key, stated Richard Schultz.

Anthony Panico stated that we are concern with developing a proper relationship between the buildings. The building looks like a house and we want it to be a true and honest site. If it has to be brick then so be it, he added.

End of Side 1A of 2A, tape 1 of 2 at 8:40 P.M.

Chairman Cribbins stated that Staff will prepare a draft motion for our next meeting.

APPLICATION # 05-66 DOMINICK THOMAS FOR SITE PLAN APPROVAL (RETAIL COMMERCIAL CENTER) RIVER ROAD (MAP 66, LOT 1) CA-2 DISTRICT – DISCUSSION AND POSSIBLE ACTION

Richard Schultz stated that the applicant will bring you up to speed on this one because there have been some changes.

Attorney Dominick Thomas, of Cohen & Thomas, 315 Main St., Derby, representing the applicant, addressed the Commission. This is a site plan application with a permitted use within the CA-2 zone. This is at the corner of River Road and Petremont Lane. It is adjacent to the previously approved limited repair auto center.

This started out as a single story retail building and as a result of Staff sessions we have made modification. This is a smaller footprint with a two-story building. Suggestions were made by Staff to take a look at the project in Oxford called Oxford Depot. That was done and those have been incorporated into these plans.

This property is narrow and the zone is there, stated Attorney Thomas. It is 150-200 feet in from River Road. Behind that there is a residential zone. Although the closest house is a substantial distance away. The topography up to Coram Road is very steep.

There is a required setback of 40-feet and the regulation requires that there be no parking or loading within that 40 feet. On the adjacent property that holds true because the cars will only be traveling into the bays. In this case the parking can be slid up adjacent to the parking pushing the building forward. Having no parking has no impact on the residential area, stated Attorney Thomas.

There are two ways to approach this, one was to change your zoning regulations, to say that the buffer requirement is not needed and could be eliminated. Staff has suggested that we could have approached this through a variance so that the building would not be pushed to the front. We have the variance application and will be on the April meeting. We will work with Staff and we are confident that the action can be taken once the variance is granted.

Joseph Pereira, a Professional Engineering, LLC, P.O. Box 1832, Huntington, CT, addressed the Commission. I will walk you through the site. There was an issue brought up earlier with Rick with regard to a culvert that I will take some time to explain.

The site is about ¾'s of an acre. There is a project currently under construction adjacent to this that they are removing rock in the back.

We want to continue in the same way by removing some rock. The rock will be used in a retaining wall that will be 8 feet on the West side and 21 feet on the East side, stated Joseph Pereira. That will create a nice buffer.

The site itself will share the curb cut that already exists on the River Road. We will have another curb cut on Petremont Lane. We will widen Petremont near the entrance to our driveway. That will minimize the one cut. There will be landscaping around the perimeter of the property.

As you are driving down River Road there will be an elevation change of about 10 feet so that the parking will be higher, stated Joseph Periera. The shrubs along the property will create a nice buffer so that you won't see any cars head on. It will separate the site from the commercial traffic along the road.

Anthony Panico asked how will that effect the site line coming out of Petremont Lane? Actually it won't impact it at all because our grade starts back there, stated Joseph Periera. We will grade up to the parking lot along with a catch basin here to tie into the system that exists at River Road. The site will be serviced by a septic system. We have gas and water as well.

We will have a silk fence along the property during construction. We modeled the building after Oxford Depot.

How big is the building, questioned Chairman Cribbins? It is 7,000 square feet with the upper floor at 2,900 square feet. That will be office space, so you might get one tenant maybe two, stated Joseph Periera. .

Attorney Thomas asked that the Engineer explain where the slope will be? Joseph Periera stated we will have a rock cut in the back that will be approximately between 8-21 feet. Behind the building, there will be a wall in the back. There will be an elevation in the back. We will be behind the eye level of the building off Petremont.

This is our site and there are parcels in the back. This closest home is up here on Coram Road. This property has no homes, this is the property that has many rumors involved. This is across the street and has no existing building. This property is the Two Sisters as I refer to it, stated Attorney Thomas. This is property of someone in New York. As you see the topography that has a natural buffer.

There is a culvert that is north of our property along Petremont Lane. That has drainage from the undeveloped property releasing into a pipe under Petremont Lane discharging on the property across the street. There is a catch basin on the City property.

