

The Shelton Planning & Zoning Commission held a regular meeting on September 11, 2007 in Shelton City Hall, Auditorium, 54 Hill Street, Shelton, CT.

The following members were present: Comm. Anthony Pogoda (acting Chairman)
Comm. Patrick Lapera
Comm. Ruth Parkins (alternate for
Chairman Cribbins)
Comm. Leon Sylvester
Comm. Karen Tomko-McGovern (alternate
for Comm. Oraziatti)

Staff present: Richard Schultz, Administrator
Anthony Panico, Consultant
Karin Tuke, Recording Secretary

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. Pogoda opened the meeting at 7:04 p.m. with the Pledge of Allegiance. He asked everyone to pause for a moment of silence in remembrance of those who lost their lives on September 11, 2001.

PUBLIC HEARING
APPLICATION #07-26, KEVIN RUSSO FOR MODIFICATION OF SPECIAL
EXCEPTION APPROVAL AND RE-SUBDIVISION OF LOT 7 (2 LOTS), MEADOW
WOOD ESTATES, 7 PLUM TREE LANE (MAP 145, LOT 124), R-1 DISTRICT

Rick Schultz read the call of the hearing and one piece of correspondence.
***See attached letter from the Conservation Commission dated 6/26/07.**

Mr. Thomas Lynch, attorney with Lynch, Trembicki, Martelon located at 63 Cherry Street, Milford, CT addressed the Commission. He stated that he was representing Kevin Russo, the owner of the property located at 7 Plum Tree Lane. Mr. Lynch explained that they are before the Commission with the two applications. The first application is seeking to modify the CRD Special Exception rules granted on June 18, 2001 for a seven lot CRD development on Plum Tree Lane. In conjunction with that, they have submitted an application for a re-subdivision of Lot #7, shown on the record subdivision map for Meadow Wood Estates, to allow a division of the existing Lot #7 to two lots which conform to the Zoning Regulations in all respects.

Mr. Lynch submitted a photo to the Commission, pursuant to regulations, of the requisite sign that was posted on the property. Additionally, he provided them with six copies of an eight lot conforming layout that he will be presenting tonight. He noted for the record that the requisite certificates of mailing were mailed to Mr. Schultz's office in the required timeframe.

Commissioner Sylvester arrived at 7:10 p.m.

Mr. Lynch provided some background of Meadow Wood Estates in order to establish a record for his client and re-familiarize the Commission. He showed a map that he indicated he will submit to the Commission (Exhibit #1). In conjunction with the modification of the special exception as granted back in 2001, they are now submitting a map that shows eight conforming lots in the area of question prior to the subdivision involving Plum Tree Lane. The property consisted of 14 acres on the westerly side of Meadow Street. In 2000 – 2001, New Horizons Development LLC, the owner of the property at that time submitted an application for a CRD under Section 33-13 of Shelton's Zoning Regulations. The map being shown tonight was not the end result of discussions with Staff at that time.

Mr. Lynch claimed that he felt it was important to state for the record, that under the relevant sections of Article 13 of the Zoning Regulations, the applicant has to submit a map to show the standard conforming layout as the first step in the development of the property.

He didn't want to get into hearsay discussions that may or may not have taken place with the prior owners of this property and Staff of the Zoning Office. He stated that this map was submitted to the Zoning Office in 2001; it was rejected by Staff, and not presented to this Commission. This is a direct violation of Section 33-13.3 of Shelton's Zoning Regulations.

Mr. Lynch added that when an applicant comes before this Commission to develop his property, he is allowed under the CRD regulations to present a plan that meets zoning requirements. In this case, it is an RA zone. The map presented tonight meets all standards of development in the RA zone. This map conforms in all respects. There was one item that led to this map not being presented to the Commission in 2001. It relates to the layout under Shelton Zoning Regulations that requires a 150 foot square within the confines of a lot.

Mr. Lynch stated that an arbitrary administrative decision by Staff was made not to submit this map to the Commission. This decision allowed the application to go forward without an eight lot conforming configuration. The applicant, owner of the property at the time, resubmitted a seven lot conforming configuration and a seven lot CRD application and map.

Mr. Lynch showed his second exhibit (Exhibit B) as the record subdivision map to Meadow Wood Estates. A single family residence was constructed on Lot #7. The area shown on the map as the easement for the overhead power lines for CL&P was dedicated as open space. Lot #7 was to the easterly side of the utilities easement – that is Mr. Russo’s property as of today.

Mr. Lynch stated that Mr. Russo’s property consists of 57,000 square feet – it is more than double the size of the lot permitted under CRD regulations. The second phase of this application is to re-subdivide Lot #7 on the record subdivision map to provide for Lot 7A (30,000 square feet) and Lot 7B (27,696 square feet).

Mr. Lynch commented that nowhere on the proposed configuration on the re-subdivision nor on the record subdivision map are these lots configured utilizing the area underneath the overhead power easement. Shelton Zoning Regulations (Section 5.25 Lot Area and Shape Regulation) specifically address that the area under an overhead power easement cannot be included in the determination of the size and shape of a lot. However, there is no mention of the 150 foot square infringing upon the overhead power easement. Mr. Lynch reiterated that the regulation states when a lot is configured, and shape is taken into consideration and minimum lot requirement for area is taken into consideration, the area consisting of the easement (now open space on the record subdivision map) cannot be considered.

Mr. Lynch stated that they are trying to reinvent the wheel. However, his client owns a piece of property double the size of the requirement in the zone. There is clearly no density issue here. The proposal submitted shows CRD layout lots across the street consisting of 32,000 square feet (Lots 1, 2 & 3) that are the same size as the proposed lots (7A and 7B). These lots meet the minimum requirements under 33.3 for lots in the Conservation Residential Development.

Mr. Lynch indicated that this application seeks to right a wrong. He stated that in 2001, the developer at that time had the right to develop this property with eight lots. They are now seeking to modify the special exception that was granted in 2001. There is a different owner of the property now. His client is the Supervisor in the State’s Attorney’s Office of this Judicial District and he has lived at this property for the last five years. By right, he is entitled to subdivide this land.

Mr. Lynch submitted another exhibit (Exhibit E). He indicated that his office spent a lot of time going through Shelton Zoning Office records. He presented a Shelton Assessor’s Map highlighting ten subdivisions that the Commission has approved where lots have been allowed without consideration to the overhead power easement.

Mr. Lynch read the ten subdivisions into the record:

1. Emerald Ridge Court
2. Subdivision on Wellington Court (CRD subdivision similar to Meadow Wood)
3. Subdivision on Daybreak Lane
4. Subdivision on Meadow Street adjacent to Mayflower Lane
5. Lot approved for a residence at 899 Howe Avenue
6. Four lot subdivision on Ridgefield Road
7. Residence at 11 Hickory Lane (Lot #12 has an overhead easement goes right through the property. It was approved without consideration for the area of utilities easement.
8. White Oak Road, Rugby Road, and Nutmeg Lane – utilities easement goes right through the subdivision. These lots were approved without consideration to the overhead easement.
9. Subdivision on Webster Drive
10. Subdivision with lots of Whittier Lane and Thorough Street.

Mr. Lynch stated that he is submitting this as part of their argument and for the record. This subdivision should not be treated any differently than the ones he just mentioned. He added that by state statute and definition, a special exception takes into consideration factors relating to the

land such as open space and wetlands. In this case, most particularly, there is a CRD. There are over five acres of open space and a utility easement owned by the applicant. He noted that this town is dissimilar to most towns in the area by requiring applicants to dedicate a utility easement area as open space. He applauds this idea because it creates a pass way, and keeps open space continuity between properties. In this case, it has taken seven acres of land and turned it into open space.

Mr. Lynch concluded that there are no density issues here and the two proposed lots meet all of the standards of the Zoning Regulations. He commented that this was never presented to the Commission in 2001, and Shelton regulations specifically state that this Commission makes the final decisions, not a Staff member.

Mr. Lynch stated that Michael O'Bymachow from Nowakowski, O'Bymachow, Kane & Associates was present to answer any technical questions. He concluded the presentation and offered to answer any questions the Commissioners may have.

Comm. Pogoda asked the Commissioners & Staff for questions or comments.

Mr. Panico stated for the record that the shape component of Paragraph 5.25 concerning lot area and shape is implemented by the 150 foot square requirement in this particular zone. He added that is what determines lot compliance with required shape. The applicant states that doesn't have to be outside the right of way line. Their position is that it does have to be because the definition clearly states that in considering the square in the lot, the power line easement doesn't get taken in account. Mr. Panico indicated that he thinks it is a matter of interpretation and understanding of that paragraph.

Comm. Sylvester asked Mr. Panico about the other subdivisions mentioned by Mr. Lynch.

Mr. Panico responded that this is the first time he has heard of them. He isn't privy to each and every one of them, but certainly Staff will go through them one by one and develop a history for them. He presumes that there is reason and rationale behind each of them.

Comm. Sylvester suggested that those findings become part of the record.

Mr. Panico stated that some of those subdivisions sounded familiar to him as they were read. They have nothing that prevents the approval of a lot that includes the right of way, but in determining compliance with minimum criteria specified in the zoning regulations, it is not taken into account. They have many lots throughout the City where the right of way for an overhead utility easement is incorporated into that lot, in fee. It just isn't included for computation purposes in determining compliance with the zoning regulations.

Comm. Sylvester asked for clarification that this application was denied as a result – not the calculation of an open space, but the denial of a possible lot.

Mr. Panico stated that is correct, because in their interpretation the lot doesn't comply with the requirements of the zoning regulations. He asked Rick Schultz if this applicant pursued a variance through the Zoning Board of Appeals and it was denied.

Mr. Lynch confirmed that he did, but it was for a variance.

Mr. Panico added that apparently the ZBA has the same interpretation as they do of that paragraph.

Comm. Sylvester asked if the Commission in other ways, allow lots to be created using the open space for compliance.

Mr. Panico responded that he doesn't believe so, but without looking at each one individually, he cannot guarantee that. Staff will go back, take each one and recreate the history of it to see if there was an error or a misinterpretation.

With respect to Mr. Lynch's comments, Mr. Panico added that Staff does not preclude any applicant from making any submission of any map or any drawing. All Staff does is advise that applicant whether, in their opinion, it complies or not and what will come out if they are asked to formally report upon it. For Mr. Lynch to allege that Staff stopped a man from submitting that map is false. We have had many discussions of this in its formative stages. The applicant at the time decided there was no sense pursuing it because obviously that was the response he was going to get from the Commission. They did not refuse to give it to the Commission by any stretch of the imagination.

Comm. Pogoda asked for any public comments or questions.

