

The Shelton Planning & Zoning Commission held a Special Meeting on May 29, 2007 in Shelton City Hall Auditorium, 54 Hill Street, Shelton, CT.

The following members were present: Comm. Anthony Pagoda
 Comm. Virginia Harger
 Comm. Patrick Lopera
 Comm. Ruth Parkins (for Comm. Cribbins)
 Comm. Leon Sylvester
 Comm. Karen Tomko-McGovern
 (for Comm. Orazetti)

Staff present: Richard Schultz, Planning Administrator
 Pat Garguilo, Court Reporter
 Karin Tuke, Clerk

Members Absent: Chairman Alan Cribbins
 Comm. Daniel Orazetti
 Anthony Panico, Planning Consultant

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

Tapes (3) and correspondence on file in the City/Town Clerk's Office and the Planning and Zoning Office. Attachments are not available on the website.

Comm. Pagoda announced that the Commission would be going into Executive Session, and he invited Richard Schultz and Ray Sous, Assistant Corporation Counsel.

On a motion made by Patrick Lopera seconded by Karen Tomko-McGovern it was unanimously voted to go into Executive Session at 6:45 p.m.

On a motion made by Patrick Lopera seconded by Virginia Harger it was unanimously voted to reconvene the Special Hearing at 7:05 p.m.

Comm. Pagoda began the meeting with the Pledge of Allegiance.

Comm. Pagoda indicated that the first order of business would be a motion regarding a settlement that they are trying to finalize. Comm. Harger would read it for the record.

Comm. Harger read the motion to approve settlement of land use appeal dated May 17, 2007 attached hereto and made a part hereof, regarding Docket #AAN-CV-06-4007063 Shelton Land Conservation Trust Inc. vs. Shelton Planning and Zoning Commission and Lava Real Estate LLC and authorize Assistant Corporation Counsel, Raymond Sous to execute same on behalf of the Shelton Planning and Zoning Commission.

On a motion made by Virginia Harger seconded by Leon Sylvester it was unanimously voted to approve the settlement for Docket #AAN-CV-06-4007063.

Comm. Patrick Lapera abstained from voting due to conflict of interest (counsel for the plaintiff).

Comm. Pagoda stated that the vote was five yes and one abstention.

APPLICATION #07-11, BARRY KNOTT ON BEHALF OF RICAR, LLC AND MIANUS HOLDINGS, LLC FOR PDD ZONE CHANGE (INITIAL DEVELOPMENT PLANS: MARINA EXPANSION, MULTIFAMILY, RESTAURANT/CLUB HOUSE), AMENDMENT OF THE 2006 POCD BY MODIFYING CHAPTER 6, RESTRICTED COMMERCIAL DESCRIPTION AND CAM SITE PLAN, 704, 712 AND 722 RIVER ROAD (MAP 32, LOTS 16 AND 17), IA-2 AND IA-3 DISTRICTS (CONTINUED FROM THE 5/15/07 MEETING).

Richard Schultz reads three new pieces of correspondence.

***See attached letter dated May 29, 2007 from John Finn, Alderman.**

***See attached letter dated May 25, 2007 from the Friends of the Housatonic River/Michael Talmadge.**

***See attached letter Sea Vision Marine Services LLC, Jeffrey Sneider, President and (6) Attachments (Connecticut Coastal Management Manual, Coastal Site Plan Review, Mandatory Municipal Referrals, Coastal Site Plan Exemption, Resume)**

Richard Kral addressed the Commission. He stated that he wanted to address some of the open issues from the last meeting, and then he will be happy to answer any questions from the Commission.

Mr. Kral stated that at the end of the last meeting two requests were made. First, he provided an 11 x 17 handout, an aerial photograph of the Greenwich facility. He showed the same photo large enough to display to the audience.

The other concern had been discussed at the end of the last meeting, and it involved the actual moving of the channel. The Commission had some questions about that. Mr. Kral stated that enclosed in the package provided to them, Page 2 is an 11 x 17 enlargement of a marked photograph that depicts the project site and what the actual channel realignment will entail. The green lines show the Previous Channel which is actually the existing channel as it is denoted on the federal charts. Mr. Kral stated that what actually exists out there today, in reality, is the channel just off of their docks. Using the photo, he shows the Previous (Existing) Channel as it is depicted on the charts running right through the marina. Obviously, this is an inconsistent with what is existing. What actually exists is that the channel is off the end of our docks and you can clearly see the existing docks with the channel going through there. The New Channel as shown on the photograph has taken the outside perimeter of the existing channel that is there and gone 100 feet to the other side of it. In reality, the actual channel that is in existence today moves in about 100 feet. What is happening in bringing the channel up and down the river a little bit more center-lined on the river itself. We tie into the existing channel which is midstream at the very northern tip of the property, and then it actually realigns a few hundred feet

south of their southern property line at the request of the Army Corp. The channel would now take a more aligned, centered posture along with the contours of the river. As you go south, the width goes to 1150 feet wide. The center line of their site is 850 feet wide up to 600 feet about 200 yards from their northernmost property point. There is plenty of width on the river. Where they are actually moving the channel to be isn't far from where it currently exists in today's actual operations. Mr. Kral stated that their comments and the actual wording may have been a little deceiving because they are not actually moving the existing channel that far. They are moving according to the federal documents and the channel that they've delineated on their charts. There has been a little confusion because it is not moving all the way across as Comm. Sylvester was concerned about at the last meeting. He thinks the photo clearly depicts how little they are actually realigning the channel and how close it is in proximity to their existing docks.

Mr. Kral acknowledged that this is not something under this Commission's normal purview. It is guided by the Army Corp and the DEP, but he understands the Commission's concern with it and he wanted to make sure the Commission got a good picture and understanding of the realignment.

In regard to the POCD and changes to the POCD, Mr. Kral stated they have been working on this project for about four years. They have had meetings in the town, although they haven't come to this Board with any preliminary work. As they have gone through the Army Corp and DEP considerations, it has been something that they've been working on all along in anticipation of Shelton's new POCD.

Mr. Kral stated that he sits on a committee in Greenwich that is working on a new POCD for Greenwich that is coming up. He is familiar with the whole process. They understand that the POCD, as stated in the Alderman's letter, should be a guideline. All in all, the POCD is very close to what actually exists on the site with a mix of residential and commercial applications. The IA2 zone does allow the marina use here. As you were going through the new POCD, they did not feel the need to come in and ask to modify the POCD to be so site specific because your POCD itself allows for it in the planned development zone. That is why we did not get involved early on with your new POCD process. They felt as though your process had the tools and allowed them to do what they potentially wanted to do. They waited until you completed your POCD before coming forward to this Commission.

Mr. Kral stated that Randy York requested that they bring a full size picture to the Commission and the community for review. In regard to the clean marina restrictions and The Clean Marina Book, it is a guidebook developed about four years ago. Mr. Kral showed a copy of the Acknowledgements page (4) of the Clean Marina Book indicating that he sat on the committee that developed this book for the DEP. He was very involved with the Clean Marina Program, and he is very much aware of it. But it is only a guideline to help marinas become compliant with a more important document, the Storm Water Management Plan. That plan is a federal requirement that every marina must maintain. He stated that they are getting very strict with those regulations. The Clean Marina Program was developed as a tool to help the smaller facilities develop best

management practices in the environmental regulations to become more compliant with the EPA. In the application and at the previous meeting, it was brought out that this site is designed so that all the storm water stays on the site. This is done so that the Travel Lift Well is a sediment-contained self-environmentally filtered system similar to the one that was just installed in Greenwich. It is the only one in the state of Connecticut and in New England right now that has passed the Clean Marina Program and the Storm Water Management Plan and is endorsed by the DEP. There will be the vortex separators on site before any water is discharged into the Housatonic River. The roof drains right up to the condos and everything planned on site will be self-contained and meet the environmental standards that would be required for a storm water permit. It is the federal permit that would supersede even the Clean Marina Program in this case. This has been taken into consideration in all the engineering work that has been presented.

