

The Shelton Planning & Zoning Commission held a regular meeting on January 8, 2008 at 7 p.m. in the Shelton City Hall Auditorium, 54 Hill Street, Shelton, CT.

The following members were present:

- Chairman Anthony Pogoda
- Comm. Virginia Harger
- Comm. Patrick Lapera
- Comm. Ruth Parkins
- Comm. Leon Sylvester
- Comm. Chris Jones (alternate)
- Comm. Thomas McGorty (alternate)

Staff members present:

- Richard Schultz, Administrator
- Anthony Panico, Consultant
- Karin Tuke, Recording Secretary

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

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

Chairman Pogoda opened the meeting at 7 p.m. with the Pledge of Allegiance. He announced that Comm. Jones would sit in for Comm. Sylvester and Comm. McGorty would sit in for Comm. Oraziatti.

#### **OLD BUSINESS**

#### **APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE**

Richard Schultz stated that there were 4 standards that Staff had reviewed, and they were in compliance with Shelton Zoning regulations. He recommended approval.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve Applications for Certificates of Zoning Compliance, Standards 1 – 4.**

#### **SEPARATE #4810, ANTONIO BARROS, 480 HOWE AVENUE, BUSINESS/SIGN**

Mr. Schultz stated that this was the old Shelton Dog House on Howe Avenue by the Pierpont. This is for business occupancy and a wall sign. He presented a draft of the proposed signage to the Commissioners. He indicated that there was an awning on the front of the restaurant that the Dog House used. The Applicant took it upon himself to put the sign on without a permit. Staff contacted him and tonight there is a clean sign. He stated that the first page showed the existing sign which is inconsistent with what the Commission wants downtown. The subsequent page shows the revised signage. The business occupancy is for a food service establishment. They have requested a beer and wine license in a commercial zone. The Commission allows this but wants to know the areas where liquor licenses are requested. The State Liquor Commission has the final say.

Mr. Schultz commented for the new members of the Commission that they do not have any separation distance requirements for the licenses. He recalled a situation in Huntington Center where the coffee shop was that resulted in the Commission limiting the liquor license to beer and wine only instead of hard liquor. This application is just for beer and wine. It is 600 square feet, 2 employees, hours of operation 11 a.m. to 10 p.m. Unlike the Dog House which focuses on take-out, this business would have tables and seating.

Comm. Harger asked how many tables there would be.

Mr. Schultz responded that has not been established because they are awaiting a response from the Fire Marshal. He answered that it provided 14 seats in the 600 square foot floor plan that he passed around to the Commissioners to review.

Chairman Pogoda asked how many days a week it would be open.

Mr. Schultz responded that it would be open 6 days/week, 11 a.m. - 10 p.m. It would be closed on Sundays and would also include take-out.

**Comm. Sylvester arrived at 7:06.**

Mr. Schultz summarized that they had two requests with this application. One request to change the Dog House establishment to a sit-down food establishment serving beer/wine and a second request for the replacement of the awning sign.

Comm. Parkins asked for clarification about the signage.

Mr. Schultz responded that the flat sign would be inside. The canopy is staying, but Staff has encouraged them to remove the awning because it's inferior grade. They asked them to consider the elimination of the awning and go with a standard wall sign or projected sign. They are working with the Applicant and they've eliminated the previous sign which was out of character with what the Commission would like to see there.

Comm. Pogoda asked what type of food they would be serving.

Mr. Schultz responded that it would be Portuguese.

Comm. Parkins asked if a restaurant like this had any requirements to provide restroom facilities.

Mr. Schultz responded that there are requirements that they need to obtain from the Health Department and Building Department.

Comm. Parkins added that she thought they would have to walk through the kitchen.

Mr. Schultz responded that has to be waived or it has to be modified. There are provisions in the Health Code and the Building Code to waive some of the requirements. It is handled by those agencies.

Chairman Pogoda commented that it appears that they've changed the drastic color and brightness of the sign. He suggested that Staff work with them to remove the awning, put the sign on the building itself, remove the extension and conform to what they are trying to do downtown. He asked for a motion on the business and the sign.

Comm. Harger agreed to make a motion with the condition that they work with Staff to modify the signage.

**On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to approve Separate #4810.**

**SEPARATE #4977, LISA GAY, 350 BRIDGEPORT AVENUE, SIGN**

Mr. Schultz explained that this was for the pet supply store that was approved at the new commercial complex across from Curtiss-Ryan. The Commission recently approved the four main signs with the understanding that any additional sign would have to come before the Commission. This is one of those sign requests. They are proposing to have it in the lower right hand corner of the monument frame. It would require 7 panels. They have complied with the background color and the uniform green color. The Commission gave New Alliance Bank a deviation from that color. He passed a draft drawing of the sign to the Commissioners for review.