Petremont Lane going up is a narrow street, stated Comm. Harger. We are widening here, stated Joseph Periera. We have discussed Petremont Lane in the past and making it a one-way street. It become prevalent when Sure Source was being developed stated Attorney Thomas. We requested Sure Source to ask for that to be made one-way, he added. I use that street all the time, stated Comm. Sylvester. It is narrow and I am glad that it will be widened to accommodate the turn, he added.

Richard Schultz read a letter from the City Engineer pointing out the proposal to widen Petremont Lane. This is not acceptable to him. We need to take this up at the Staff level, he added.

Marcos Reinheimer, Primrose Companies, Inc., 1425 Nobel Avenue, Bridgeport, Ct., addressed the Commission. There will be brick veneer on the front of the building. The building is about 4,200 square feet on the first floor and about 900 square feet for offices on the second floor. There will be an entrance on Petremont Lane and we put more windows on that side. There will be stairs here to reach the second floor. The signs will be along the front. The materials will be brick with red accent, stated Marcos Reinheimer.

I haven't seen the Engineer's letter yet, so we will address that later, stated Attorney Thomas.

Chairman Cribbins stated my concern is still with the road, Petremont Lane, if it can't be widened then it really should go to a one-way road. Joseph Periera stated we wanted it widened on our side. If it goes one way we can make this a turning lane, he added.

What we have to consider is the land use plan and what is in the back. We have little areas like that residential area in the back around town, stated Chairman Cribbins. Rick you have direction and we can work toward a resolution, he added.

APPLICATION # 06-08, RALPH AND ELAINE MATTO FOR RESUBDIVISION APPROVAL (TRANSFER OF TITLE OF RIGHT OF WAY) PORTION OF AUDOBON LANE, CORUM HILL DEVELOPMENT, SECTION SEVEN (PUBLIC HEARING CLOSED ON 2/28/2006) – DISCUSSION AND POSSIBLE ACTION

Richard Schultz stated that everyone should have a copy of the map with the property is highlighted in purple. This required a resubdivision. This road though unimproved is part of the road system. The request to modify then becomes a resubdivision. A Public Hearing was necessary and Mr. Matto indicated to you his desire to access his building lot. The lot is large enough to accommodate additional building lots. His desire is to leave the cul-de-sac as is with a common driveway to go to the balance of his property. What you need to decide is if you will go with the direction of the City Engineer or to allow this variation. Our subdivision regulations allow more homes on a permanent dead end so that the quantity is not an issue, stated Richard Schultz. He then proceeds to read the City Engineer's report.

The City Engineer strongly recommends denying this application. The transaction would need approval from the Board of Aldermen because it is an abandonment, stated the City Engineer's letter.

Chairman Cribbins stated that this is for action that would allow the access of this additional property from his driveway.

The other option is to take the cul-de-sac the way it exists today and bring the road out to get easements for those lots, stated Chairman Cribbins.

No matter what approach you take it would be mapped as a permanent dead end, stated Anthony Panico.

The City Engineer is recommending abandoning the temporary, stated Richard Schultz. The residents want to keep it status quo, he added. The neighbors want a dead end, stated Chairman Cribbins.

This will not be a cul-de-sac, questioned Comm. Sylvester? This is the first step that you need to agree to then it goes to the Board of Aldermen stated Richard Schultz. Is there value doing that, questioned Comm. Perillo? The City Engineer always recommends that, stated Richard Schultz.

He wants the road extended or should you leave it as is, stated Richard Schultz. It still ends up as a cul-de-sac, stated Chairman Cribbins.

There is a map that shows the right of way and the Aldermen have to take action, stated Richard Schultz.

Comm. Perillo stated I would like to keep this. Comm. Sylvester questioned what is before us, what are choices? This purple shaded area is part of the right of way that goes up to his property, stated Chairman Cribbins. It is part of the road system for the City of Shelton, so it has to go to the Board of Aldermen, stated Richard Schultz.

You heard the residents, they want to keep it as it is, stated Richard Schultz.

Mr. Matto wanted to speak and Chairman Cribbins explained he could speak to the Staff only at this time.

Comm. Perillo stated we know that there will be houses built. I heard the people who were here say they want a dead end, a permanent dead end, stated Chairman Cribbins. That is why I asked Richard to go check. I would say we need to table this and we need to be sure. If we are going against the City Engineer's recommendation we need to be sure, he added.