Mr. Kral stated that he was uncertain about Randy York's comment about a more extensive environmental review. He is unsure about how much more extensive an environmental review they could do. All the data submitted when they went through the channel relocation such as the bathometric studies, all the soundings, the sediment samples. All this is public information. It is part of the coastal area management (CAM) plan application submitted to this Commission. They have copies available to anyone who requests it.

Mr. Kral stated that Mr. Sneider brought out many good points. He indicated that he had an opportunity to meet with him. Mr. Kral stated that he hopes the very comprehensive letter written by Mr. Sneider will be of benefit to everyone.

In regard to the boat ramp and walkway mentioned at the previous meeting, Mr. Kral asked Atty. Knott about the easement.

Atty Knott stated that there is an easement in perpetuity recorded on the land records, approved by the town attorney prior to filing and prior to submittal in their final plan. Mr. Kral summarized that was absolutely part of what they had proposed and there was no problem with that.

Mr. Kral stated that Mr. Sneider brought out the point about the floating dock to the north and the public access. That is not something that they considered in the original plan and not something that they would consider going forward with. Part of their business and what they do is, hopefully, rent space to pay for what they do. If someone wants to store their kayaks or crew boats on our racks or use our dock that is how they survive. They are not in any way providing the dock to be public access. Their whole facility is open to the public. Anybody can come and rent/store boat space or have the opportunity to do so. It is not exclusive in that sense. The docks themselves would be only to the boat owners and members who have their boats stored there, whether they are paddle boats or power boats. They are not public access. They would ask the Commission not to pursue that area because it cannot be policed, monitored and could create an unsafe condition. It isn't something that they want to be involved with at their facility. They monitor, know who is going in/out, what boats are stored there and what boats are launched there. That is part of what they do, it is their business.

Transient docks were also recommended. Mr. Kral stated that transient docks are part of the business. It is something that they do in the summertime. If the slips are empty, they will accommodate a transient. If the slips are full, they won't. It always seems that there are a number of transient slips available – boats are out or boats are being fixed. They are never 100% full, there is always some margin, 5%, and that is available. There are always service docks and slips available. They don't normally dedicate transient docks. He wasn't sure what the benefit of dedicated transient slips would be. Without knowing the size, they wouldn't know whether to make 40 ft slips, all 20 ft slips, some 20 ft, some 40 ft. It wouldn't really work and wouldn't be part of what they are proposing.

In regard to parking spaces on the site and comments about inadequate parking at Sunnyside, this seemed to be because of out-of-town vehicles. They would like to allow the six trailer parking spots on one side to remain for Shelton residents only. He would not have a problem with an exclusive program for the City of Shelton. He would work with the Commission to do that. He would like to allocate about three more parking spaces on the north end of the site where they have kayaks/rowboats to be for public access only. They have done that at the Greenwich location and marked it as such for the public access walkway. He would work with the Commission to do that as well.

As mentioned previously, the whole site is open to the public. It is not an exclusive club with a pass to get in. They have shown that there are over 200 parking spaces that will be available year round. There is adequate parking. The Greenwich facility has 110 spaces.

Mr. Kral wanted to address the suggestion about signage at the top of the driveway as to denote the condition of the parking availability for the bottom ramp. He thinks that they can work on that as they move forward. In speaking to the traffic engineer, there was some concern about what might occur on River Road if people slow or stop to look at a sign. It is probably better to have them come into the site so that they are not on River Road. If they come in, they can come down, pull around and come back out. As previously pointed out at the last meeting, all the islands and all the turning radiuses are set up to be wider than what is required for a tractor trailer. They do on occasion need tractor trailers to come in and deliver boats, and they have made those accommodations. Any vehicle trailering a boat should have no problem in the turning radius, but this is something they can develop in their discussions about putting a sign up at the top to let vehicles know they may have to turn around.

The police, fire, safety ramp/boardwalk access will be granted to the City anytime they need to launch any safety boats, fire boats, etc. It will be open year round, and the access will not be blocked.

Mr. Kral stated that the last recommendation that Jeff Sneider brought up, that raised some concern with them, is the phasing of the docks. Phasing of the docks is a very difficult situation. One of the biggest expenses in building a dock is getting the folks on the site – getting the development team there, getting their equipment there, getting all the docks in, getting them in place, and getting them aligned. Due to the economy of

scale and the way the construction costs are going up, it doesn't work in a business plan. They can't build half the public walkway, but not the other half or put in pile drivers but not all the docks, etc.

It doesn't work for them and will not make a significant difference in regard to traffic on the river. There will be traffic on the river. They have traffic on the river now. They are there every day and they see that. These facilities actually slow traffic down. Hopefully, the type of clientele that they will attract will be family and recreational boaters. These types of boaters will be part of the community, and they will set the trends, watch the waters and know what is going on. They have the same situation in Greenwich with the mix of boaters, kayakers, power boaters, rowers that they wouldn't have expected to get along. However, now, these different types of boaters see each other all the time, at the docks, the clubhouse, and they are more considerate of one another. A sense of community develops and it helps to blend in. The public eye starts to create a community sense of making things safer in the water. They try to provide a facility that is safe and they provide a number of courses. They do everything that they can when to teach people who buy boats or those that are new to having them. Boaters have to have a safe boating certificate, and they get lessons with one of their certified captains that train on the River. They do all these things because they understand the safety element for boaters being out on the River and enjoying it. They sponsor the U.S. Coast Guard Auxiliary on their site in Greenwich. They put 320 people through the State boating classes this spring alone. This is something they would be able to do in Shelton as well in one of the rooms on a Saturday or another day. They are very proactive in making sure people are safely trained out there. They want to be part of this community. They are part of this community now. They will do all they can to facilitate the safety of it and the well-being of the River.

In closing, Mr. Kral stated that they had a great meeting with the Friends of the Housatonic. He indicated that he truly appreciated them taking the time to come out and express their concerns to them. They are obviously a very dedicated group. They are experienced and have been on the river all their lives. They know many of them, and they had a good, candid discussion about these issues. They are here and are willing to support any means that they can to create safety on the River. Mr. Kral stated that Jeff Sneider made some very good recommendations as far as a harbor management plan or some sort of harbor committee. There are only about three waterfront communities left in the state that don't have harbor waterfront committees. It is very difficult without having an existing facility to get the permits to get into the water to do things so it may be difficult going forward unless it is strongly endorsed by the municipality or having some sort of municipal benefit. The Army Corp and DEP have difficult in the sense of new projects. Mr. Kral stated that he thinks it is important for this Board to realize that this could be one of the last sites that can be developed in a waterfront fashion.

Mr. Kral discussed an extreme scenario of the Board not liking this project and this application goes away. With the IA2 zone at that location, an industrial building may go into that site bringing 9 to 5 traffic and the waterfront and recreational benefit won't happen. Or perhaps, another applicant will come in and take over this site with plans to

put in a 500 slip marina. The marina is an allowed use in the IA2 zone. There is adequate parking and enough water for 500 slips.

Mr. Kral concluded that they didn't develop the entire waterfront that they could of. Instead, they came in and offered a balance with a project that has a mixed use that is economical, plausible and everything works. Another applicant could come in and propose 500 boat slips, 500 parking spaces, a bathroom and a shower and say they have a marina. Slips will go lower price flooding the market and Shelton will end up with a lot of boats on the River.

Mr. Kral stated that he has tried to bring a balance. They looked at the number of boat slips that are economically viable. The industry rule of thumb is that you can't go into a new marina without a minimum of 200 boat slips. The banks won't be interested. That is part of the reason that they settled on the 300 number. They worked together to figure out how to maintain the integrity of the site to insure it would be here in 20 years and that it is something that the public wants. They are looking for the social and recreational aspects of it – clubhouse, swimming pool, etc. that they have seen at other facilities. They have seen that young families are looking for the mixed use. They added economic drivers by utilizing the residential zone with 24 units. Mr. Kral stated that they are here and they would like to work with the Commission if they have any questions.