Wendy Siraco, 274 Meadow Street, Shelton, CT addressed the Commission. She indicated that she was at the hearing for herself and her father-in-law who lives at 270 Meadow Street. She inquired where approximately this house would be coming to. She stated that she knows the power lines are behind her, but asked where approximately this house would it be and would it infringe upon her privacy.

Mr. Lynch brought the Meadow Woods subdivision map over to her to show the exact location of her property, Mr. Russo's property and her father-in-law's property. He showed the proposed location of the house and its proximity to her home.

Ms. Siraco stated that she was satisfied with Mr. Lynch's explanation.

Comm. Lapera asked about the two other lots adjacent to that power line – Lot 1 and Lot 5. While looking at the subdivision map, he commented that the square on both of them appear to be outside the power lines. He asked Mr. Lynch if that was correct.

Mr. Lynch answered that all the lots are outside the power lines. The square in Lot #7A is going to be within the power lines.

Comm. Lapera asked for clarification again that the square within Lot 1 and Lot 5 were not within the power lines.

Mr. Lynch stated that is correct. He asked the Chairman if he could respond to some of the comments made.

Mr. Lynch addressed Mr. Panico and stated that the regulation that they are referring to does not say anything about the power easement not including the 150 square. There is a regulation that says that the lot, in terms of its shape and its size, can't include a power easement.

Mr. Panico asked Mr. Lynch to kindly tell him what the shape requirement for an R-1 lot is.

Mr. Lynch stated that would depend.

Mr. Panico replied that it doesn't depend - on anything. There is a standard for it. The shape factor is a 150 foot shape in such a manner that some part of the square extends within or touches the street setback line. That is the factor that establishes an appropriate shape for an R-1 lot.

Mr. Lynch stated it does not say that specifically in the regulations and he should read his own regulations.

Mr. Panico responded that it certainly does.

Mr. Lynch requested that Mr. Panico read it into the record if it is there.

Mr. Panico stated that it can be found in two parts. He asked Mr. Lynch if he agreed that Paragraph 5.25 discusses determination of compliance with minimum lot area and shape requirements.

Mr. Lynch responded that his reading of shape requirements is about minimum frontage on the street – the minimum depth back from the street – that is the shape requirement. There is nothing in there that those requirements can't include the easement area. It doesn't say it – it is not there.

Mr. Panico asked what wasn't there and if Mr. Lynch was suggesting that they don't have a provision for the 150 foot shape.

Mr. Lynch asked, with all due respect, and if it is there, to please read it to him. Please tell him where it is because he can't find it.

Mr. Panico responded that the proper interpretation is – there is a paragraph in here that states you have to have a 150 foot square.

Mr. Lynch stated that he has a chart in front of him with the minimum standards – it's a blue chart, Item #3, R-1 zone, minimum dimension of square...

Mr. Panico read the portion of the paragraph 24.2 concerning Area Location and Bulk Standards, Lot Area and Frontage. "Each lot except permitted interior and parcels...under the provisions shall have a minimum area...each lot shall be of such shape that a square with a minimum dimension specified in Schedule B will fit on the lot. That builds in the requirement to satisfy shape by means of the square.

Mr. Lynch disagreed because it says nothing about the overhead power easement area.

Mr. Panico stated that is the shape factor. The definition says that in determining compliance with the shape factor, the overhead utility line easement is not included. That is Staff's interpretation, and it has been for the last 30 years.

Mr. Lynch responded that it is not Staff's interpretation under 33.13. He told Mr. Panico that he wasn't there to get into a debate with him. He is appearing before your Commission. Mr. Lynch claimed that an administrative decision was made that he is putting on the record as being arbitrary and capricious. In regard to the prior applicant that did not come before the Commission on this matter, Mr. Lynch implied that they were not taken seriously by Staff and led to believe that the Commission would not grant approval. He posed a hypothetical to Mr. Panico that a discouraged applicant will leave his office and probably will not come back to the Commission for an approval.

Mr. Panico clarified that he is not a member of Staff. He is an advisor to the Commission. Staff often calls him to sit in on various discussions. The final decision about a particular map is not made by him, it is made by Staff. Staff, in his experience, has never told any applicant that they would refuse to bring a document to the Commission. He has heard Staff advise a perspective applicant that it did not appear to meet with the criteria of a regulation; however, they are welcome to submit it to the Commission with the odds that it will be denied. Any applicant using a judicious approach may determine what they want to do.

Mr. Lynch commented that he would close his file and run out of the office.

Mr. Panico indicated that he does not laugh at applicants.

Comm. Pogoda asked for a motion.

On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to close Application #07-26.

Comm. Pogoda directed Staff to look into this matter, come to some sort of resolution, and report at the next meeting on September 25th.

Mr. Lynch requested from the Chairman that an opinion from the Town Council might be appropriate here as to the interpretation of the zoning regulation. He stated that he has a differing opinion of the zoning regulations than Mr. Panico and the Commissioners may have. It might well be suited to request an opinion from the Town Council.

Comm. Sylvester commented that would be a good idea, but the P&Z Commission should have an opportunity to take a look at the record and the argument presented in order to provide an answer based on their history. Allow the Commission to make our decision first, and then ask anyone - Corporation Counsel, or however far up it goes. Comm. Sylvester indicated that as a sitting Commissioner for so long, he'd like to be able to hear Mr. Panico's and Staff's explanations with an opportunity to respond themselves.

Comm. Pogoda agreed with Comm. Sylvester's comments.

PROPOSAL OF SHELTON PLANNING AND ZONING COMMISSION: ADOPTION OF GIS GENERATED BUILDING ZONE MAP INCLUDING AQUIFER PROTECTION AREA (APA).

Mr. Schultz read the call of the hearing and indicated that the maps would be on file in the City Town Clerk and P&Z Offices. He read three pieces of correspondence. He read correspondence from the Central Naugatuck Council of Governments indicating they had no comments; from the Office of Long Island Sound's Program stating they found no inconsistencies; from the Valley Council of Governments voted to accept GIS map; from the South Central Regional Planning Commission indicating no negative impacts to the area.

***See attached letter from Central Naugatuck Council of Governments dated 8/2/07.**

***See attached letter from Office of Long Island Sound dated 8/10/07.**

***See attached letter from Richard Dunn, Valley Council of Governments dated 8/29/07.**

***See attached letter from Charles Conray, South Central Regional Planning dated 8/18/07.**

Mr. Schultz indicated that all of the referrals were sent to the Council of Governments and the DEP. The City Town Clerk's Office has also received a copy of the map. He stated that this map was created largely due to the efforts of the 2006 Plan of Conservation and Development where they used the GIS information. They were able to assemble it all together for this finished product. It should be noted that the Zoning Subcommittee has reviewed the map.

The Aquifer Protection Area (APA) has been incorporated into the map as requested by the DEP. These areas are delineated on the map as AP-1 and AP-2 located in the Birchbank area adjacent to the Housatonic River. It should be noted that most of this area is owned by the Aquarion Water Company or City Open Space. There are a few private individual lots with homes on it. Mr. Schultz stated that if someone were to build a shed and put certain chemicals in that shed – than the Inland Wetlands Commission would need to review that component of individual applications.

Mr. Schultz stated that the map is consistent with the 2006 Plan of Conservation and Development. Once adopted, the map would become available on the City's website along with the zoning and subdivision regulations. This is one of the most important things this Commission will be doing by putting everything on the City's webpage. Currently, the Zoning and Subdivision Regulations and the Plan of Conservation and Development are on the webpage. Mr. Schultz stated that they receive many calls throughout the nation.

He has advised the Commission to bring this map to the hearing and hopefully, it will be adopted at the end of this month. It is recommended to adopt this map at the P&Z meeting on September 25th with an effective date of 9/28/07. He summarized that this is a color-coded, digitized map, very easy to read with street names on it. They have received positive responses from the residents that have taken the time to come into their office to look at. Staff is hoping for a positive response from the public tonight so that they may move forward on the 25th.

Comm. Pogoda asked if the Commissioners had any questions or comments.

There were none. Comm. Pogoda asked if anyone from the public had any questions or comments.

Joe Nechasek, 25 Waterford Lane addressed the Commission. He asked Mr. Schultz to describe the extent, the volume, the measurement, the ownership and control of the Aquifer Protection Area for his benefit.

Mr. Schultz responded that he has some correspondence on that from the DEP. The DEP under Section 22A-354I-2 requires all local municipalities to delineate on their zoning map the aquifer protection. This is an attempt to identify in each town that has an aquifer protection area where ground water is recharged. When land use decisions are being made, zone changes, constructions for new homes, or additions, he public understands where it is delineated on the map. The Inland Wetland Commission will be enforcing it. So if anyone comes within that area, the P&Z will indicate that it falls within this area and need to go to Inland Wetlands.

Mr. Nechasek stated that he was most interested in the volume and extent of this aquifer and its control. Does the hydraulic company simply own the water?

Mr. Schultz read some of the background. "Aquifer Protection Area boundaries must be established by towns for public water supply wells in stratified drift that serve more than 1,000 people. That is the criteria – this provides water supply for the surrounding area with more than 1,000 people.

Mr. Nechasek stated that he understands that but questions if a private company, currently housed in Australia, owns the water?

Mr. Schultz stated that they do. Any area that falls within these criteria that provides public water for more than 1,000 people has to delineate that. So whether Aquarion Water Company, New Haven Company (public water company), ...

Mr. Nechasek asked if that means they own it.

Mr. Schultz asked him to clarify the question.

Mr. Nechasek asked if the hydraulic corporation owns the water – how much, how deep and how do you figure that out.

Mr. Schultz stated that he knows they don't own all the property and fee, but he'll have to get back to him on that question. He'll have an answer for the 9/25 meeting.

Comm. Sylvester added that historically, the Maples were owned by the water company. With great debate, the condominium zoned that piece of property. That property was allowed to be bought and now comes under the control of a condominium association that controls the land and aquifer (the largest aquifer that Shelton uses).

Mr. Panico stated that aquifer is a natural feature that isn't owned by anyone.

Comm. Sylvester commented that he thinks the question emanates from the fact that Aquarion owned that property and since disposed of it. He doesn't believe that there is any control of the water underneath that property by anyone.

Mr. Schultz stated that he will find about this.

Comm. Sylvester added that the reason he knows about this is because he visited someone on a lake. This particular piece of property has a lake and is owned by an individual. The owner has put "No Trespassing" signs up on his property, denying others access to this lake claiming that he owns the property under it. However, he does not own the water, only the access up to the high water table. It is presently in court to decide if this property owner can deny others access to the water. It is an interesting question that he isn't sure they can answer.

Mr. Schultz stated that the State owns the waterways – that is in their jurisdiction.