The property will be developed, stated Comm. Sylvester. It will be developed and it is capable of supporting 5-6 lots, stated Anthony Panico.

On a motion made by Virginia Harger seconded by Leon Sylvester it was unanimously voted to table Application # 06-08.

APPLICATION # 06-15 JAMES OSSO FOR SITE PLAN APPROVAL (BUILDING ADDITION), 511 RIVER ROAD (MAP 54, LOT 4) CB-2 DISTRICT – DISCUSSION AND POSSIBLE ACTION

We are across the street now, stated both Richard Schultz and Chairman Cribbins. The Fire Marshall approves this application. This application has been revised several times and the City Engineers letter is concerned with deficiencies. He endorses this plan with conditions.

End of Side 1B of 2A, tape 1 of 2 at 9:25 P.M.

Richard Schultz read his Staff Report. There are sewers here and they have made an application to Valley Health. The application was also referred to other City departments. They have received a variance. Wetlands Coordinator states that there are no regulated activities with this site. There is sufficient on site parking, read Richard Schultz, along with his recommendations.

We did a get a favorable recommendation from the City Engineer with regard to the drainage issues.

Chairman Cribbins questioned if there is room for additional parking? Chairman Cribbins stated if this should ever sell he would not want parking on River Road or Petremont Lane.

James Osso, addressed the Commission. The building is a steel framed pre-engineered structure that has insulated sidewalls. It is beige in color. The front portion that is existing already is cement block, dull gray with beige color. The space that the building will utilize is the hand assembly that will allow the front to be the finish part. There are no proposals right now for additional employees, stated James Osso.

The driveway to the rear will have very little activity. There is no impact to the traffic. There is additional parking along the side that still allows for a 26 foot driveway to the rear that the Fire Marshall has addressed. If we need additional parking in the future there is additional parking in the rear.

The drainage issue is one that the City Engineer said we should tie into River Road. There is rock along the driveway and the nearest intersection is down the street approximately 130 feet to a catch that we have State approval to tie into, stated James Osso. The fact that we would have to have an 8 foot depth and the neighbor has allowed us to utilize his property to tie into. We will not have any asphalt surface and we will take his offer, he added. The details are on the top of the sheet showing a detention area and we reverse the catch basin and detention area so that we can comply with the City Engineer so that the overflow portion should exit the detention area not the catch basin.

There is a 3 foot drop in the elevation and we will manage that with the surface water to the catch basin. Instead of a flush type catch basin he is requiring a curb edge basin. There will be 20 feet of curbing so that the water will be funneled to the catch basin, stated James Osso.

They suggested a circular apron on the catch basin and that will let the water flow in this direction to the corner of the property. You will have 20 feet of pavement around there, questioned Chairman Cribbins? Yes, answered James Osso.

Chairman Cribbins questioned the exterior of the material? What we discussed tonight is that there will be another new building, attractive, on the corner across the street and there may be another proposal coming across the street, we will be looking across the street to this property so that we want that as attractive as possible, he added.

We have a retaining wall and a swale down wind. There is a 10 foot difference so that when you look across the street you will only see the roof. We have a common panel type construction, stated James Osso.

If you travel down Petremont Lane you look off to the right to see my building, you will be looking over the top of the roof, stated James Osso. You will not see, it will all be the same color and there is a fence, a solid fence. The reason for the metal building is financial. To have a brick building it would cost too much and I would not be able to do it. I really need the space to expand my business, right now, and I am asking you to consider that again.

Would you be agreeable to some evergreens in the back, questioned Richard Schultz? Yes, answered James Osso.

I think I am a customer of this man and I have know him all my life, he has been there forever, this man has run his successful business while the River Road fell apart, I am confident that what he will do will enhance that, and I do understand the concerns are legitimate and what is happening in your neighborhood now is great. Years ago it would not happen, stated Comm. Sylvester.

Richard Schultz read a draft motion.

On a motion made by Leon Sylvester seconded by Karen Tomko-McGovern it was unanimously voted to approve Application # 06-15 with conditions stated in the draft motion.

APPLICANT # 06-21, R.D. SCINTO FOR SPECIAL EXCEPTION APPROVAL (PARKING EXPANSION) 5 RESEARCH DRIVE (MAP 27, LOT 2) LIP DISTRICT – DISCUSSION AND POSSIBLE ACTION

Richard Schultz stated that this for the expansion of parking at Research Drive.