Mr. Schultz mentioned that some concerns arose about the amount of names on the monument signage, because when the PDD was adopted there were only three anchor businesses. As the Commission is aware, there are more businesses now and everyone would like to have their own presence on the main highway. The Applicant has complied with the uniform background colors and lettering.

Comm. Harger asked if there was a reason why this Applicant was taking the lower right location rather than taking the next space going from the top downward.

Mr. Schultz responded that they had not advised Staff of any reason. He thinks it was some internal arrangement based on the space leased.

Chairman Pogoda mentioned that originally they had agreed upon four for that monument sign knowing that there were more to come in but he asked the other Commissioners to decide if they wanted to allow additional names.

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to approve Separate #4977.**

**SEPARATE #4986, CROWN POINT R.E. INVESTORS, 820-838 BPT AVE, SIGN**

Rick Schultz stated that this was the main monument sign for the four building complex at the former Shawmudge. This is a Planned Development District. Atty. Dominick Thomas was present representing the Applicant. The Commission advised the Applicant to bring in a monument sign that consisted of several items - brick to match the quality of the four buildings, uniform background color, internally illuminated with an overall design consistent with the property. Additionally, the 911 people wanted to see the property range; therefore the street nos. 820-838 have been provided on the sign.

Chairman Pogoda asked Atty. Thomas what changed from the original application in which Chili's and Longhorn did not need to put signs on the front monument and now they are on it.

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission on behalf of the Applicant.** Atty. Thomas responded that there had been an original design done by the local architects at which time the restaurants did not ask for a sign. The Hotel Sierra asked if they could step in and have their architects design a sign. They wanted it to be of a higher quality. They designed a new one that went through several revisions with this final sample showing an adjusted color and two smaller spaces on the bottom for the restaurants if they wanted it.

He continued to state that the only concern had been Longhorn because it's front sign is blocked by foliage. Chili's is more open because it's located in the center. In the last redesign, the architects felt the two restaurant emblems looked better side by side rather than one on top of the other. Commerce Bank and the Hotel Sierra are the two main tenants.

Mr. Panico asked if the Commission was being asked to approve these restaurant signs.

Atty. Thomas responded that they would be asked to approve the restaurant signs because they are a part of the monument sign. He hasn't asked the restaurants if they want signs but they could come back. Atty. Thomas stated that because it all blended together and appears as a solid piece from a distance, he would theorize that the restaurants be told what signs they have.

Mr. Panico stated that they could identify it as possible future restaurant signs. In the interim if the design considerations are such that it should have a gray background all the way to the bottom, they would allow a solid gray panel to be placed there.

Atty. Thomas responded that they are going to have separate panels. If the Commission wants the background to be the same color from the top to bottom, they would put in the separate panels and leave them black. One of the basic issues has been the supposition that Commerce Bank is being bought by TD Bank North. They didn't want to do a single panel and have to tear it out and do another single panel if the bank changed its name.

Mr. Panico commented that they have had previous discussions about discouraging the restaurant identification on that sign. He added that he realizes that the monument sign

has been designed in the event that the restaurants later request one from the Commission. In that way, the restaurant signage would be in accordance with what the Commission wants.

Atty. Thomas clarified that was correct, they would like to have the Commission approve the Commerce Bank and Hotel Sierra portion of the sign. He realizes that the restaurants would need to come back at a future time with a separate request and be restricted to the uniformity of this design.

Chairman Pogoda summarized for the Commissioners that this vote would be on the monument sign – Commerce Bank and Hotel Sierra – with the bottom portion remaining blank at the present time. He added that the restaurants can come back with another application; initially, he didn't think Chili's would need one because their sign is already so large anyway.

Atty. Thomas agreed that the only thing ever expressed to him had been by the Longhorn people who were concerned about the summer foliage covering the front of their building.

Mr. Panico commented that any request the Commission would consider needs to fit this design scheme.