End of Tape 1, Side A 7:50 p.m.

Comm. Parkins asked Mr. Kral about the two natural gas pipelines crossing the river at this location. The only reference that she could find to in their package was in the Army Corp permit. In regard to one of the pipelines you are proposing your fueling dock to be on top of, have you contacted the pipeline company and have they signed off on it?

Mr. Kral stated that yes; both pipeline companies have been out there. The shallowest point of the Tennaco Gas line comes 65 feet below the river bottom in the area where they would be driving piles. They have no concerns about what they are doing. When they do drive piles and do some of the dredging, they are required to have one of their gas inspectors on the site at all times. So there are some conditions of the Army Corp permit and the DEP permit which they have to oblige to both gas companies. They have approved the plans and the gas lines are marked on the site and they've been pinned by the surveyors.

Comm. Parkins asked if they have shared these exact plans about the fueling dock and the fueling facility being right on top of the gas lines.

Mr. Kral answered that with the fueling dock, the tanks are up in the parking lot. The fueling pipes go out from the pumps through the dispensers and are suspended in the docks itself. There is nothing there that floats on top of the water. There is nothing that is submerged or anything that's dredged under the ground to bring the lines out to the fuel pump. It all floats up and down on the docks itself. The piles that they will be driving

are nowhere near 65 feet. The best case would be 15 feet. There is so much room there. The pipeline is very small considering the size of the easement.

Comm. Sylvester asked Mr. Kral if, with the new channel and the extension of the docks, will the docks run into the new channel.

Mr. Kral stated that no it would not run into the new channel. There is a 20 foot setback from the new channel.

Comm. Pagoda asked if 20 feet was the closest that any one of the docks would be to the new channel.

Mr. Kral stated that is correct.

Comm. Harger asked if they would have some kind of gate system.

Mr. Kral stated that they are staying away from the gates. They have put up fencing up to the ramps and posted signs that say "Access Only. No Trespassing." In an attempt to, hopefully, keep it private. If they discover there is a problem or if the boat owners decide that it is not secure enough, they will have to go to a gate system. For the most part they haven't had any trouble at their existing facility or right now at the river in Shelton with the few docks they have. Obviously, they don't have the public there that they hope to have in the future. They understand security and for the most part they have done very well with cameras on site.

Comm. Pagoda asked if there would be a security patrol roaming system?

Mr. Kral stated that there would not be normally. They haven't had that problem. There is usually enough activity on the site and enough boaters around. It kind of polices itself. Usually they install cameras and security systems more so just for the parking lots.

Comm. Harger asked how the marina was managed. Are there personnel walking around the grounds? Do you have staff guiding people to boat ramps?

Mr. Kral responded that most people who have trailered a boat are adept about what they are doing. If they need a hand, they are available in the office. It is staffed seven days a week from sunup to sundown. There is always someone there. If there is a question/problem, they can always call the office. Dock staff is available when they pull onto the site if they need hand doing anything or carrying something. The boat ramp on one side is the commercial end of the yard, and there is usually someone there to help out. If a boat breaks down we have boat service. It is part of our business to assist boaters.

Comm. Lopera asked if they had a dedicated police boat site at the Greenwich marina.

Mr. Kral stated that (inaudible).

Comm. Lapera asked if there would be designated parking spaces for personnel using the police/fire boat.

Mr. Kral indicated that they haven't gotten into that. They will make a boat available to them on site. The boat that would be available for them would be site (?) boat or work boat and different things that are there, depending upon what they need, similar to what they have done in Greenwich. The police usually call us and say they have a situation. There really hasn't been a problem because they have their own boat in Greenwich. Most of the police forces now and even the Coast Guard will no longer tow boats. They won't go out for towing situations and only respond to emergencies. The police have been changing what they will tend to over the years. It has to be a sinking vessel or a distress signal, boat accident or man over board, before they'll actually respond.

Mr. Kral stated that they did supply some boats in the 9/11 situation. The police called and they gave them four boats to get down to New York City. During the last nor'easter that hit Greenwich hard and river boats were up on rocks, they recruited our boats and staff because they didn't have the training, expertise or equipment to handle that situation.

Comm. Lapera asked if there would be a dedicated dock for the Shelton police boat.

Mr. Kral stated that they have not put one in, but that is something we can work with the Commission such as what size, where you want to put it, and what do you want to do with it.

Comm. Lapera asked if there would be a public boat ramp.

Mr. Kral stated that yes there would be a public boat launch. The boat ramp is there and two docks on either side of the ramp.

Comm. Lapera asked if it was possible to launch kayaks or rowing shells.

Mr. Kral stated that you could. It is not the most conducive situation, but kayakers yes. Rowing shells is a little more difficult. Usually folks with rowing shells prefer to be in a stored facility where they can launch off the dock.

Comm. Pagoda asked if any one from the public had comments.

Joan Flannery, 8 Partridge Lane, addressed the Commission. She is against giving up open space and against changing the newly adopted plan of Conservation and Development. She is opposed to the traffic this will add to Rt. 110. Perhaps they should make four lanes in front of the marina. She is opposed to the additional noise from the marina. She has concerns for the residents living near there. She doesn't like the fact that the condos will block the view of the river. She is against the extra pollution of the

river from the boat engines and gas. There are no guaranteed slips for Shelton residents only, and she concerned that they will be priced out of range. She believes there should be a percentage of slips that are more reasonably priced for Shelton residents. How would they enforce the boat launch that was suggested for Shelton residents only? Are they checking ID's? She believes the marina should stay as it is. It is just the right size.

Randy York, 10 Longview Road, 3rd Ward Alderman addressed the Commission.

Alderman York wanted to state for the record that when Alderman Jason Perillo came before this Commission and stated that he had comments from the Board of Aldermen that was not true. As far as she can remember, Alderman Perillo was asked to summarize the mediocre discussion that they had about the marina when it was placed on their agenda. Most of the alderman didn't even know why it was placed on the agenda. It took 15 minutes to figure out what it was they should be discussing. There were some general comments made. Alderman Perillo summarized those and then apparently took it upon himself to come to this Commission and represent all of us. She would like that cleared up and stricken from the record before approval of the May 15th P&Z minutes.

Alderman York stated that she didn't want to repeat any of Joan Flannery's comments, but she felt that there were a lot of good points. She isn't opposed to an expansion of the marina; however, she thinks the proposed expansion is way too big. She is opposed to changing the zoning designation and going against the newly approved ten year plan. It is way too early in the game to be doing that, and it is way too dangerous. She continued to state that she thinks the restaurant is a good idea.

Alderman York wanted to share with the Commission some of the reading she has been doing on this subject. She doesn't claim to be an expert on this subject. She relayed that in this particular case, there are some issues that must be dealt with. This is a very complex project, and she doesn't want things to be trivialized just to push this application through. She'd like to have more questions asked. It is very early in the game. She wants to share some of these concerns.

Before any further consideration of the zone change request for this project occurs, there are several things that this Commission, and we as city leaders need to do. She stated that she will briefly outline them so that this Commission understands the complexity of this project and the burden that has been placed on them and the rest of the community and its leaders to create the best possible results for the river, the river estuary, the boaters and the patrons of this establishment, and last but never least, the community of residents that will live next to this project long into the future.

First and foremost, there must be an environmental impact study done. She would like to see a copy of whatever has been done so far. There are criteria that should be met that the Commission should be familiar with to make sure the right questions were asked and the right information was given. There must be testing of sludge and sediment. They should insist upon total and specific PCB testing using at least Appendix 9 testing for other toxins.

No portion of the marina should be placed in an area of the river with a width of less than 1200 feet or less than 8 feet deep. All vessels associated with the facility should pass at least 500 feet from shore.