Comm. Pogoda added that an answer will be provided to Mr. Nechasek at the next meeting. He asked if there were any other questions or comments. There were none.

On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to close the P&Z Proposal for Adoption of the GIS generated Building Zone Map including APA.

The Public Hearing ended at 8:50 p.m. (end of Tape 1, Side 1)

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

Mr. Schultz stated that Staff has reviewed each application and finds them to be in compliance with Shelton Zoning Regulations and recommends their approval.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve Standard 1 – 13.

SEPARATES

SEPARATE #4759, KUNXIAM JIANG, 54 CARLEY STREET, HOME OFFICE

SEPARATE #4764, PATRICK MURRAY, 3 MURPHY'S LANE #28, HOME OFFICE

SEPARATE #4769, TIM VOIGHT, 95 LONGFELLOW, HOME OFFICE

SEPARATE #4795, COLLIGART, 77 VISTA DRIVE, HOME OFFICE

SEPARATE #4790, CDI ENTERPRISE, 84 MOHEGAN ROAD, HOME OFFICE

Mr. Schultz indicated that Separates 1 – 5 are for home offices. He indicated that Staff has reviewed each application and finds them to be in compliance with Shelton Zoning Regulations and recommends their approval.

On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously voted to approve Separates 1 – 5.

SEPARATE #4758, BRUCE BUTLER, 97 BRIDGEPORT AVENUE, SIGN

Richard Schultz stated that at the last meeting this was tabled because the Commission did not support a directory sign for the subject site. The applicant has modified it. Mr. Schultz showed a drawing of the modification for Butler Commercial Services showing exactly what the Commission requested – a sign with no directory. Mr. Schultz added that the applicant is

thinking about putting a directory sign further up the hill by the bend. Staff recommends approval.

Comm. Pogoda asked if they would be that letter style.

Mr. Schultz stated that it would be more decorative.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve Separate #4758.

SEPARATE #6309, WESLEY HEIGHTS, INC., 580 LONG HILL AVENUE, ADDITION

Mr. Schultz stated that earlier this year, the Commission approved their capital improvements for the renovation. This includes interior renovation of the existing senior housing residence. It includes a lobby addition and an elevator addition. Staff recommends approval.

On a motion made by Ruth Parkins seconded by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to approve Separate #6309.

SEPARATE #4777, LANA AFERZON, 2 IVY BROOK ROAD, BUSINESS

Mr. Schultz stated that this is the first occupant at the new medical office building at 2 Ivy Brook Road for Mark Aferzon. He is a specialist currently practicing on the Derby Green. He would be occupying 1600 square feet of a 40,000 square foot building. He has four employees. He is the first occupant so there is plenty of parking. Staff recommends approval.

On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously voted to approve Separate #4777. Commissioner Lapera abstained from voting.

SEPARATE #4793, WAL*MART, 465 BRIDGEPORT AVENUE, SIDEWALK SALE

Mr. Schultz stated that this is for an activity that has already taken place. It is the timing of the Commission meetings. However, they want to maintain a strict procedure on it. The sidewalk sale was held September 1-3 and September 8-9, 7 a.m. – 10 p.m. Staff would like to acknowledge that there haven't been any problems there. Staff recommends approval.

Comm. Parkins added that she attended that sidewalk sale and Wal*Mart did a good job of directing traffic.

Mr. Schultz commented that he appreciates that they called, and Staff advised them to submit their application.

On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to approve Separate #4793.

SEPARATE #4364, CT WASTE TRANSFER, 90 OLIVER TERRACE, ADDITION

Mr. Schultz stated that the Commission recently approved the site plan for the building addition and scale facility. Staff recommends approval.

On a motion made by Patrick Lapera seconded by Karen Tomko-McGovern, it was unanimously voted to approve Separate #4364. Commissioner Sylvester abstained from voting.

SEPARATE #4800, BIC, 1 RESEARCH DRIVE, ENCL. GENERATOR

Mr. Schultz stated that this is the second generator on the site, and they are proposing to put a six foot high, solid white vinyl fence around it. He showed the location of the proposed generator on a site drawing. There is already a larger generator out in front for BIC that the Commission recently approved. The other is an older one because this facility used to have many occupants. This screening is part of BIC's upgrading. Color is consistent with the neighboring buildings. Staff recommends approval.

On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously voted to approve Separate #4800.

APPLICATION #07-11, BARRY KNOTT ON BEHALF OF RICAR, LLC AND MIANUS HOLDINGS, LLC FOR PDD ZONE CHANGE (INITIAL DEVELOPMENT PLANS:

**MARINA EXPANSION, MULTI-FAMILY, RESTAURANT/CLUBHOUSE),
AMENDMENT OF THE 2006 POCD BY MODIFYING CHAPTER 6, RESTRICTED
COMMERCIAL DESCRIPTION AND CAM SITE PLAN, 704, 712 AND 722 RIVER
ROAD (MAP 23, LOTS 16 AND 17), IA-2 AND IA-3 DISTRICTS – PUBLIC HEARING
CLOSED ON 5/29/07) – AUTHORIZATION FOR EXTENSION ON REVIEW PERIOD
(APPLICANT INITIATED) – DISCUSSION ONLY.**

Comm. Pogoda began the discussion stating that on Saturday, Sept. 8th a walk took place at the marina site with the P&Z Commissioners. It was open to the public and reported in the local papers. He asked Staff to provide a brief overview of the plan of development.

Mr. Schultz stated that regarding the review period, Staff has asked the Applicant to continue with another extension to take them to the meeting of September 25th.

On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to accept the extension of the review period for Application #07-11 until 9/25/07.

Mr. Schultz continued that as the Commission is aware this is a proposed zone change for a PDD to accommodate the construction of 24 condominium units accessed from River Road; the creation of 300 boat slips with travel lift wells and boat ramp; 361 total parking spaces, 255 permanent marina spaces and 106 seasonal parking spaces; marine service building; separate clubhouse with restaurant and swimming pool; 1000 foot public boardwalk with two gazebos; and a small boat launch ramp available to Shelton residents at no extra charge.

Staff has pointed out some of the issues at hand including the City's need for the abandonment of the paper street known as Murphy's Lane and the need for a municipal sanitary sewer extension. The Applicant has indicated that the Town of Stratford has approved it, and they will be receiving notification to that effect.

Mr. Schultz stated that Staff recently met with the Police and Fire Department, and they went over a variety of issues. These issues included the installation of a traffic light at the intersection of Murphy's Lane and River Road which coincides with the main entrance to the condominium portion of the site. It has been discussed that perhaps the traffic light would do better at the intersection of the entrance to the marina, but the Traffic Authority supports Staff's position of having it at the intersection of Murphy's Lane. Everyone is aware of the left hand turn leaving there and think it would be most beneficial there. This is a side issue, but an important one that the Commission has to entertain.

Comm. Sylvester inquired if they make that decision.

Mr. Schultz stated that no they don't, but it would be incorporated in their resolution. It is a DOT final decision, but the Traffic Authority has to send a letter to the SDT indicating their support of it.

Mr. Schultz continued that at the last meeting, Staff discussed the upper parking area. He pointed it out on the displayed site drawing of the proposed marina. As the Commission is aware, the main entrance driveway is steep, right down to the river. The proposal is to do a dogleg left, continuing down with parking stalls on both sides. He stated that this is going to be a very active marina, and Staff feels that by eliminating one side, and relocating it to the lower level would be more beneficial. That is one issue that the Commission needs to talk about.

He stated that the Police and the Fire did not say that they are 100 percent behind it, but it was worthy of consideration. Obviously, they are concerned about fire apparatus getting down there. The Commission is always looking at the worst case scenario, so Staff is bringing it to their attention.

More importantly, Staff has been suggesting the possibility of providing a connection from the bottom level to the upper level in this location. He pointed out the location on the site drawing. The Police and the Fire were very supportive of that. They are hoping that the Applicant can engineer it, because as the Commissioners who walked it know, the grades are very steep there. It will be difficult but Staff thinks it is worth looking at.

Mr. Schultz relayed that the Fire Department would love to have a permanent home for the Echo Hose boat. Presently they store it on their site, and they use the Sunnyside boat launch. For those who are familiar with the Sunnyside boat launch, the tide really restricts it there. The Fire Department sees this as a golden opportunity. Mr. Schultz indicated that he thinks it might be something that the Applicant wouldn't have a problem with because, after all, the Commission is looking at public access. There is an area large enough there to accommodate that boat. They

learned that Echo Hose will be getting a new boat that is the same size as the one they presently have. Hopefully, this can be accommodated in their proposal.

Mr. Schultz stated that Staff is continuing to advise the Commission of the onsite parking need for all the different components. The Applicant is looking for 300 slips with the suggestion that one parking space per slip is adequate. At the public hearing, the Commission heard everything from .75 spaces per slip to two spaces per slip, so this is an issue. He continued that the Applicant is proposing a restaurant. They want it to be successful, and it will probably be very active so that needs to be taken into consideration as well as the activities, especially during peak periods. Staff has heard from the Commission that they would like the public to come to the marina, so there needs to be sufficient onsite parking for them dispersed accordingly on the site.

Mr. Panico interjected that it was clarified that all the parking on that site is really open to the public. They are entitled to go there whether they are involved in a marina activity or not. He suggested that they sometimes lose sight of that when discussions take place about reserved parking for the public; in fact, they can go down there and park anywhere they would like to.

Mr. Schultz responded that the Police and Fire Departments pointed out that when someone (public) brings their trailer down there, they might not be able to find a spot without having to get out of the car and ask someone. These are some of the discussions that took place with Staff.

Mr. Panico commented that during a previous discussion, it had been brought up that the City might want to consider that public trailer parking be reserved for Shelton residents, in order to prevent boaters from surrounding towns consuming all the available trailer parking spots.

Comm. Sylvester added that is difficult to monitor, but the City does that at Sunnyside, but someone has to be on duty to do it on the weekends.

Mr. Panico noted that with an active marina like this there would certainly be people there all the time.

Comm. Sylvester specified that they would have to monitor that particular portion though.

Mr. Panico clarified that out of town boaters can still come and launch their boats but must find another provision for their trailer.

Comm. Sylvester stated that he thinks it is great idea, but it is easier said than done. He added that at a previous meeting, Comm. Harger made a good point, and after the walk around at the Shelton site, they took a ride to see the other two marinas and the public launch at Sunnyside. He relayed that Comm. Harger recommended looking at some other marinas to see how they do business, what is happening there, and what their needs are. This is a great idea just for the Shelton marinas. Comm. Sylvester stated that after doing some of his own research, he learned that the two marinas down in Shelton near Sunnyside (combined) are comprised on approximately the same riverfront area (slightly less), than this proposed marina. The difference is that this one has greater breadth across the river than the two existing marinas.