**On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to approve Separate #4986 with the signage limitations discussed.**

**SEPARATE #4978, PABLO O'BRITO, 6 ARMSTRONG ROAD, BUSINESS**

Rick Schultz stated that this was for the Armstrong Park Corporate Campus. There is a new operator of the cafeteria business. Everything remains the same. The new owner is Pablo O'Brito. The hours of operation are the same with three employees. This application is to re-confirm that the size and floor area would not change or be relocated to another area. Staff recommends approval.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #4978.**

**SEPARATE #4975, STEVE MAKOWSKI, 467 HOWE AVENUE, BUSINESS**

Rick Schultz stated that this was for the corner building on Bridge and Howe. The request is to establish a sandwich shop, 992 square feet, 3 employees, hours of operation Mon-Sat, 8 a.m. – 6 p.m. Inside equipment would include deli cases and a stove. The previous tenant had been Prudential Realty. Also, as part of the application there is a wall sign. He passed the draft drawing to the Commission, and added that the downtown business owners have been willing to remove phone numbers and graphics. It would not be internally illuminated.

Comm. Lopera asked if the address numbers would be put on the sign anywhere.

Mr. Schultz responded that the number could be put on the door.

The Applicant addressed the Commission and stated that there was a large window that the address would go on.

Mr. Panico asked where the sign would face.

The Applicant responded that it would face Howe Avenue, centered over the entrance.

Mr. Schultz added that, as the Commission can see, there has been an influx of food establishments. He commented that he was pleased that they have been complying with the sign regulations. Additionally, they are requesting to waive a full site plan. This is a pre-existing situation with the curbside parking arrangement and municipal parking lots.

Comm. Lapera asked what the hours of operation.

Mr. Schultz responded that it would be 8 a.m. to 6 p.m., Mon-Sat.

Comm. Harger asked if there were any sit down tables inside.

The Applicant responded that it would be a relaxed environment like a living room with sofas, armchairs, coffee tables, and end tables.

Mr. Schultz asked the Applicant if he would be asking the Commission for a liquor license.

The Applicant responded that they would not be requesting a liquor license.

Comm. Harger asked if the sign request was separate from the approval for the business.

Mr. Schultz responded that he asked that it be included in tonight's vote.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve Separate #4975.**

**SEPARATE #4979, RICHARD GENTILOZZI, 16 DARTMOUTH DRIVE, HOME OFFICE**

Rick Schultz stated that this was for an accounting services, 100 square feet, one employee (home owner), hours of operation 9 a.m. – 5 p.m. As a condition of approval, no clients will be visiting this site. Mr. Gentilozzi goes to his client's homes to meet with them.

**On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to approve Separate #4979.**

**SEPARATE #4980, DON AGVENT, 23 LAGANA LANE, HOME OFFICE**

Mr. Schultz stated that this was for an online clothing business, 70 square feet, one employee, hours vary for Internet activity. As a condition of approval, there would be no shipments delivered to the home or excessive UPS deliveries.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve Separate #4980.**

**SEPARATE #4976, NEW CINGULAR WIRELESS, 14 OXFORD DRIVE, OTHER**

Rick Schultz indicated that this was off of Booth Hill Road. There are towers up there on the Trumbull town line. On August 29<sup>th</sup>, the Citing Council approved the removal/replacement of three antennas and one ground cabinet. This was reported to the Commission on the Staff Report so this is consistent with what the Citing Council has approved. They are encouraging them to use existing antennas in the community. This is for New Cingular Wireless – American Tower Inc. is the owner of the tower.

**On a motion made by Ruth Parkins seconded by Patrick Lapera, it was unanimously voted to approve Separate #4976.**

**APPLICATION #07-44, BRIDGE STREET PARTNERS, LLC FOR PDD ZONE AND PULASKI CLUB PROPERTIES), 44-46 AND 56-64 BRIDGE STREET (MAP 129, LOTS D37, D38, D39, AND D40), CB-2 AND IB-2 WITH CBD OVERLAY (PUBLIC HEARING CLOSED ON 9/25/07) REQUEST FOR EXTENSION ON REVIEW PERIOD AND DISCUSSION ONLY**

Mr. Schultz requested that the Commission make a motion first on the 65-day extension of the review period.

**On a motion made by Ruth Parkins seconded by Patrick Lopera, it was unanimously voted to approve an extension of the review period for Application #07-44.**

Mr. Schultz presented a large map of the Bridge Street location for the Commissioners to review. He added that this was the second discussion on this proposed mixed use development. Staff has provided the Commission with an updated development overview with additional pieces of correspondence from various departments which he'll review. Staff is looking for consensus at this time. The next meeting for this will be on January 22<sup>nd</sup>.