Alderman York stated that she got this information from a general document that clearly indicated that across the country expanding marinas is really frowned upon. Building new marinas is frowned upon and expanding existing marinas is frowned upon. This is because of the environmental impact and the unbelievable coastal development that is occurring. They are realizing that the need for our natural coastline and need to be more aware of what is going on due to global warming and weather developments. Undeveloped coastline should be preserved. They should have a critical eye before approving anything.

There should be no net loss of wetlands. Alderman York asked the Commission to imagine and picture the aerial view of the Greenwich facility on the existing Shelton site. She asked if this is what they want for their community. She wanted people to understand the magnitude of this proposal.

Alderman York stated that it takes about 5 miles of river and about an hour to get to Long Island Sound. There are less boat slips in Greenwich which is closer to Long Island than proposed for Shelton. She feels that this doesn't make any sense.

She stated that they need to take a regional view of this and compare it to other marinas. Greenwich has less boat slips and a major outlet to Long Island Sound. She thinks that it is just too big. Alderman York stated that the Commission must be very concerned with the details of this project before any further approvals are granted. It would be a shame to have the applicant spending all their time and money obtaining all the different permits only to find out the construction details are unacceptable and the project is denied.

For instance, has anyone asked what type of wood products would be used for the piers, the pilings and the decks? The Commission should require that no treated wood is used. Treated wood increases levels of chromium, copper and arsenic in the river sediment and water. The Commission should become acquainted with the Coastal Non-Point Program and The Clean Marina initiative. That program is designed to give the Commission the tools to know how to ask the proper questions. It is not just for the marina owners. It is also for municipal leaders so that they can ask intelligent questions, get good answers and get a better project.

Paint biocides and antifouling as well as motor oil and tires contribute to high levels of pollution runoff that can damage water quality and aquatic life. Storm water pollution releases toxins from treated surfaces and engine exhaust should meet with the Clean Marina minimum standards. Alderman York stated that she thinks they should shoot for that – shoot for the best. Right from the beginning, if we ask for it, we'll get it. This is just the beginning of the process. In closing, Alderman York stated that from what she has read many cities across the country are no longer issuing permits for new marinas, and they are reluctant to issue permits for expansion of the marinas. The

environmental impacts are just too great. Please think about it very carefully and do not rely on just your own judgment. Seek out the opinions of as many independent experts as you can that don't have special interests. Alderman York handed out information about the Clean Marina initiative to the commissioners.

She read an excerpt from The National Management Measures Guide put out by the EPA. "Marina site and design play important roles in determining how good water quality in a marina basin will be. Marina location, whether it is open, directly on a river, lake or semi-enclosed etc., all affects the circulation in a marina basin, and therefore, how well it flushes. The depth of a marina basin affects circulation of deep water in the basin and how often it needs maintenance, dredging, if at all. Dredging stirs contaminants from the bottom and can disturb bottom habitats. Marine design, especially the configuration of the basin and its orientation to prevailing winds, waves, tides, currents all affect the retention of pollutants in a marina basin and movement of pollutants out of the basin. Some marinas may be affected by storm water runoff from upland areas in that watershed area."

Alderman York stated that it sounds like it is very important that they find out more about what is going on. She continued to read that "a marina designed with the important points of management measures in mind including physical location, flushing, circulation, aquatic habitats, shoreline stability, and pollution prevention will probably have better water quality and fewer water pollution related problems during its life of operation and may even have some economic benefits for the marina."

However, Alderman York wanted to stress that the article stated that it "will probably." Even when they do the best job, there is no guarantee that this isn't going to severely impact the environment of the Housatonic River. They know the river will be impacted. She distributed copies of the article and a photograph showing Beacon Point Marina and its outlet to Long Island Sound.

Alderman York stated that she supports expansion of the marina, but she can't understand why it has to be so big, so dense and so intense and has to have such an incredible impact on the environment. She urged the Commission to really think this unique project through. It will require a lot of time, attention and good questions. Hopefully they'll get answers and come to some kind of agreement because all in all she thinks it is great.

Annie Waters, 261 Long Hill Avenue, addressed the Commission. In regard to the Beacon Point Marina expansion, she supports the restaurant, public access and the pool. She opposes the idea of a marina that consists of 300 boat slips. Three hundred boats slips might bring in about 900 people over the weekend. People socialize on their boats. Each boat can estimate about 2 or 3 people. This could bring in an estimated number of 350 cars. Those cars would be added to an area that is already saturated with street traffic. Because Shelton is located near Long Island Sound, the River will be inundated with water, air and noise pollution generated by 300 more boats. Due to the increase in people, there will be more accidents, accidents due to carelessness, accidents due to alcohol, road rage with

boats/cars. Due to the impact of these 300 boats on the waterways, Shelton will need to install a trained and salaried river watch. The Shelton Police and Shelton Volunteer Fire Department are already overburdened and have no capacity to take on additional emergencies at the waterways. Ms. Waters stated that she didn't want to turn the Housatonic River into another Bridgeport Avenue. She urged the Commission to please reject this application with the idea of 300 boat slips. This application has some good recreational aspects for the general public but 300 boats is overkill. Furthermore, the police department needs a dock; the fire department needs a dock with boats. Good Samaritans should not be counted on the watch the waters with 300 more boats.

Rich Conklin, 2 House Lane, addressed the Commission. He stated that he has been on the Housatonic River since childhood in 1949. He has spent a lot of time out there, and he is a boat owner out there every week. One of the reasons he came to speak was because our government and our leaders have let us down so badly a few months ago. He indicated that he was one of the original members of the Friends of the Housatonic River. They were forced to take action because of some very bad decisions based on wrong information, old data and not thoroughly checking out a situation. He reminded the Commission about the dredging and dumping in Shelton, which is one of the best fishing spots in Southern Connecticut. The DEP said there is no fish there and they will not support fish. Everybody that fishes in Connecticut knows it is one of the best fishing places around. Because of that, they are cautious about anything that takes place on the river. As a boat owner, would like to have a nice marina with a restaurant, and he sees the good points in this idea. The size is a little generous, and the ladies who spoke before him brought up some good points to look over. If they are going to set a precedent for future development on the river, he doesn't want the river itself to be for a chosen few who have boats or condos there. Everybody should be able to enjoy it.

He stated that he met with the Beacon Point Marina members last week to discuss issues. Since that meeting he had a question about the total acreage (9 acres ?) and some considerations that affect its determination. He wanted to know if consideration had been given to areas with more than a 20% slope, right-aways for two gas lines, an underwater stream that crosses through the marina and the old Murphy's Lane. He wanted to know if those components were subtracted from the total acreage or if they should be subtracted.

Irving Steiner, 23 Partridge Lane addressed the Commission. He wanted to play devil's advocate because up until five years ago he owned a 27 ft. inboard sailboat that he wintered for three years above Murphy's. He found that his sailboat drew 5 ½ feet of draft(?) which made it difficult to navigate up and down for winterization. He has some experience with the channel. He knows about the difficulty of going down with any boat with any draft at low tide. The channel is very restrictive and winding. He has seen a lot of traffic on that river. Boaters slow down to 5 mph going past the boat yards, but then they speed up to 35 mph to get out to the Sound. The islands below are quite populated with children, barbeque picnics, etc. That activity will conflict with the increased boat traffic.

He stated that the speed of the boats can be excessive in another way by creating a lot of soil erosion. Boats that are 16 or 18 foot power boats leave huge wakes.

Mr. Steiner stated that the restaurant promotes channel anchorage – a lot of boats. If they don't have the ability to dock them, they will be mooring out from the middle of the channel which is already narrow. Dragging anchors can hook onto to anything.

He stated his concerns about the demand for a police boat. There are already boat accidents, usually from alcohol, all summer long. This will increase dramatically.

Mr. Steiner stated that slip fees are not set at \$55 or \$65/foot. They range, particularly at the mouth of the Housatonic. There should be consideration given to lower income boat slip prices.