Comm. Sylvester wanted to publicly note that the Applicant was very upfront and accommodating by answering any questions they had on Saturday. It was a very enriching meeting down there to be able to learn, see and understand what was happening. For him, he feels that there are two parts to this whole thing. At the last meeting, Chairman Cribbins mentioned that this is a good proposal that offers amenities to the community, but they need to be careful to allow it to be successful economically. He agrees with that idea but not as wholeheartedly as some. Comm. Sylvester stated that equally as important is that this is an important project, and they need to be careful that the quality of life on our most important resource, the Housatonic River, not be given away.

He continued to say that the other part is about density. Shelton has two existing marinas on the river and whatever they do here could influence what happens on those properties and others that will be open along the river. He stated that they are setting standards, benchmarks, and he restated that he thinks this is a wonderful application and he supports it. However, he questions how much is appropriate to be developed and how intense should it be. He doesn't expect it not to be profitable, but he wants the quality of life on the river to continue, and he wants to set a tone for what follows. Comm. Sylvester stated that he believes they are in the driver's seat as a Commission because this is a zone change. He asked Mr. Panico if that was correct.

Mr. Panico replied that was correct.

Comm. Sylvester added that if it is a zone change, they have the ability to make the decisions. Rick Schultz pointed this out to him. He was interested to know what this particular piece of property could accommodate under the regular zoning – Condos? A Restaurant? Sales? A Marina? It would be helpful to set a criterion to know how much of a variance or allowance they are giving. As they discovered earlier this evening, the Commission is called on every decision they've made in the past. People go back to our files and state "well, you did this then... so you should do it for me...and you should do more." Again, he reiterated that he feels that the Housatonic is the gateway to Long Island Sound; it is one of the most valuable resources that Shelton possesses. It is the greatest open space they could possibly have. They need to be careful about their decisions and how it impacts the rest of Shelton. He thanked everyone for listening.

Some members of the public applauded.

Comm. Pogoda commented that his points are well taken. He agrees that the Applicant was very accommodating on Saturday, and he got a different perspective of the river. Everyone had been questioning how far these boat slips were going out, and the Applicant positioned some buoys out there for us. Coming down the road from the top provided perspective as to how far they go out. This had been an initial concern. While they were out there taking a look, other Commissioners noted that they didn't think it would be as far inland as it actually was.

Comm. Sylvester added that the two buoys that they saw were fine. But unhappily they didn't take a boat out to see the third buoy, because others felt that the public should go with us, and that couldn't be accommodated. It was a legitimate point, and the Applicant did a great job anyway.

Comm. Pogoda noted that Comm. Sylvester brought out valid points about the importance of the river and the future developments that may be on it. The tone set on this application is really going to be scrutinized as the next applicant comes along.

Comm. Sylvester wanted to interrupt to make a point about the channel of the river that he previously misunderstood. The Applicant made a great presentation as to the moving of the channel and the depth of the river. For some reason, he misunderstood because the depth of the channel at Sunnyside seems to go up and down and across to the other side of the river. However, the depth of the channel at the proposed site seems closer to the marina.

Mr. Panico clarified that is the so-called delineated channel. In actuality, the depth of water is pretty good throughout that area so it is not important to stay within the channel.

Comm. Sylvester commented that he was informed that the area across from the Golf Center is somewhat of a mud flap at that edge of the river. If that is the case, what is the Applicant proposing as far as a channel passage that will allow boats to transfer to the river?

Mr. Panico responded and referenced the large aerial photo of the marina site with two sets of lines drawn to show the before and after of the channel. The after lines are the ones closer to the center of the river.

Comm. Sylvester asked if that would stay in the depth of the river.

Mr. Panico responded that the two lines closest to the river are the proposed relocated channel.

Comm. Sylvester asked what work they are doing to achieve that.

Mr. Panico stated that is being done through their Corp. Permit. Before a U.S. navigational channel can be moved, permission has to be given by the Army Corp of Engineers.

Comm. Sylvester asked if that was just on paper or through work.

Mr. Panico stated that it is accomplished through a permit and sometimes through work, if there is a dredging problem. Sometimes there is a dredging problem if you want to move channel to a location with insufficient depth. In that case, as part of the permit, you would have to propose dredging it to the proper depth. In this particular case, the depth of water already exists. The permit involves moving the lines and some minor dredging around the dock area.

Comm. Sylvester responded that answered his question.

Comm. Lopera commented that he agreed that the Applicant did a good job. They staked out all the buildings showing where the corners of buildings would be to provide a size perspective, such as how large the pool and restaurant would be. Lines were placed where the road would come down showing that the grade would actually be gentle coming around. He agreed with Comm.

Sylvester that the last buoy did look like it was far out into the river, so he has some concerns about that. He understands that the rowing dock needs to be a little longer to protect the other boats, but he is concerned about the last few rows of boats.

Additionally, Comm. Lapera stated that the gazebos and boardwalk are a great public amenity. And they will need to decide how many slips, if it will be two slips, dedicated to the town. The rowing dock is great but has no public access. This concerns him because he has seen kayakers in some the other City-owned lakes. It would be a great amenity to the public to kayak there, and hopefully, there will be more rowers.

Mr. Panico added that he believes that kayaks prefer to be somewhat above the water in contrast the longer, fragile shells that have to be right at the water's edge.

Comm. Lapera concluded with comments about the amount parking in lieu of all the activities on site. There is a possibility of an overload. The pool club and restaurant right on the river will probably generate a lot of people and be very successful.

Mr. Panico wanted to reconfirm that he was told that the pool club is only for the members of the marina or others with an interest there. Private Citizens can't just join the pool club.

Comm. Lapera indicated that he thought it was an open to the public.

Comm. Parkins stated that it is similar to a country club where membership is required.

Comm. Lapera added that would certainly adjust the parking, if cars are already there for their boats and the pool then parking wouldn't necessitate a big change. He stated that initially he was unclear on that.

Comm. Parkins commented about the parking on the top. She liked the idea of the step down for people who have to walk. She commented about the width of the driveway entrance ramp, and the Fire Dept.'s recommendation that there only be parking on one side. If there is any open space there, people are likely to just pull in there at park.

Mr. Panico corrected her to say that if they are going to eliminate some of that parking, the curb line would be coming in.

Comm. Parkins asked what the Fire Dept.'s concerns were then, if not access for emergency vehicles.

Mr. Panico responded that the Fire Dept. doesn't think vehicles should be backing out on both sides – it would be like driving through a parking lot. He discussed the possibility of eliminating the majority of the parking on the right side going down the entryway and pushing it to the bottom. This would leave two-sided parking where the boat display and sales area is located.

Comm. Sylvester asked Mr. Panico about the existing zoning requirements and how many condos were in this application.

Mr. Panico stated there 24 condos.

Comm. Sylvester asked about the plot of land needed to accommodate 24 condos.

Mr. Panico responded that for that portion of the site he couldn't give a figure, but could measure something up. The topographic difference isolates that part of the site.

Comm. Sylvester stated that when they looked at it, the top is very close to the road. There is a lot in a small area.

Mr. Panico agreed that it is close to the road where the three or four houses are located. There is a plateau and from the back of the houses, it slopes downward.

Comm. Sylvester stated that if the site can accommodate it - then OK, but it seems too close to River Road.

Mr. Panico noted that they are leaving plenty of driveway width, parking and access to the garages, so the buildings have to be set back at least 80 feet from the property line.

Comm. Sylvester commented that it didn't look like it was 80 feet.

Mr. Panico stated that he will recheck it.

Comm. Pogoda recalled that the point that they were standing on by the road seemed narrow.

Comm. Sylvester commented that since this is for discussion, he wanted to ask questions on his mind so that Staff can bring information back. He added that the parcel of property that is going to accommodate these condos is significant; they need to keep in mind the benchmarks for condo development on the river. It would be good information to know even though it shouldn't govern their decision-making.

Comm. Lopera asked if the condos were on a separate parcel.

Mr. Panico responded that it wasn't, but this whole project is an assemblage of two or three pieces of property.

Comm. Sylvester clarified that he was thinking about the amount of space for the restaurant, the amount of space for the sales, and ultimately, the amount of space for so many condos. The rest of the parcel doesn't really accommodate condos.

Comm. Lopera added that the condos are separate and their parking is separate from the marina.

Mr. Panico replied that he will try to get an approximation of what that area for condos is. For the purpose of spatial relations, he noted that the proposed condos actually start at about the back of the 3 houses there. The condos average about 80 feet from the property line until reaching the north end where they start tapering in. Some of the density at that end is the logical place for it to go away. And to accommodate the need to get out from the lower level - that is probably where some of the units are going to come out.

Comm. Tomko-McGovern asked if the gazebo was right there.

Mr. Panico responded that the gazebo is at the water level at both ends of the boardwalk. It is a significant boardwalk, a minimum of 1000 feet long.

Comm. Lopera asked if the access to the condos was located at the opposite end of where they were on Saturday.

Mr. Panico responded that was right. It is at the other end almost opposite to Murphy's Lane.

Mr. Schultz added that is where the proposed traffic light would be.

Comm. Pogoda asked if there were any further comments.

Comm. Parkins stated that she brought something up at the public hearing that she wanted to state for the record. She would like to know if there would be some sort of sign off from the pipelines that go through this area indicating that they have reviewed this plan and any placement issues.

Comm. Pogoda stated that because Chairman Cribbins is not here this evening, this application will be put on the agenda for the next meeting on 9/25/07. During that time, Staff will be working with the Applicant on our questions/comments and try to get back to us. He closed the discussion on Application #07-11 and Mr. Knott thanked the Commission.

APPLICATION #07-27, DOMINICK THOMAS FOR CROSSROADS AT EXIT 13, AMENDMENT OF STATEMENT OF USES AND STANDARDS FOR PDD #53 (OIL/LUBRICATION FOR AUTOMOTIVES AS AN ACCESSORY USE TO SPLASH CAR WASH), 376 BRIDGEPORT AVENUE (PUBLIC HEARING CLOSED ON 6/26/07) – DISCUSSION AND ACTION

Mr. Schultz stated that the Commission directed Staff to write an unfavorable resolution for an oil change and lubrication operation at the Splash Car Wash facility as an accessory use. He reads the resolution dated September 11, 2007. The Commission originally determined that the site should be limited to a single principal use car wash only to adequately address concerns over light, noise and hours of operation to the adjacent and nearby residential uses. The Commission has determined that the proposed modification is inconsistent with the conditions and modifications of the adopted resolutions dated 6/8/04 and 3/7/04 allowing the construction of the car wash facility as a single principal use in an accordingly inappropriate activity.