On a motion made by Jason Perillo seconded by Leon Sylvester it was unanimously voted to approve Application # 06-21.

**ZONING ENFORCEMENT:
40 SURREY DRIVE: REQUEST TO INITIATE LEGAL ACTION**

Staff is reporting tonight that the Commission revoke the Sediment & Erosion Control Certification issued on December 13, 2005 and notified Corporation Counsel to initiate legal action to enforce the drainage improvement and soil erosion plan. You granted a certificate and you have the right to revoke. There are deficiencies and they have been subjected to weekly visits. They have corrals for the horses and they need to maintain berms there. The horses are trampling those and they are not maintained with the water going down hill to the abutting property owners. This has been the contention for 15 years. If this is not done I have to note the deficiencies, stated Richard Schultz.

He has two strikes and when that happens I have to notify the Commission. The owner has written a letter to the Commission that he is in the process of doing this. The Commission gave this approval with the date of Spring 2006 to further implement the plan. He is not maintaining a certain area and you have to determine if enough is enough or tell the property owner two strikes the third we go to Court, stated Richard Schultz. The owners have sent two letters.

A situation like this, this Commission is a policy making Commission we vote to make decisions, you make recommendations to us, you are in the field, you know, like with Walmart, why don't you tell us, what is your recommendation, questioned Comm. Sylvester of Richard Schultz? I am requesting the Commission authorize Staff to initiate legal action and allow me to continue to work with all the property owners, stated Richard Schultz. I will make that motion, stated Comm. Sylvester. I have a motion then, do I have a second, questioned Chairman Cribbins? Second stated Comm. Harger. Further discussion, stated Chairman Cribbins. I would like to set some time limits on this, he added, lets say 60 days. Lets shorten that said Richard Schultz, it is April on Saturday. Lets say 30 days, let's says we want to see a positive report from you in 30 days, stated Chairman Cribbins. I will amend my motion to include that 30 days and initiate the legal action with the expectation that you will be able to have a positive report back to us within the 30 days, stated Comm. Sylvester.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to initiate legal action on 40 Surrey Drive with conditions.

A gentleman who is part owner of the property asked to address the Commission. I am going to disagree with Rick 100%. Every time I have come to his office he tells me I have done everything that he has asked me to. Every time I come to his office he tells me. We have never had a reply on this matter, we always just go ahead and do the work. We have never received a letter, stated the gentleman. Mr. Chairman, stated Richard Schultz, let me clarify. There is a maintenance component to this plan. The owner is to maintain the berms at all times. That is part of the approval. We have not gotten to the major improvements that would take place in the spring and this is not been maintained sufficiently, that is what the issue is.

The gentleman said we have done this and every time we do something we get a phone call or a cease & desist. How do I maintain my property when I can't start the work, stated the gentleman? It is simple you just maintain the berms, stated Richard Schultz. We have done that stated the gentleman. If you go there tomorrow morning you will see that, I can't do that every single day, we have been denied the right to enjoy our property. We don't have a right to enjoy the property. I have spent thousands of dollars trying to get on the good side of Planning & Zoning. This neighbor makes a phone call and no one can show me any damage of the water running down the hill, stated the gentleman. I have not seen any damage. I have spent thousands of dollars to do the work trying to keep the property the way you want it. I didn't initiate this your neighbors did, stated Richard Schultz. You do not give me the opportunity to do the work, stated the gentleman. If I start the tractor someone calls and then I get a cease & desist, he added. You are missing the point, stated Richard Schultz. It is a constant problem. Chairman Cribbins stated the ball is in your corner for the next 30 days. Richard Widomski asked to speak and Chairman Cribbins stated that we have heard your comments and we will let Rick handle it. I have retained a Professional Engineer because of the last meeting. Lets hold on for another 30 days, stated Chairman Cribbins. Can you assure me that the Cease & Desist will hold for the next 30 days, questioned Richard Widomski? No, we can't stated Chairman Cribbins. He is responsible for his actions, stated Richard Schultz. We believe we have a solution, stated Chairman Cribbins.

On a motion made by Jason Perillo seconded by Virginia Harger it was unanimously voted to adjourn at 9:55 P.M.

Respectfully submitted by,
Diana Barry, Clerk