He asked if there was any consideration for Coast Guard licensing requirements for boaters using the marina. Is it mandatory? Can they put in additional requirements to improve the boater's ability? Mr. Steiner also wanted an answer to his other question - What about the anchorage off the slips when boaters want to go to that restaurant?

Bob Gesullo, 23 Wicklow Lane addressed the Commission. He is a resident who lives close to the proposed marina. He is also a Vice Captain for the Coast Guard Auxiliary Division 24, and one of his responsibilities is the Housatonic River. He wanted to make something clear that the ultimate law enforcement in that channel or waterway is the Coast Guard. Applying the rules for the State of Connecticut is really a multi-faceted task. It is a first response issue for the Fire and Police Departments, the DEP also incorporates the laws of the State of Connecticut, but the ultimate law enforcement is the Coast Guard. It is also limited in its resources. There are several auxiliary units from Bridgeport to Clinton, about 20 boats in each unit. Speaking as an auxiliary, an expansion like this would require more auxiliary to begin patrolling up here by the Coast Guard. The Coast Guard has limitations for the simple reason that up here in this area it is difficult for the Coast Guard to get to Long Island Sound. They would use auxiliary vessels. The Coast Guard does a limited patrol of this area.

In regard to someone's question about a boating license, there is no such thing. It is a Safe Boating Certificate which is required in the State of Connecticut. The Coast Guard Auxiliary teaches that.

Mr. Gesullo stated that it is a multi-faceted task. However, also very important, is something called Marine Domain Awareness. This has to do with security of all our waterways and security of the infrastructure. He stated that he knows that Shelton is already is keenly into that because you have access that you already have under some major infrastructures – Rt. 15, Merritt Parkway, I-95, the railroad bridge. There is surveillance that goes on, but it is not necessarily on the water all the time. He hears the issues and concerns about the marina, but he thinks that the work between the police and fire departments, the Coast Guard, and the DEP is something that can be worked out. Mr.

Gesullo stated that it has been his experience that in working with these departments, that they too have limited resources. Towns such as Milford and Stratford have a difficult time funding their boats to keep qualified crew on. This is an ongoing issue. The Coast Guard works with them to cover those gaps for surveillance, but it is doable.

In regard to this proposal, he thinks the Coast Guard would take no position on it. If it is built, they will do what they can. However, law enforcement is a real issue. Issues such as boat speed and erosion are a reality. The reason for that is because many boaters either don't understand the rules or the rules are not enforced. With the proposed population up here, he feels that there needs to be more help in trying to enforce those rules because 300 boats is a lot of boats. His last comment regarding his experience with marinas, with 300 boats, the math doesn't end up to be 600 or 900 people at once. He visits marinas every weekend and during the week, very few of the boats are occupied. All 300 boat owners usually don't show up at once. If there are 300 boats there, it would be lucky if there were 50% activity, even on the weekend. They all don't go out at the same time. He hopes that this project works out. He hopes that he was able to shed some light on the enforcement side because this is a doable project.

Jeff Sneider, 302 Maple Hill Road, Naugatuck, CT addressed the Commission. Mr. Sneider wanted to address some environmental issues brought up by Alderman Randy York. He had the opportunity to look at the applicant's full package in the Planning & Zoning Office. His comments, almost in defense of Beacon Point, are that the full suite of environmental testing has been done to the dredge material at this site. It hit every width necessary. They have been found to be compliant. It is not cheap to do dredge material testing. The full suite of testing that is required by the New England District of Corp. of Engineers or by the State of Connecticut has been performed on the material to be dredged there. He wanted to mention one thing that he didn't have an opportunity to talk about at the last meeting that he thought might be important to point out to the Commission. He stated that what Beacon Point is proposing to do is take material that they need to dredge from their marina, which has been tested and found to be acceptable, and put it upland as beneficial use structural fill for their project. This is something that you rarely see in the State of Connecticut. It is a good thing. There are actually finding a way to use their dredge material and use it beneficially. It is qualified to be done so because it has been tested for metals, PH's that affect hydrocarbons, PCB's conjoiners and pesticides.

In his resume submitted to the Commission, he has worked extensively on a lot of dredging projects. This project is unique and beneficial because they are actually finding a re-use for this dredge material. Getting the dredge material out of the marina is a net benefit and using it upland as structural fill is even better than taking it somewhere else where it would be dumped causing sedimentation concerns or impact to the fish. It lessens the environmental impact from the stresses of dredging the site.

Mr. Sneider wanted to comment on the issue of construction materials. Although he didn't want to sound disrespectful, he felt as though going with untreated construction material for this type of project is ludicrous. This is because if untreated construction material is used on this project, the life cycle of that material will be greatly diminished. Therefore, they will have to come back more often to impact the environment to repair it because the material is not treated. There are better treated construction materials to be used. He doesn't have to use creosote. He doesn't think any marina owners use freshly treated creosote timber piles. They are probably using freshly treated wood that is environmentally safe, and that is not leeching out chromium and copper the way some previous wood has been claimed to do. The construction material has to be designed and used for longevity's sake. They need to look at the overall environmental impacts of the actual activity of building the marina. If fresh, raw, untreated wood is used, it will be chewed up by worms and rock over the next 3 to 5 years. They should choose a material that will have longevity of 25 – 50 years because of how well it is treated, and not leeching contaminants into the waterway.

As he stated in the letter he submitted, in regard to public safety or public access point of view, he just does not know what 300 boats would really do to the river. He doesn't feel that anyone can conclusively state what it would do either. Regardless of whether this project goes through or not, he stated that the city of Shelton needs to take a hard look at getting public safety presence on the river. It doesn't matter if 300 slips get put into Beacon Point or if it stays the same. The river sees a lot of traffic and for Shelton to have a waterfront resource like the river and not have a public safety presence is a dangerous mix.

Mr. Sneider stated that he agrees with the previous speaker who stated that public safety on the river is a team effort. In regard to communities having limited resources to support public safety presence on the river, he states that if the community is wants the tax revenue that comes from the kind of development that takes place on the water, then it has to be supported. The public access to the site and the public safety of the resource itself has to be supported. Tax revenue from waterfront development projects has to be balanced by funding a public safety presence so that everyone can enjoy it a lot more. There are a lot of state and federal funds available to municipalities if they set up the right kind of programs to manage their waterfront concerns. If Shelton establishes a harbor management commission or waterfront development commission and consistently tries to apply coastal management regulations then that gives the town credence to go to state and federal governments to find money to help support boats, personnel, training, and public presence programs.

Comm. Pagoda asked if there were any more public comments. There were none.

Mr. Kral addressed the Commission and stated that if there are no more questions, he wanted to conclude by stating that in this meeting and the last meeting, they have tried to present a thorough, complete plan to enable the Commission to make a decision. They are here and they want to continue to be a part of the community. It is balanced project, and they've tried to make everyone happy and offer a plan that is an attribute to the city

of Shelton. Mr. Kral thanked the Commission for their time and stated that he would be available for any comments or questions.

On a motion made by Virginia Harger seconded by Leon Sylvester it was unanimously voted to close Application #07-11.

Comm. Pagoda announced that they would have a brief recess at 8:45 p.m.

Comm. Pagoda reconvened the special hearing at 8:50 p.m.

APPLICATION #07-25, TEAM, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (CHILD DAYCARE CENTER AT TRINITY LUTHERAN CHURCH), 183 HOWE AVENUE (MAP 118, LOT 7), R-4 DISTRICT.

Richard Schultz read the call of the hearing.

Richard Knowles, the CEO of TEAM addressed the Commission. He introduced Edward Leavy, certified engineer and David Morgan, childcare director. TEAM is a regional, non-profit organization in Derby. Part of their mission has been to offer a publicly supported child programs such as Head Start and School Readiness. They propose a preschool classroom at the Trinity Lutheran Church located at 183 Howe Avenue in their education building. The classroom would be state certified under Connecticut regulations for early childhood centers. They would be open ten hours a day, 52 weeks a year. The hours would be approximately 7:30 in the morning to 5:30 in the evening. It would be subsidized by public funding, most likely by the State of Connecticut, to make it affordable to all residents of Shelton. Parents would provide their own transportation unless funds would become available for busing. There is adequate parking on site with about 20 spaces. Staff would not number three or four at one time. Parents would primarily be using the parking lot as drop off and pick up site.