On a motion made by Ruth Parkins seconded by Anthony Pogoda, it was roll call voted to deny Application #07-27 with 4 votes in favor and one abstention by Comm. Lopera.

APPLICATION #07-33, DOMINICK THOMAS ON BEHALF OF CROWN POINT REAL ESTATE INVESTORS, LLC FOR PDD ZONE CHANGE (INITIAL DEVELOPMENT PLANS: HOTEL FACILITY AND ADDITIONAL DRIVE THROUGH LANE FOR BANK), 828 BRIDGEPORT AVENUE (MAP 18, LOT 19), IA-2 DISTRICT (PUBLIC HEARING CLOSED ON 6/26/07) – DISCUSSION AND ACTION.

Mr. Panico read the draft resolution and informed the Chairman that as part of this, the Commission would be authorizing them to continue with site preparation activities for the hotel, installation of grading, insulation, drainage, garage construction. However, the Applicant needs to know that they do this at their own risk. Staff is comfortable with the level of detail on the site development plans and doesn't anticipate any significant changes.

***See attached P&Z Resolution report for Application 07-33 to be effective 9/21/07.**

On a motion made by Karen Tomko-McGovern seconded by Patrick Lapera, it was roll call voted to approve Application #07-33 with 4 votes in favor and one abstention by Comm. Sylvester.

Much to the chagrin of other public attendees at the meeting, Atty. Dominick Thomas approached the Commission about signage for Longhorn Steakhouse.

Comm. Pogoda announced that it was not inappropriate because the application has been adopted and ruled on. There is no additional input. They have already made their decision and voted on it. There is no violation of any rules.

Atty. Thomas continued to discuss the sign approved for Longhorn Steakhouse for signage on three sides – the front and the two sides of the building. The Commission did not approve the sign on the back of the building facing the hotel. However, due to a miscommunication between himself and Longhorn, an interpretation of the three side sign approval led them to place signage on the front, one side and the back.

Public attendees continued to complain about Atty. Thomas' discussion of signage.

Mr. Panico expounded the fact that the signage pertains to a previously approved restaurant application.

Comm. Pogoda indicated that Atty. Thomas is only looking for clarification and is not adding anything.

Atty Thomas continued to say that no signage was put on the side of the building facing Chili's restaurant, because no one would see it anyway except for Chili's customers. He stated that he didn't want the Commission to think that they ignored their approval specifications.

APPLICATION #07-28, PERRY PETTAS FOR DETAILED DEVELOPMENT PLAN APPROVAL AND ADOPTION OF PDD ZONE CHANGE (COMMERCIAL DEVELOPMENT, 366-368 HOWE AVENUE(MAP 117B, LOTS 60 AND 61) – DISCUSSION AND ACTION

Mr. Schultz stated that Staff was advised to draft a favorable resolution and he provided copies to the Commissioners.

Comm. Sylvester complimented the applicant for trying so hard to do the right thing and make it work. He's a pleasure to work with.

Comm. Pogoda added that the Downtown Subcommittee has done an admirable job changing this application from what was originally proposed to what is the final outcome.

Mr. Panico added that it really is a pleasure to work with someone that is interested in doing it right, but that is a two-edged sword, because he's never built a building before. He wanted to make sure that they knew what they were agreeing to and not agreeing to.

Comm. Sylvester complimented Mr. Panico on how he helped this project through and never laughed at or discouraged anyone. He expressed the fact that his experience added to the project to make it a better development for downtown Shelton. He noted that he thinks the comments made earlier by Mr. Lynch were unfair. He wants the public to know how hard Tony and Rick try to provide good advice to people who come to them

Mr. Panico added that when people come to Staff in Shelton, they like to provide some guidance and direction not just “yes it’s ok,” or “no it’s not ok.”

Comm. Sylvester commented that what he likes about this development is that it takes into consideration that this is downtown Shelton. It has been designed to accommodate the needs of downtown Shelton, and not transform Shelton. He added that Mr. Pettas had a commitment to the people and doing a nice job.

Mr. Panico familiarized the Commission with the project. It has an evolution to it. Mr. Pettas had one piece of property and then he bought the property next door. He’s been exploring ways of developing it and came in with a proposal for a mixed use development with apartments upstairs and retail space below. He tried to integrate that with the preservation and rehabilitation of the older building on this site. After a lot of discussion with Staff, he was convinced it wouldn’t work. He decided to take everything down at that point which opened up a lot of avenues to explore with his architects. The final proposal is a potentially attractive solution.

This is only the first step; Mr. Pettas has a lot of work to do. It basically resulted in the construction of an attractive building that creates an interior courtyard providing more exposure for his retail tenants. He has eliminated the residential component of it and has chosen to use the upper floor for office space. They have worked at length with him, with the Fire Marshal for upper floor access, and with the Building Official. They were able to work it out without having to add an elevator because it would mess up his courtyard concept. He was able to create a rear access to the building through a series of ramps. That leads to a nice space in the back with a ramp system to get to the upper floor that can be attractively landscaped. Conversely, it has eliminated the possibility of doing any outside parking. But without the residential component, the pressure for onsite parking is alleviated. The Commission’s posture has been that residential units should have at least one space per unit on site. It has all come together nicely though.

With that as background, Mr. Panico read the draft resolution for Application #07-28. He added that there is still some cleaning up that has to be done on the drawings, and Staff will continue to work with Mr. Pettas to get that done.

Comm. Pogoda commented that he thinks it will be a great addition to downtown, and Mr. Pettas has been very easy to work with.

On a motion made by Leon Sylvester seconded by Karen Tomko-McGovern, it was unanimously roll call voted, 5-0, to approve Application #07-28.

Comm. Sylvester commented that will be a great step forward on that street. He asked what the status was of the building that has been shut down that has a big hole in it and a tarp across the side of it. It looks bad.

Mr. Schultz stated that it is a partial non-occupancy on the first floor and (inaudible.)

Comm. Sylvester stated that he has no insight as to what is happening with that building, but people ask him all the time.

Mr. Panico commented that they are relying on all the work and effort being done through the initiative of the property owners. Staff has to work with them and cajole, or coerce them to take the steps necessary.

Comm. Sylvester stated that he isn’t pointing the finger at anyone, but it makes it easier to understand some of the negative feelings for the P&Z Commission. As a Commission, we tackle such difficult proposals and problems, and yet there are simple problems existing in the community that aren’t discussed because it is not our purview. However, residents think it is – “why don’t you do something about...” He doesn’t propose we do anything about it, but recognize that those exist and say it publicly so they know that we care too.

Staff can convey that to the appropriate (inaudible)

Mr. Panico stated that nobody more than Staff would like to see something happen on that piece. On and off over the last year or more, they have been having discussions with Mr. Monaco about tearing down his development and replacing it. He withdrew his application because he had some issues to work out with parking. From what Rick tells me he is reactivating that application. If Mr. Pettas goes forward on one side and Mr. Monaco goes forward on the other side, they will still have this eyesore in the middle of it.

Comm. Sylvester stated that it wouldn’t be so bad if there wasn’t a tarp covering a giant hole.

Mr. Panico commented about it being blight. He indicated that he's surprised that it is structurally sound, but apparently the Building Official ruled that it is.

Mr. Schultz added that it is not sound for occupancy on the lower portion. The upper portion is (inaudible).

Comm. Sylvester noted that it falls in the same realm as the property on Huntington Street when people started to write letters and complain then something was done. He asked Rick if that can be included in the Staff Report when there is obvious blight.

Mr. Schultz agreed that they could through the Anti-Blight Ordinance. He brought it up before when Staff had to ratify that letter for Huntington Street.

Comm. Pogoda commented about what effect this will have on Mr. Pettas' property if this hole remains. It puts a dim light on what he is trying to do.

Mr. Panico added that he had some conversations with Mr. Pettas because he acknowledges that he can't worry about what the building owners next door will do. He can't coordinate with his neighbors because there is no attempted action there.

APPLICATION #07-30, HUNAN PAN FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: RESTAURANT AND PARKING EXPANSION), 303 BRIDGEPORT AVENUE (MAP 91, LOT 16), RBD DISTRICT (PUBLIC HEARING CLOSED ON 8/14/07 – DISCUSSION ONLY.

Mr. Schultz read their Statement of Uses as a review for the Commission. Hunan Pan Restaurant would like to expand the restaurant facility to include the lower level. The present use of the lower level is as a banquet & party room. The expanded restaurant will include a waiting area, service bar, 6 hibachi grills, and kitchen storage and toilet facilities. The hours of operation will remain the same.

He showed a map of the existing 40 parking spaces for 2000 square feet of restaurant area right now. As many know from driving by during the week, all the parking spaces are taken. Corporate Shelton has always used this restaurant.

Mr. Schultz stated that Sunwood residents are very concerned about its proximity to their residential area. A hibachi setup will bring in larger groups. Staff asked Hunan Pan to provide additional parking in the rear. The bar on the lower level is not large but the upper restaurant has a lot of tables inside. He indicated that he has been there, and at times the parking is filled to capacity. He doesn't see that changing very much and the hibachi may make it worse. He showed a map of proposed overflow parking spaces. Staff does not want this overflow parking lot so close to Sunwood, but they are very concerned that there will not be sufficient parking if this expansion is approved. They can not allow parking on Sunwood or Old Bridgeport Avenue anymore. This is a very active restaurant. Staff would like some indication how far the Commission would like to go with this.

Comm. Sylvester began by discussing the fact that the location originally began as a gentle use, dance studio. Once it became a restaurant, it became an aggressive business operation with the goal of attracting people for a profit. This conflicted with the flavor of Sunwood. The more this restaurant is expanded it will become more in conflict with the neighborhood. He doesn't believe they should be expanding the commercial use of this facility. He doesn't think it works. Having been a restaurant owner, he understands their goals, but if they want to get large and do more then they should find another facility. Either that or work within the confines of what they have. He sees no reason for it. He sympathizes with the business owner, but he also sympathizes with the Sunwood residents.

He mentioned that he could never understand and he couldn't recall how this facility was created with the condos anyway. He recalls that the condos came first, then the restaurant. There was some zoning changing because of the parking.

Mr. Panico stated that he didn't know it was a commercial zone. He asked Rick if it was a CB-1 zone.

Mr. Schultz stated that it is a Restricted Business District.

Mr. Panico commented that the original dance studio would have been fine, or even a low key restaurant.

Over the years, the lower level has only been used for special functions and only once in a while.

Comm. Lopera agreed that the additional lot is a fair distance from the restaurant and its not the most ideal location anyway.

Mr. Panico stated that the Applicant stated they would dedicate that extra lot to employee parking, but it does require destroying a lot of vegetation that serves as a nice buffer to the condos near there.

Comm. Lopera stated that it is not an optimal location at all.