TEAM's early education classrooms are certified by the U.S. Head Start Program and by National Association of Education for Young Children (NAEYC). They would seek certification for these classrooms once they became a reality. The ages of the children would be between 3 and 5 years of age. The classroom would not have more than 18 children. They would have to make a few modifications upstairs to the education building to be licensed for the State. They will be adding a playground to the rear of the building.

Mr. Knowles showed a site plan to show where the playground would be behind the education building. There would be some fencing added to restrict the children to the playground area.

Comm. Lopera asked how large the playground area would be.

Edward Leavy addressed the Commission. He stated that the playground would be approx. 2500 square feet.

Comm. Lopera asked if that was a sufficient playground area for 18 children.

Edward Leavy stated that yes.

Mr. Knowles stated that by license requirement there needs to be 75 square feet per child for external playground space and 35 square feet per child internal classroom space. Both requirements have been met. They recently sponsored a school readiness application and plans with the Board of Education and the City of Shelton. That application was signed off by the Mayor and the Superintendent within the last ten days. It is coming up to the State Board of Education for funding to subsidize the operations to make parents fees affordable.

He continued to say that one of the populations of concentration in Shelton would be the Lafayette School area. This childcare program will be affordable to the parents in that neighborhood. Mr. Knowles stated that as everyone knows, early childhood education is important to later performance in school. This is one of the advantages of this program.

They also located 37 property owners within 200 feet of the property, and notified them by certified mail. He provided those mail receipts to Richard Schultz. He indicated that there are very few houses near there on Myrtle Street.

Comm. Parkins asked what type of fence they would be using.

Mr. Knowles responded that there was a chain link fence there right now. Normally they put in a four foot green plastic coated fence.

Comm. Parkins asked if that fence separates the playground from the cliff there.

Mr. Knowles stated that there already is a four foot fence separating that area. They will be extending the fencing area on the ends and around the parking area to enclose it. He indicated that the existing fences tie into the building and close in the playground.

Comm. Parkins asked for clarification about the fence at the playground that protects the children from going off the cliff. Is it already there?

Mr. Knowles stated that it is and they will extend it out ten more feet to close it in.

Comm. Lopera asked about the condition of the fence already there.

Mr. Knowles stated that it was in good condition. He indicated that per getting a license by the state of Connecticut, they have to enclose the playground area. He added that they are grateful to Lutheran Church for allowing them to do this. Jack Redmond (?) is here tonight. Mr. Knowles assured him that the fence line will be in good shape.

Comm. Harger asked if it would be kept at a four foot height.

Mr. Knowles stated that yes, the children are small.

Comm. Harger asked if they were planning to serve lunch or snacks and would they need cooking facilities.

Mr. Knowles stated that food, even hot food, would be brought in. They use a caterer for their facilities. They use that caterer for their other facilities in Ansonia, Seymour, and Milford and they serve about 225 children a day presently in preschool classrooms.

All are certified by other Head Start or NAEYC. This will be a similar setup.

Comm. Harger asked if this would operate out of one room.

Mr. Knowles stated that it would operate out of one room.

Comm. Pagoda asked how many adults would be there with the children during the hours of 7:30 a.m. and 5:30 p.m.

Mr. Knowles indicated that they have to have two adults for every ten children. At all times, there will be at least two people in the classroom. They usually hire 2 part time people to overlap with two full time staff members. At certain times there may be three adults present.

Comm. Pagoda asked if all 18 children are let out on the playground at the same time, and if they are, are both adults out there with the 18 children?

Mr. David Morgan, childcare director, addressed the Commission. He stated that all children would go out together as one group with staff. The minimum is that for every ten children there has to be one adult. There are always two adults on the site. The way the scheduling works is that there are two adults in the morning and the afternoon and in the middle of the day, between 9 a.m. and 3 p.m. there are four adults. They all go outside together.

Comm. Tomko-McGovern asked how they would regulate people coming in and picking up the children.

Mr. Knowles stated that there wouldn't be any sophisticated alarm system. Probably they will have to work that out on the site. Some larger facilities have an electronic system. They are required to provide something and they use an extensive operation manual to adjust each facility, in this case they will have to work with the church regarding pick up and drop off locations.

Comm. Harger asked how many times they go outside and how long they go outside for.

Mr. Morgan stated that they go out once in the morning and once in the afternoon for about 45 minutes.

Comm. Harger asked if there was existing playground equipment outside.

Mr. Knowles stated that currently no there is not, but there is a plan in place to develop one for three to five year olds.

Mr. Morgan stated that part of the grant from the State of Connecticut includes the funds for a Playscape setup.

Comm. Harger asked if it was a grassy area.

Mr. Morgan stated that it is grassy with some asphalt in the corner but mostly grass. Comm. Harger asked about the fencing that abuts the neighbor.

Mr. Leavy stated that it is all part of the parcel, there is no neighbor right up against it.

Mr. Knowles stated that part of the building almost reaches the fence line and blocks off any view from the fence line. It acts as a natural barrier.

Comm. Pagoda asked if there was anyone from the audience who had any comments or questions. There were none.

On a motion made by Patrick Lapera seconded by Virginia Harger it was unanimously voted to close Application #07-25.

Comm. Pagoda told the applicants that they would try to address this at the next meeting. They will have it on the June 12, 2007 agenda.

APPLICATION #07-07, ALEX ESPOSITO FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (RESTAURANT EXPANSION/PARKING RECONFIGURATION AT FORMER DIMAURO'S LUNCHEONETTE), 376 RIVER ROAD (MAP 66, LOT 57), CA-2 DISTRICT – (PUBLIC HEARING CLOSED ON 3/27/07) – DISCUSSION AND ACTION.

Richard Schultz indicated that they have been waiting for a favorable City Engineer report. He received it and Staff has reviewed it. They received a favorable Fire Marshal's report. The Commission reviewed the architectural issues and that was resolved. He reads the City Engineer's report with conditions dated May 29th. The applicant has submitted revised plans to incorporate conditions. Additionally, Mr. Schultz reads a draft motion.

***See attached letter from the City Engineer dated May 29, 2007.**

On a motion made by Virginia Harger seconded by Patrick Lapera it was unanimously voted to approve Application #07-07.

APPLICATION #07-08, HUNTINGTON DEVELOPMENT GROUP, LLC FOR SUBDIVISION APPROVAL (11 LOTS: TREE TOPS SUBDIVISION) 279 SOUNDVIEW AVENUE (MAP 136, LOT 23), R-1 DISTRICT – DISCUSSION AND ACTION.

Comm. Sylvester asked for clarification as to why this needed to be tabled. Richard Schultz responded that the matter is being discussed in executive session by the Board of Alderman for open space consideration.

On a motion made by Virginia Harger seconded by Patrick Lapera it was unanimously voted to table Application #07-08 until June 12, 2007.

APPLICATION #07-14, JOSEPH WILLIAMS ON BEHALF OF AVALONBAY COMMUNITIES, INC. FOR AMENDMENT TO THE ZONING REGULATIONS (SECTION 35, SUBSECTION 35.5..2: PRD REGULATIONS), (PUBLIC HEARING CLOSED ON 5/1/07) – DISCUSSION ONLY.

Richard Schultz stated that the Chairman directed Staff to send everyone on the Commission a package including all the approvals by the land use boards such as the Water Pollution Control and Inlands/Wetlands, all the department approvals, City Engineer and Fire Marshall. Now that everyone has all this correspondence, Staff needs a directive to prepare a resolution on all three of the matters – favorably or unfavorably. He stated that time is running out, and he knows that staff wants to act on this.

Comm. Sylvester asked for clarification about whether these applications were being done individually or all together.

Mr. Schultz stated that they would be combined.

Comm. Harger asked for clarification that this was a motion for the preparation of the resolution or for the applications.

Comm. Pagoda stated that it is a directive for the Staff to write up a resolution for the three applications that the Commission can vote on at the next meeting.

APPLICATION #07-15, JOSEPH WILLIAMS ON BEHALF OF AVALONBAY COMMUNITIES, INC. FOR PRD OVERLAY ZONE (SHELTON 1: 40 UNIT CLUSTER DEVELOPMENT), ARMSTRONG ROAD (MAP 19, LOTS 2, 3, 4, AND 5), R-1 DISTRICT (PUBLIC HEARING CLOSED ON 5/1/07) – DISCUSSION ONLY.

APPLICATION #07-16, JOSEPH WILLIAMS ON BEHALF OF AVALONBAY COMMUNITIES, INC. FOR PDD ZONE CHANGE (DETAILED DEVLEOPMENT PLANS: SHELTON II: 99 UNIT MULTI-FAMILY),

BRIDGEPORT AVENUE (MAP 8, LOT 8), R-1/OPD WITH SDA OVERLAY ZONE (PUBLIC HEARING CLOSED ON 5/1/07- DISCUSSION ONLY).

On a motion made by Virginia Harger seconded by Patrick Lapera it was voted to prepare a resolution for June 12, 2007. Commissioner Sylvester and Commissioner Tomko-McGovern abstained from voting.

Commissioner Tomko-McGovern stated that she wanted to clarify the reason for her desire to abstain from voting, because she wasn't sure if she would be voting on the applications at the next meeting, therefore, it wouldn't matter if she voted now. She wanted this clarified for the record.

APPLICATION #07-20, BRUCE MATTO FOR RE-SUBDIVISION APPROVAL (LOT 3, DEANWOOD MEADOWS), 212 SOUNDVIEW AVENUE (MAP 9, LOT 25), R-1 DISTRICT (PUBLIC HEARING CLOSED ON 5/15/07) – DISCUSSION AND POSSIBLE ACTION.

Richard Schultz stated that this is the former girl's school, an older home on Howe Avenue with an attached apartment. They want to remove the attached apartment which will enable them to have enough square footage to create another lot. That lot, Lot 3, went through a public hearing for subdivision. He read new correspondence for the record.

***See attached later from City Engineer dated May 29, 2007.**

***See attached Staff Report dated May 24, 2007.**

In regard to open space, the applicant is not proposing any additional open space or payment in lieu of open space. The original developer has fulfilled their open space requirements for the original development. The Conservation Commission in its letter dated April 10, 2007 recommended a payment in lieu of open space. Mr. Schultz stated that unless the Commission wants to go against its own policy, they have never double-dipped. When an applicant came in with the total acreage, the open space was set aside at that time. The Conservation Commission is saying that this places more of a burden on Shelton's infrastructure, and consideration should be made to payment made in lieu of. Mr. Schultz informed the Commission that they have never deviated from the policy for anything in excess of subdivision regulations. That has been policy unless the Commission wants to change it.

Comm. Sylvester asked if they have faced something like this before where they have made a decision and then the property was divided again for profit. He asked if they have made this decision not to double dip in the same situation.

Mr. Schultz stated that in this situation it hasn't been done. The open space set aside for this development was based on the total acreage. A public hearing is coming up next month too for a subdivision that was done in the 1970's without any conveyance of open space, and he has advised the applicant that the Commission will probably require payment in lieu of. That is a reasonable requirement.

Comm. Sylvester asked if they had looked at this application the first time to be subdivided like it is now, would the same amount of open space be required.

Mr. Schultz stated that yes – no more, no less. He informed the Commission that they will be getting more applications like this re-subdivision with parcels being split. For each occurrence, Staff has to do a background check to explain if any open space was dedicated and if it was waived by the Commission.

Comm. Pagoda stated that was a good point to bring out whether the Conservation Commission would lose anything because the open space wasn't taken initially from applicant. He agreed with Richard Schultz that these subdivisions done back in the 70's will be coming down the line. At that time, there was no requirement for open space. It is fine as long as the applicant is made aware that they will be asking for payment in lieu of or for the land.

Comm. Harger asked a question brought about by a resident at 245 Soundview Avenue as to whether the subdivision met the square foot minimum requirement.

Richard Schultz stated that yes it did.

Comm. Harger asked a question from another resident at 221 Soundview Avenue about the dangerous driveway and intersection there.

Richard Schultz stated that the City Engineer always consults with the traffic authority. His letter indicated the exact location of the driveway and those issues have been addressed.

Comm. Lopera asked if this conforms in every way to an R-1 lot zone.

Richard Schultz stated that it does although it was deceiving because it was a large lot. He read the motion to approve the re-subdivision for 07-20 two lots resubdivision of Lot 3 Deanwood Meadows prepared by James R. Swift and Louis Associates dated 7-25-06 with the following conditions 6, 9 and 21.

On a motion made by Leon Sylvester seconded by Patrick Lopera it was unanimously voted to approve Application #07-20.

APPLICATION #07-21, CHINATOWN SHELTON FOR SPECIAL EXCEPTION APPROVAL (HIGH TRAFFIC GENERATOR: RESTAURANT WITH TAKEOUT AT WHITE HILLS SHOPPING CENTER), 194 LEAVENWORTH ROAD (MAP 144, LOT 15), CA-2 DISTRICT (PUBLIC HEARING CLOSED ON 5/15/07) – DISCUSSION AND POSSIBLE ACTION.

Richard Schultz reads the correspondence.

***See attached report from the James M. Tortora, Fire Marshal dated May 24, 2007.**

***See attached Staff Report dated May 29, 2007.**

Richard Schultz asked for a motion to approve this application with the following conditions:

- Signage for the restaurant must apply with the conditions for the master plan of the building.
- All refuse for the restaurant shall be disposed of in an acceptable container properly screened on site.
- Adherence to the Fire Marshal's conditions of approval. He stated that they would need a roll call vote.

On a motion made by Virginia Harger seconded by Patrick Lapera it was unanimously roll call voted to approve Application #07-21.

APPLICATION #07-23, COUNTRYSIDE VETERINARY HOSPITAL FOR SITE PLAN APPROVAL (BUILDING EXPANSION), 374 LEAVENWORTH ROAD (MAP 150, LOT 45), R-1A DISTRICT – DISCUSSION AND POSSIBLE ACTION.

Richard Schultz reads the correspondence.

***See attached letter from the Fire Marshal dated May 24, 2007.**

***See attached letter from the City Engineer dated May 25, 2007.**

End of Tape 2, Side B 9:20 p.m.

Applicant has received approval from the health department in a letter dated 1/10/2007. The applicant received an expansion of non-conforming use from the Zoning Board of Appeals at its March 29, 2007 meeting with the conditions of no overnight patients (animals) and the installation of low non-intrusive site lighting. The property lines are within the reasonable watershed of the Aquarian Water Company. A referral was made to Aquarian Water Company. The building addition and parking area, however, are located above the base elevation as stated in the City Engineer's report. An acceptable sediment and erosion control plan has been submitted for the project. The Inlands/Wetlands Commission has approved all regulated activities associated with this project. Staff has inspected the property to confirm that the grounds have been maintained and the site is capable of supporting this addition and sufficient on site parking has been provided. The applicant is relocating the existing ground identification sign which is currently within the state right of way. There are no Staff recommendations.

Richard Contois, L.S., 227 Stepney Road, Easton, CT addressed the Commission.

He stated that he is a licensed land surveyor with Edwards Associates. He explained the existing conditions. The site is on the south side of Leavenworth Road. The existing building is a metal type building that has housed a machine shop and pre-fab, and now houses Countryside Veterinarian Hospital.