Comm. Pogoda indicated that he feels the same way. An expansion infringes on the residents of Sunwood and the additional parking poses the possibility of it spilling out onto the street. It narrows that area too much because a lot of people use it as a shortcut. The consensus seems to be negative, and he'll direct Staff to write up a resolution to be placed on the Sept. 25th meeting agenda.

APPLICATION #07-37, PHILIP WEINER ON BEHALF OF HEALTH NET OF NORTHEAST, INC. FOR MAJOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #1A (PARKING GARAGE FOR HEALTH NET), ONE FAR MILL CROSSING (MAP 129, LOT 18) (PUBLIC HEARING CLOSED ON 8/14/07) – DISCUSSION ONLY

Mr. Panico stated that the primary concern raised at the public hearing had been from residents Cold Spring Circle. They were concerned about the intrusion of lights, especially during the wintertime more than anything else. He's been up to that area and at this time of year there isn't any issue, but he doesn't know the conditions at the time of year when the leaves are off the trees.

Comm. Lopera asked how far Cold Spring Circle is from the proposed garage. He also wanted to know if the garage was in front or behind the main building.

Mr. Schultz showed Comm. Lopera an aerial photo of the Health Net Campus and the location of the proposed parking garage at the far end of the complex behind the main building.

Comm. Lopera noted that if its behind the main building and they can see the building then they're going to see the garage.

Mr. Panico stated that they are going to see any lights on that garage, no matter how well screened they may be.

Comm. Pogoda questioned how much lighting would they need and if the lights had to be on all the time. Lighting was the only issue of concern.

Comm. Parkins commented that some lighting is going to be necessary for security reasons – it can't be dark.

Comm. Pogoda stated that any outside lighting should be directed downward. Perhaps some lights can be dimmed or set off during the winter months. Maybe it could be done after employees are gone at a certain time, such as 7 p.m. when it isn't imperative to have all these lights on.

Comm. Lopera noted that a parking garage doesn't have the lighting that an office building would. It is safety lighting and less bright.

Mr. Panico stated that they can find out more about the lighting details, especially how they will be placed on the top deck. If they are proposing high pitches, we could suggest lower pitch lights but more of them.

They can discuss those types of things. In regard to head lamps lighting up there, if there is a sufficient parapet around it, they should be able to have them provide screening for that.

Comm. Pogoda asked if there would be parking at the top of this garage – roof parking.

Mr. Panico stated that there would be.

Comm. Parkins asked for clarification that it would be four stories. Mr. Panico stated it would be.

Comm. Lopera asked how many stories the buildings in front of this proposed garage were.

Mr. Panico said that they are 12 stories. The garage will be lower than the buildings around it, so looking down, the building would be seen first.

Comm. Pogoda used the photo to show the location and view of the residents on Cold Spring and the angle they could see lights. Right now, summertime, they are barely seeing a speck of light.

Mr. Panico stated that with the exception of the penthouse enclosure above the elevator stairway, the highest part of the garage looks to be about 35 – 40 feet. The lower end is even lower. They could try to push it into the ground, but that would conjure up the need for blasting which would create a different concern.

Comm. Sylvester commented that it is difficult to understand how it could be seen, but he hasn't seen it.

Mr. Panico added that the location they propose is the most sensible location on the site rather than go to the existing lot in the back. That is so far from the main building.

Comm. Sylvester thought that the Wellspring housing would have been more adversely affected than anyone.

Comm. Pogoda added that they weren't sure where the garage would be positioned, but when they found out they didn't have a problem with it.

Comm. Tomko-McGovern asked how many stories it would be.

Mr. Panico stated that it would be four levels at one end of the garage, and three levels at the other end with a ramp system.

Comm. Sylvester added that if it is visible and they the time is taken to make it more visually appealing and if it is tastefully done, it would be an advantage for a company that seems to be a good neighbor. It would be good to work it out where they are satisfied and the public isn't intruded upon.

Mr. Panico commented that it is a more expensive solution to providing parking than to go out and create surface parking lots. It comes to a point when the surface parking lots get to remote that they become ineffective.

Comm. Sylvester interjected that was a good point. At the public hearing, they pointed out that the parking lot that is so far away is really unused. Maybe they could convert some of that to green space rather than leave it as blacktop that no one uses. Maybe that would be a good give and take if they show good faith and plant some trees.

Mr. Panico stated that he would discuss that with them.

Comm. Sylvester thought it would be doing something constructive for the community.

Mr. Panico commented that the residents don't see the black top.

Comm. Sylvester said that they said they did see it.

Mr. Panico responded that couldn't possibly although they might see the lights of the cars there but not the pavement.

Comm. Sylvester said that they were the ones who said it was unused and if they say that they can see it, he believes them.

Comm. Pogoda added that they could go there when autumn comes to see what light is visible at that time.

Comm. Parkins commented that with elevations and CAD drawings they should be able to illustrate angles that light could be seen.

Mr. Panico stated that they could certainly confirm the physical sight line possibilities – that's doable.

Comm. Pogoda directed Staff to write a resolution for the next meeting.

APPLICATION #7-38, EVR JOINT VENTURE FOR SUBDIVISION APPROVAL (26 LOTS: TWISTED VINE ESTATES), FOX HUNT ROAD, OKENUCK WAY, POE PLACE AND DICKINSON DRIVE (MAP 174, LOT 11), R-1 DISTRICT – AUTHORIZATION FOR EXTENSION ON REVIEW PERIOD (PZC INITIATED) – DISCUSSION ONLY.

On a motion made by Patrick Lapera seconded by Karen Tomko-McGovern, it was unanimously voted to authorize an extension on the review period until September 25, 2007.

Mr. Schultz stated that the project engineer would be providing an overview.

Jim Rotondo licensed professional engineer and principal of Rotundo Engineering LLC, 25 Brook Street Ste E, Shelton, CT addressed the Commission. He stated that he was representing EVR Joint Venture who is proposing the development of an approximately 63.7 acre parcel located in the R1 zone. The parcel is located in the White Hills section of Shelton. He pointed out East Village Road on a displayed map which is on the left side of the parcel. It also bounded by several existing roadways – Poe Place, Dickinson Road, Okenuck Way, Rugby Road and Foxhunt Road. The boundary of the parcel is basically developed with single family residential homes. There is a portion in the Okenuck Way vicinity which is existing City of Shelton open space. There are various wetlands located throughout the property flagged by their soil scientist. They currently have an application before the Inlands/Wetlands Commission.

He stated that the proposal for the site is the development of 26 single family residential homes all conforming with the R-1 zone regulations and all other applicable regulations. Each lot will be served with individual septic systems. They have performed field testing that was observed by the Naugatuck Valley Health District. They did approve the 26 lots for septic systems. There is public water supply available within the roadways that bound the site. They are proposing to extend those water mains throughout the parcel to serve the proposed dwellings. They are also proposing a storm water collection system with the roadways that will discharge into the wetlands located in the lower areas of the site. They have designed outlet protection at each of the discharges to help dissipate energy and reduce velocity of the flow prior to the downstream receiving channels.

Mr. Rotondo stated that a large portion of the site will be designated as open space. There are about 20 ½ acres of land through the central portion of the site that will remain as open space. This proposed open space would be continuous with the existing City of Shelton open space providing a continuation of that corridor.

He continues to discuss that the access into the property would be through extension of several of the existing roadways. They are proposing to extend Poe Place approximately 880 feet which will terminate in a cul-de-sac. Foxhunt Road would be extended approximately 1140 feet and will intersect with Poe Place. There are 17 proposed building lots which will be associated with these two road extensions. Dickinson Drive would be extended approximately 315 feet, and they are proposing 5 building lots on that extension which would terminate in a cul-de-sac. Okenuck Way would be extended approximately 530 feet also terminating in a cul-de-sac. Additionally, they are proposing 4 building lots with that extension.

Mr. Rotondo stated that they have an erosion sedimentation control plan developed for this parcel. He provided the Commission with letters from the Aquarion Water Company confirming that they have sufficient water supply in that area to serve the development and the Naugatuck Valley Health District approving the 26 lots subject to approval of individual lot designs. He also gave Mr. Schultz a letter authorizing the extension from Mr. Schieval(sp?). Mr. Rotondo concluded his overview of the proposal and offered to answer any questions.

Comm. Pogoda asked if any of the Commissioners had any questions at this time. There were none.

Mr. Schultz provided an update indicating that Staff met with the Fire and Police. The applicant indicated that this is an as of right subdivision application. The biggest issue facing this subdivision is what to do with all the temporary cul-de-sacs that abut it as was just heard in the road circulation proposal. Staff would like to advise the Commission that the previous Commission in the 70's and early 80's determined that these roads should be extended; that is why they are temporary. This Commission now has to make a determination of whether or not they want to support that planning effort to do so.

With that being said, Mr. Schultz restated that Staff met with Fire and Police last week. They were supportive of Foxhunt Road being carried through or connected to Poe Place to facilitate the secondary travel way in the event that East Village Road is blocked off.

Comm. Sylvester asked if that was shown as part of the presentation.

Mr. Schultz state that it was shown as part of the presentation.

Mr. Schultz continued that there are other roads that abut it – Rugby and Dickinson. The Police and Fire are of the opinion that if these roads are extended that would provide even better circulation. However, there are wetland issues, and Inland/Wetlands are acting on it this Thursday. Staff does not know what they are going to say, but the Police and Fire are supportive of the additional connections. However, it does open up this large neighborhood going to Foxhunt Road.

Comm. Sylvester asked about the terrain and grading there.

Mr. Schultz stated that they are manageable, but they are very sensitive because of the wetlands. He indicated that he would be surprised if Inland/Wetlands allow it. They fought very hard on Maler, but the Commission, Police and Fire were united on it and they actually backed down. Inland/Wetlands was not supportive of Maler going through but the Commission held firm because there was only one way in and one way out other than Willoughby Road which is a substandard road.

Mr. Schultz told the Commission that they do have an opportunity here to determine the best way to handle this overall development. Staff believes that this connection is warranted, and the Police and Fire do support that. They are aware of the other possibilities, but there are wetlands in the way. At this point, he isn't sure if they are going to allow it. If this Commission feels strongly about, please direct Staff even though it isn't being acted on tonight.

Mr. Schultz also commented that as the Applicant indicated they received a letter from Valley Health. All of the on site septic are approved. Public water is being provided and he asked Mr. Rotondo if the water pressure was good or if pumps were needed.

Mr. Rotondo responded that they are meeting with Aquarion further on any capital improvements that may be required, but they have confirmed that there is sufficient supply to serve the area.

Mr. Schultz stated that the Commission has learned recently that there are pockets in town where there is insufficient water pressure and individual pumps are required in the house.

Comm. Sylvester asked Mr. Rotondo some questions about part of the development but it was inaudible.

Mr. Rotondo elaborated on Comm. Sylvester's comments. He indicated that they did look at some of the alternate routes throughout the site for further connections. They looked at Rugby Road but there is a very severe drop right at the end of it, and as Mr. Schultz stated, there is a wide area of wetlands in the vicinity as well. One of the other connections that seemed to make sense was Dickinson Drive coming through, however, there is a CL&P easement that runs through the site with some high tension towers in the vicinity. Within that area, there are several restricted wetlands with a tower beyond it. There are passes through the wetlands, but to make it work it would put constraints on their horizontal geometry.

Mr. Panico commented that at the meeting with Police and Fire, they weren't looking for a head-on intersection. They felt it might be more desirable to offset the intersection by 100 – 200 feet to slow traffic down and to discourage that route being used as a shortcut.

Mr. Rotondo continued that the offset intersection mentioned has some design considerations involved with other routes discussed.

Mr. Panico stated that their concern was to get alternative means of access to some of those established neighborhoods, but do it without creating shortcuts and in recognition of the physical constraints such as steep slopes and wetland areas. Opportunities are limited. He recalled that even 20+ years ago when a lot of subdivision coordination was taking place, they always envisioned Rugby Road as going through providing a parallel collective road to East Village Road. That has gone by the Board and for all intensive purposes is probably a permanent dead end.

Comm. Sylvester commented that all he could think about, probably from his old life, is bus routes. Getting in there and picking up kids could become a nightmare, especially in the winter, if it isn't done carefully.

Mr. Panico asked Mr. Rotondo what the street was just above the north side of the map – sort of a collective street out to East Village.

Mr. Rotondo stated that was Longfellow Road.

Mr. Panico noted that right now, Longfellow is a main access point to that whole neighborhood up there. If something should happen, they might have an alternative way to get an emergency vehicle in and out of there. This affords us an opportunity to provide at least one other means of getting that neighborhood connected back out to East Village Road. Mr. Panico added that they will try to get a larger coverage map to show the road system and the constraints that need to be overcome.

Comm. Sylvester suggested going up there some Saturday afternoon to look at the grades and the impediments there. He commented that he hadn't been out there in a while, but he recalls that it is pretty rough territory.

Mr. Panico stated that it was, and that is why it is one of the few areas left. There's a lot of open space.

Comm. Pogoda asked if there were any residents in the audience to speak for or against this application.

Joseph Szadeczky, 11 Poe Place, addressed the Commission. He told the Commission that he and his family have been Shelton residents for 13 years after moving here from a big city. The town of Shelton has afforded a quality of life for his family that residents in adjoining towns would be envious of. He feels that the Twisted Vines subdivision, if not addressed now, will bring this quality of life to an end. He doesn't want to be accused of standing in the way of progress, but he is angry that financial gain being placed before the rights of Shelton taxpayers.

He added that it is not only roads that this subdivision wants to cut through, which will increase traffic, but the bigger issue is blasting between Poe Place and Fox hunt Road. He has expressed his concerns at length for the record with the Fire Marshal, James Turturo about the blasting. Mr. Turturo was sympathetic to his cause stating that the state laws supersede the town laws. They would like some guarantees that no one will come into their neighborhood, disrupt their lives, ruin their properties and leave with their own financial gains.

He is aware that there are many blasting issues in this town due to the archaic 30+ year old blasting laws that haven't been updated. It does not call for pre-blast surveys or post-blast surveys. As Mr. Cohen, the State of Connecticut detective, should be ashamed to suggest that home owner's insurance companies should have to include blasting damage as a regular provision. Contractors should provide their own blasting insurance against foundation cracks and cracks in walls, floors, septic systems, wells and rerouted underground water systems. In 13 years, he has never had water in his basement.

He would like a guarantee that after blasting, if his house or property sustains damage will Twisted Vines take responsibility for their actions, or will the City of Shelton because they were the ones issuing permits. He asked the Commission to reconsider the huge impact this subdivision will have on the voters and taxpayers in the White Hills section of town. Perhaps they could find a compromise that would satisfy all concerned. And there already is an access road coming in off East Village Road. He asked the Commission why this is only being done to Poe Place and Foxhunt Road. He thanked the Commission for listening because it will have a huge impact on his neighborhood.

Lynn Hardiman, 10 Fox Hunt Road addressed the Commission. She stated that she would like to speak for the entire neighborhood on her street that they are very upset about this for many reasons. First, ending the cul-de-sacs would devalue their property and affects their safety. If burglars don't have a way in and way out, they will probably pass to another street. She stated that, personally, she is very concerned about safety because she has a 6-year old grandson living with her. He is autistic and hyperactive so safety is huge issue. Presently, the street doesn't get a great deal of traffic – just neighborhood traffic and pedestrians. If they are going to have increased traffic, she would be extremely frightened for the safety of this child. The safety implications should be explored by the Commission.

Ms. Hardiman continued that in reference to road access for emergency vehicles, there are roads not even mentioned in this proposal. During a recent storm, East Village Road was blocked, but she made it home through other routes on Diamond and Beardsley. There are many access roads if East Village is blocked. Any street anywhere in this town could be blocked by a fallen tree, but entire neighborhoods aren't disrupted because of the possibility of what could occur. School

buses come up and down the roads everyday without any problems. Fire trucks come at Christmas with no problem. This reason doesn't seem valid.

Ms. Hardiman concluded by commenting that there must be alternatives to connecting the roads. Save the wetlands and make Poe and Fox Hunt cul-de-sacs. She thanked the Commission for their time.

Judy Melita, 17 Fox Hunt Road, addressed the Commission. She stated that she hadn't prepared anything but wanted to concur with her neighbors. She stated that she has lived there 26 years, loves her neighborhood. She doesn't care about new homes coming in but connecting the roads will turn it into a raceway. The kids alone will be shooting down Fox Hunt and into Poe Place, and it will be an accident waiting to happen. Please consider doing a bunch of cul-de-sacs instead of these throughways.

A Poe Place resident (name inaudible) addressed the Commission. He discussed some alternate routes that could be taken in his neighborhood instead of all the road connections, however, it was largely inaudible.

Mr. Rotondo stated that he has heard the concerns of the residents and the Commission. He plans to talk to Staff and be prepared for the next meeting. He thanked the Commission.

APPLICATION #07-39, WILLIAM HODOSI FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (NEW BUILDING: DEALER'S LICENSE FOR AUTOBODY REPAIR), 803 RIVER ROAD (MAP 12, LOT 27), CB-2 DISTRICT (PUBLIC HEARING CLOSED ON 8/14/07) - DISCUSSION ONLY

Mr. Schultz reviewed the application for the property on River Road across from the land fill and in the vicinity of the car wash. The proposal is to construct a two-story, 5000 sq. ft. commercial building to be occupied by an automotive repair facility under a dealer's license. Site would be served by municipal sanitary sewers and public water. The applicant indicated that he is going to have an internal lift that will elevate the cars to the second floor for storage purposes. This is a difficult site because it rises steeply in the back, and he needs to carve that area out.

He wanted to advise the Commission that the CRA contacted Staff as well as the Applicant to make sure they are well aware of the methane across the street. If any blasting is to occur, and it would have to, proper provisions must take place. The Applicant's engineer is aware of it and would deal with it accordingly. Mr. Panico has some issues to discuss, and Staff is looking for some direction.

Mr. Panico stated that he has not taken the time to enumerate his concerns, however, he thinks that he expressed some of them on the night of the public hearing. His concerns fall under two categories – the level of confidence with the applicant, which they have, and what happens if it goes to someone else who doesn't take the care and attention to the uniqueness of the operation. It becomes even more difficult when operating on a very tight site such as this one.

He stated that this proposal requires taking down at least 30 feet of rock to make a site to construct this building on. It's not an easy piece of work, and it is hemmed in with the wrap around driveway and a lot of retaining walls. There are certain things that they could do to put some safeguards on it and prevent a used car lot from developing. However, other issues are more difficult because it is so physically confining. In an auto body operation, customers drop off and pick up cars after accidents. There has to be an ability to store these vehicles. He stated that he really wasn't sure exactly how much could be stored inside or how much could be screened in without totally upsetting the functioning of the lot.

Comm. Pogoda commented that was one of the main points brought out because it is in a highly visible area and on a heavily traveled road.

Mr. Panico stated that he knows the Applicant is sensitive to that just by his suggestions of retaining walls, fencing, landscaping and trying to isolate areas. He knows that the Applicant will do that to the best of his ability, however, it will get to a point where it is beyond his ability to do it.

Comm. Pogoda agreed that there are many limitations.

Comm. Parkins asked if there are any residents around that area.

Mr. Panico stated that there is an existing house on the top with a above ground pool (as shown on a survey) that is going to be demolished. The house/pool will be removed and the whole area

where it is would have to be cut down 30+ feet for the lower level of this new building in order to create some workable grades off of River Road. He urged Commission members to go to the site and drive up the driveway to get a feeling for the difficulties that this Applicant will face working with this piece. It would be better if there was a larger piece to deal with these issues because 30 feet is nothing unless it is confined in a small area like this.

Comm. Pogoda asked about residences, and if they were farther back.

Mr. Panico stated that the property should be put in some sort of commercial development, but there is no doubt that any type of commercial development on that property is going to require a lot of site preparation. He commented that there was no doubt in his mind that to make anything work on a postage stamp site like that is going to have serious grading problems. It can be done; however, and once it has been created there has to be a thorough understanding of the operational problems that could occur, and they need to be prepared to accept it.

Comm. Parkins commented that the reason she asked about the residences was due to the towing service which could be a 24 hours service.

Mr. Panico stated that he wasn't concerned about that because it is well-oriented to Rt. 110 and it has the hillside topography with commercial going down from there. He doesn't think that would be an issue.

Comm. Parkins asked if it was zoned for commercial right now.

Mr. Schultz stated that it is in a CB-2 zone.

Comm. Parkins noted the Applicant's sincerity of having been a long time resident, but the future usage is an issue.

Comm. Pogoda added that he'll keep this facility for many years to come. He is confident that Mr. Hodosi will do an excellent job of maintaining this facility with screening. This is a very visible site; however, the car wash and the garage are consistent with an auto body in this zone.

Comm. Sylvester agreed with Comm. Pogoda that this is a commercial use that will be developed anyway. Mr. Hodosi has a great reputation. He is very ambitious to take on a difficult site like this. He is willing to invest his own money into this – if it is going to happen anyway, it would be better to work with someone that they trust. He stated that if it is done tastefully and reflects well for that part of town, even if Mr. Hodosi passes it on, then he would support it.