There is a very rough parking lot with gravel, an existing septic system and wetlands in the back. The proposed plan would be to be the 3100 square foot addition onto the

existing building, additional parking on impervious pavement approved by the Inlands/Wetlands Commission. The building size requires 20 parking spaces, and they are providing 33. They have drainage control in two locations, the expansion of the septic system which has been approved. There is handicapped parking with sidewalks around the parking lot up to the building that meet successful grade. The enclosed dumpster is located as far from the wetlands as they could get it.

They are proposing new plantings around the parking area. They have improved the runoff from the existing conditions because they will be controlling and containing it. Presently, the runoff just goes into the wetlands with no protection.

The Department of Transportation provided comments regarding the driveway because it was not totally square to the road. These issues were addressed and resubmitted to them. The owner & developer, Bruce Kearns, who is present tonight, indicated that he received permits to have the sign in the present location.

Mr. Kearns addressed the Commission. He stated that Sign Depot who placed the sign, contacted the State at that time.

Mr. Schultz stated that it would be in his best interests to relocate it. It is something that the Commission would prefer that you do because it helps them in their role.

Mr. Kearns stated that would fine. He always assumed it was compliant.

As far as the architectural plan he showed drawings of the metal building from two angles and its entrances.

Comm. Lopera asked what types of materials they would be using on the new building.

Mr. Contois stated that they would be using wood siding.

Mr. Kearns added that it would be a simulated wood clapboard look. They want to make it appear more in concert with the residential area.

Mr. Schultz stated that this is a major upgrade.

Comm. Lopera asked what they could do with the metal building.

Mr. Kearns stated that this is a wooden frame addition.

Comm. Lopera wanted to know if they could put something over the metal.

Mr. Kearns stated that they resided it with the same type of siding and a stone veneer on the foundation that would be extended to cover the metal.

Mr. Contois said the new building would be wood or cement fiber.

Comm. Pagoda asked if the roof would be asphalt. He would like the roof to appear more in line with the residential area rather than the metal industrial roofing – making it look more R1.

Mr. Kearns stated that was their intent.

Mr. Contois showed the proposed floor plan with the main entrance, the reception area, examining rooms and main hospital area.

Mr. Kearns added that the current building becomes an inpatient hospital and the new addition becomes an outpatient hospital with an outpatient waiting area and its own examining rooms.

Comm. Pagoda asked if animals would be boarded overnight.

Mr. Kearns stated that there is no boarding that would be done. There may be medical cases but it is not a boarding facility.

Comm. Pagoda asked what the longest overnight stay might be for surgical recovery of an animal.

Mr. Kearns stated that most surgical cases go home the same day. If an animal is critical it would be transferred down to the emergency clinic referral center. If an animal is stable and simply having continued care it might stay for the duration of its treatment. It is uncommon for it to be more than two or three days.

Comm. Pagoda asked if there would be any outside pens.

Mr. Kearns stated that they have designed everything indoors. There are no outside runs. Currently the staff will walk an animal outside on a leash and clean up after it. There is no enclosure anticipated on the outside.

Richard Schultz asked if there were fulfilling ZBA's restrictions for lighting and indoor patient care.

Mr. Kearns stated that yes he was.

Comm. Sylvester asked if they had a variance from the ZBA.

Richard Schultz responded that yes, they did have a variance from the ZBA with conditions.

Comm. Sylvester asked what the conditions were.

Comm. Harger asked Mr. Kearns if they offered cremation on this site.

Mr. Kearns stated that they did not.

Mr. Schultz read the conditions from the ZBA that included the boarding of animals with the exception of overnight patients are prohibited. Only low non-obtrusive lighting may be installed on the side of the property bordering residential neighbors.

Mr. Contois added that low street post lamps would be used.

Comm. Pagoda asked about medical waste.

Mr. Kearns stated that it would be handled as it is currently. Medical waste is contained within the hospital in special containers. This is required for their licensing. Those containers are then picked up by a service that disposes of medical waste. There is no long term storage of medical waste at all. This is also true for radiological waste.

Comm. Pagoda asked about containers presently on site behind the building. Would they be removed?

Mr. Kearns stated that yes they would be. Currently, they are being used to store equipment while they do an internal remodeling. It will all be cleaned up when it is completed.

Comm. Harger asked what the hours of operation would be.

Mr. Kearns stated that it staff arrives at 7:30 a.m. and begins treating patients at 8:30 a.m. until 5:30 p.m. except for Saturday which is only until 12 noon. They are closed on Sunday.

Richard Schultz stated that Staff recommends approval for site plan application #07-23, the 3124 single story addition, 374 Leavenworth Road planned behind Countryside Veterinarian Hospital prepared by L. Edwards Associates, LLC dated 11/14/06 and 4/31/06 with the following conditions 1, 4, 5, 7, 12, 13, 14,15, 18 and 34. The ZBA Conditions are incorporated in #34.

On a motion made by Patrick Lapera seconded by Virginia Harger it was unanimously voted to approve Application #07-23.

Comm. Sylvester asked what the basis of the ZBA approval was – hardship?

Richard Schultz read that inasmuch as the expansion to the property is for increase in the business that is already being conducted on the property. Therefore, due consideration for public, health, safety and welfare, and property value the approval for a variance to expand the existing prohibited use at the above site is granted. Section 21.4 Schedule A Line 4.

Mr. Schultz explained that their position is that the existing business is there, the property can accommodate the use as well without impacting negatively the surrounding properties.

APPLICATION #07-31, DOMINICK THOMAS FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #50 (ELIMINATION OF CANOPY FOR SHORELINE VETERINARY CLINIC), 895 BRIDGEPORT AVENUE (MAP 8, LOT 17) – DISCUSSION AND POSSIBLE ACTION.

Richard Schultz indicated that the applicant was not present but he showed the Commission photographs of the site.

Comm. Pagoda stated that this was something that everyone may recall if they were on the Board when this initial application came through. There were some problems when the application was first submitted as far as the length of time when the project began because of the amount of blasting and drilling. Due to the nature of rock removal, the plan and architectural came back to us scaled down due to cost factors. The proposal at that time had a lot more architectural, but that were knocked down. The Commission always maintained on the initial plans that a canopy be placed there to cover up a trailer/van used for transport. The applicant is now coming before us to eliminate that canopy. Comm. Pagoda did not know the reason for the elimination.

Mr. Schultz stated that the applicant was supposed to be present. He suggests that commissioners take a look at the site. They have submitted an application for a minor modification. This application was accepted, it is pending and now the Commission must be act upon it. If you choose to deny it , then that will send the message that it's a major modification, and they would have to come back at a public hearing.

Comm. Pagoda stated that he has driven by that site. At this stage, the trailer/van is sitting there. The building looks good although it was scaled down from the initial drawing. The imposition of this trailer sitting there wide open needs a canopy over it. He suggested leaving it as the initial plans called for. He knows that building was scaled down drastically. He understands that they had financial issues but certain things have to be kept in perspective and that canopy is one of them.

Comm. Harger asked if there was another location on the site where the van could be parked.

Comm. Pagoda stated that no there wasn't because it is huge.

Comm. Sylvester asked what other motion they could call.

Mr. Schultz stated that they could deny the request for minor modification.

Comm. Sylvester stated that he wanted to make a request to deny the minor modification.

Comm. Parkins asked if the vehicle was there all the time and if it belonged to them.

Comm. Pagoda stated that it travels if they have to go somewhere but it is there most of the time and it belongs to them.

Mr. Schultz asked if the consensus was that architectural feature was significant and worthy of maintaining for the project, because the applicant will be calling him.

Comm. Sylvester stated that he has been listening to what Comm. Pagoda says he sees there all time as not being the type of thing that we want to have, and it's not appealing. He is voting this way to let them know that they need to think about doing something about it.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to deny Application #07-31.

On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously voted to adjourn at 9:50 p.m.

Respectfully submitted,

Karin C. Tuke
Clerk