Mr. Panico added that he hasn't spent much time on this public hearing, but before it is discussed again, he will spend a lot of time on it.

APPLICATION #07-41, DOMINICK THOMAS ON BEHALF OF ST. VINCENT'S SPECIAL NEEDS SERVICES FOR MODIFICATION OF STATEMENT OF USES AND STANDARDS AND DETAILED DEVELOPEMENT PLANS FOR PDD #2 (FORMER WALK-IN MEDICAL FACILITY) (ADD DAYCARE SERVICES FOR DISABLED ADULTS AS A PERMITTED USE AND INTERNAL/EXTERIOR ALTERATIONS TO BUILDING), 15 ARMSTRONG ROAD (MAP 9, LOT 14) (PUBLIC HEARING CLOSED ON 8/14/07) – DISCUSSION AND POSSIBLE ACTION.

***See attached resolution for Application #07-41**

Mr. Schultz reads the a favorable resolution prepared by Staff for this application subject to the adherence to the conditions of the Fire Marshal, effective dates shall be Friday, 9/21 at 8 a.m. and intended uses are consistent with the comprehensive plan of zoning for the area in the 2006 Plan of Conservation and Development.

He noted that the Applicant may have to do some minor exterior work but essentially the building is in good condition. Staff is working with them to improve the landscaping and St. Vincent's has removed the signage.

On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously roll call voted to approve Application #07-41.

APPLICATION 07-43, DATA CENTER PARTNERS LLC FOR SITE PLAN APPROVAL (DATA CENTER), CONSTITUTION BLVD. SOUTH (MAP 65, LOTS 25, 26) LIP DISTRICT – DISCUSSION AND POSSIBLE ACTION.

Mr. Schultz stated that this is the second step for this particular site. The Commission approved the special exception for traffic impact for a spec office building. They are now trying to secure occupancy for a data center, and the Applicant's engineer will go over the particulars.

He continued that this site has frontage on Constitution Blvd South, just south of the Ivy Brook intersection across the street. It is in the center of Waterview and Waterview – the half loop road there. They feel strongly that they have secured an occupant, and they will review the site changes accordingly.

Mr. Phil Tiso, Rose Tiso & Co. LLC, 418 Meadow Street, Fairfield, CT addressed the Commission.

Mr. Tiso stated that access is provided on Constitution Boulevard with a new driveway, up the hill (with a major incline). There is sufficient grading to accommodate the road. They are providing a minimum amount of parking around the building due the nature of the facility. The data center has very few employees. The building itself is a two-story 120,000 square foot structure.

There is a loading door in front of the building which was originally approved to be behind the building but there were some logistical problems getting access to it. For the most part, given the fact that it is a data center, the loading doors are primarily for the initial fit out phase to bring all the equipment in. Once the facility is up and running, they won't be used as often. Because it is a secure facility, it doesn't operate like an office building.

Pat Rose, Rose Tiso & Co. LLC addressed the Commission. He added that because it is a secure facility, the trucks pull all the way in and close the doors. Mr. Tiso continued that there is sufficient room for a truck to pull all the way into the building, shut the doors and unload. Given the nature of the building as a backup data center, there are a number of emergency generators in the rear of the building. There is a privacy type wall and fence for security reasons and noise continuation. There is driveway that will come up into this area. They are going to have to relocate a sewer line that currently services the Pitney Bowes site that runs right through the middle of the building and runs down Constitution Blvd.

Mr. Tiso addressed the comments from Bob Kulacz, the City Engineer. One of his comments had been that they need to coordinate with the WPCA on the sewer relocation. They have done that and Mr. Simms(inaudible?) is of the opinion that this is a private line, and the City has no input into it. It is a private easement between Pitney Bowes and the WPCA. They are going to relocate it and bring it around the building so that obviously there are no pipes going into the building. They have received approval from Wetlands and there is a small wetland area there. There is a considerable amount of grading that will need to be accomplished, cutting in the back, filling in a level plateau and filling in the front to accommodate the flatness on such a hilly site. They are also going to regrade the rest of the site for the possibility of having to provide more parking in the future. They don't want to have to do any blasting in the future which might upset data center equipment. Therefore, this additional grading will be done now in the event that it is needed later.

Comm. Sylvester asked if there would be blasting.

Mr. Tiso responded that there will be considerable blasting on this.

Mr. Tiso continued that they will be providing a vehicular access drive that connects the parking area with a secure gate on this site.

Comm. Pogoda asked if they would be interconnecting the parking lot with the other facility's parking.

Mr. Tiso stated that has been the suggestion of Mr. ? (inaudible).

Comm. Sylvester asked what the other property was.

Mr. Panico added that this property owner is also the owner of the adjacent complex – it's a multi-tenant building, formerly six tenants including office and light manufacturing. It was one of the first buildings built up there on the corner. Mr. Panico stated that they always worry about having a dead end connection especially to a significant establishment. They ask for an emergency access connected to the site. He would like to have it documented that this site would have the right to use that on a daily basis in the event that this turns out to be an office building and not a data center. He would have concerns about an office building with a few hundred cars

all trying to get out of that driveway onto Constitution Blvd. He'd like it to be able to go the other way.

More than one discussion took place about how to get in and out of the facility and it was inaudible.

Mr. Rose pointed to an area on the drawing that had previously been a parking lot. He stated that in the event they need more parking in the future, that parking lot could connect back into the site. There would be cross easements for that roadway that currently exist anyway.

Mr. Panico interjected that they need to know that they can go in a provide a reasonable parking ratio in the event this 120,000 square foot building turns into office space.

Comm. Sylvester commented that is why they are pre-grading and cutting now. If that building changes from a data center to an office building what kind of parking would it require.

Mr. Panico stated that they would have to figure it on the basis of 4 per 1000, which is the standard ratio that they use for a multi-tenant or spec type office building.

Mr. Rose added that the original design was for 480 spaces.

Comm. Sylvester asked if the area being prepared could accommodate that.

Mr. Rose responded that yes it could accommodate that.

Comm. Pogoda asked if that would not be black top.

Mr. Panico stated that it will re-established.

Comm. Pogoda asked if the generators in the back would be enclosed and how much noise they would they make. If there is a lot of noise would that enclosure be a total enclosure.

Mr. Rose answered that the top would be open but there is a significant area. The generators are enclosed but they have attenuators on themselves but they'll be tenant specific with a number of generators specific. They will do a noise study representing the sound control wall around that entire area. Sound reverberates in waves outward and if it goes up it doesn't affect anyone else. There are several ways to construct a sound attenuation wall depending on the type of sound.

Comm. Pogoda asked how loud there were and how far that sound travels.

Mr. Rose stated that they are restricted by noise ordinances and have to maintain a certain level.

Comm. Parkins asked what that noise level was.

Mr. Rose stated that he didn't recall.

Mr. Panico stated that Rivendell Condos are approximately 1000 feet away.

Mr. Tiso stated that they don't know the noise level yet because it will be tenant specific yet. They don't know specifically what equipment they require.

Mr. Rose stated that these are emergency generators that only go up if there is a loss of power. They are not the primary power to this facility. They go on to be tested once a week for 15 minutes.

Comm. Pogoda stated that this is very minimal intrusion then.

Mr. Tiso showed the soil and erosion control plan and added that there had been some additional controls requested by Mr. Kulacz. They were happy to put those in. He addressed the comment about reducing the drops in some sanitary manholes. They would be happy to redesign that to Bob Kulacz's satisfaction. That is not an issue. Mr. Kulacz also had some concerns that they would be putting some pipes in fill; evidently, that is unacceptable to him. It can be done properly if the fill is placed property, but they will redesign this and drop it down into the existing grade.

Mr. Rose provided a landscape plan and stated that Staff asked that they prepare it and enhance some elevations.

Mr. Panico stated that the Commission would probably like to see what the building is going to look like more than site plans.

Mr. Rose showed the drawing of the proposed building, and explained that the previous building was a precast panel with a tile insert and (inaudible)... They will do a similar precast building. One of the challenges is that it cannot have any windows because it is a secure facility. The place that they can put windows is in the lobby facility in the middle of the building. However, they are going to design the panels and the precast such that it looks like there are windows in the building. They will use one type of color colorant type of precast for the bottom band, the middle band and the roof band. Then use another colorant texture of precast for the middle area which, in a normal office building would be windows. In the future, the areas created in the middle could be retrofitted and utilized later for windows. The intention has been to make this look like an office building even though it is a data center with no windows except at exit stairways and the front entrance lobby.

The way the building is set on the hill, it would be entered into on the lower level where the two garage doors are located. Going uphill at 5% to just below the second floor where, in the back of the building they have the generator and sound walls and a (inaudible) at the back of the site where you can step down full story. This allows them to bring in all the emergency power into the interstitial space between the first and second floor to (inaudible).

Comm. Pogoda asked them to make any necessary revisions and table this until the next meeting.

Comm. Sylvester asked if they had some kind of a picture of a data center with make-believe windows.

Mr. Rose stated that he can get one. He did a similar building in Trumbull but it was a storage building that had windows in the front but none in the back. The precast panels they used looked like real windows though.

They use a different pigment color for precasting and sandblast it. It has to be very smooth. He stated that there a lot of ways this can be done.

On a motion made by Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to table Application #07-43.

Comm. Pogoda asked if there was anyone with any issues for the Public Portion of the meeting.

Nancy Dickal, 46 Hemlock Drive, addressed the Commission. She stated that she is addressing a procedural issue because there was no action or resolution that was taken to approve a particular application. However, part of the application moved forward. Apparently, the Commission formed a quorum with no minutes because she has been informed that minutes should be made with five business days. This was wrong and illegal how it was handled.

Mr. Schultz interrupted to say that some of the Commissioners did not know what she was referring to. He stated for the Commissioners that her comments were in regard to the third drive through lane at the bank – the lane closest to the property. That is why the PDD Zone Change would allow that lesser set back.

Ms. Dickal continued that the Commission should have preceded the right way. Appendix A which states the Shelton City Ordinance, Chapter 4, Section 41 states that “any structure or building should be at least 100 feet away from any property line. She stated that she looks forward to meeting with Mr. Schultz to retrieve this tape of the meeting that the public is not aware of. In closing, she witnessed this evening how this Commission seems to have a double standard. An application that was listed for discussion only this evening was allowed for public speaking.

Comm. Pogoda thanked Ms. Dickal for her comments.

Mr. Schultz suggested that they table Old Business until the September 25 meeting.

On a motion made by Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to table Old Business until the next P&Z meeting on 9/25/07.

On a motion made by Leon Sylvester seconded by Patrick Lopera, it was unanimously voted to adjourn at 10:45 p.m.

Respectfully submitted,
Karin Tuke