Mr. Panico stated that during the last discussion they discussed the pros and cons of closing the street that parallels Bridge Street. Some of the issues included the function that this street serves and whether or not it was a critical one that needed to be maintained. He added that in the interest of trying to present an overall picture, Staff asked the Applicant's engineer to put together this composite map for the Commission to look at. It illustrates the street system, some of the planned pedestrian linkages for the future, relative to downtown, the orientation to the River Walk, and linkages across the railroad tracks.

Mr. Panico recalled that when the Birmingham condominiums had been approved, they made a very strong case that there needs to be a safe pedestrian crossing to the railroad because it was anticipated that some of those residents were going to be using some parking facilities on the other side of the tracks. He added that was inherent in that approval. It continues to be an ongoing process because in these matters the Department of Transportation takes over the final design and execution of that project. Arrangements have been made with the Railroad, and that project is underway. He continued that when the DOT got involved and analyzed, they began to think the intended location wasn't the most appropriate one. They have been looking into the possibility of a location on the other side of the bridge.

Mr. Panico stated that for the present situation, the parking that caused the original pedestrian connection is no longer needed on this side of the tracks because additional parking has been made available. Their parking needs have been satisfied without residents walking over to use parking on the downtown side of the tracks.

Mr. Panico noted that this was an important circulation link because it has the potential to provide a convenient access for all the future units to be developed along there as well as to and from the River Walk. Staff was pleased that the better location was on the side of the tracks other than where it was originally proposed because it nicely links the attractive pedestrian walkway to result from this Bridge Street project. This project would create a plaza walkway bringing pedestrians up to an attractive location on Howe Avenue.

Mr. Panico commented that at the suggestion of Comm. Sylvester, they went back to look at old traffic reports and asked Jim Ryan to do the same with his SEDC material. Additionally, they asked the Applicant to speak to a traffic analyst and mentioned that Barkin & Mess had the most familiarity with it. He indicated that Barkin & Mess provided a 1 ½ page memorandum regarding this traffic closing.

Mr. Schultz added that the memorandum is included in the overview provided to all the Commissioners.

Mr. Panico stated that their conclusion was similar to the Staff conclusion which indicated the plan benefited from the closing of Bridge Street.

Comm. Sylvester asked what benefits significantly from the closing of it.

Mr. Panico responded that the circulation to and from the downtown area and the aesthetics along Howe Avenue are enhanced. This is regarding pedestrian circulation. He highlighted the list of reasons Barkin & Mess provided for the elimination of the

street. He read that the intersection on Howe Avenue and Bridge Street would be easier to traverse especially when making a right turn from Howe Avenue northbound onto Bridge Street. Mr. Panico summarized that they felt as though traffic operations at the intersection would be improved with the elimination of Bridge Street.

Comm. Sylvester asked why it would be easier to make a right turn without Bridge Street.

Mr. Panico responded that he would have to ask the traffic engineer that question. However, he thinks it might be because it would create a clean intersection and a clean radius without another street coming off at that point. He added that Barkin & Mess also cited that the Howe Avenue curbing and sidewalk would be extended across the connector thereby narrowing the Bridge Street pavement opening. In turn this would shorten the pedestrian crossing across Bridge Street. Looking at the map, Mr. Panico added that with the street left open, there's an extensive amount of pavement to cross the street at the corner where Kyle's building is currently located. Therefore, by eliminating that side, it's shortened and becomes a much more comfortable pedestrian crossing.

Mr. Panico commented from the report findings, that the extended sidewalk on Howe Avenue and on the connector would enhance the pedestrian amenities at that corner. Additionally, it would eliminate vehicular and pedestrian conflict points on both Howe Avenue and Canal Streets, thus reducing the potential for accidents and increasing safety. Mr. Panico added that the operation of making turns from Howe Avenue either way aren't the easiest at that corner. It's not a simple intersection by itself unless a person has familiarity with the area because after making the turn a driver faces two streets.

Comm. Sylvester commented that he agrees that aesthetically it is nicer. However, he has spoken to people downtown, including himself, who are opposed to closing a street. He commented that he has been around this corner for a long time, and he couldn't remember any accidents at that corner. He noted that he didn't remember this being an accident prone area.

Mr. Panico commented that the last point on the memorandum indicated that the street was not needed for circulation or parking. Canal Street would still be accessible from Howe Avenue via Center Street, located several hundred feet to the south and the new parking spaces that would be provided in the structured parking beneath building would serve the property owner.

Mr. Panico added that as a planner, if a developer came along wanting to put road or driveway at a clean intersection in a downtown area such as this, it would be denied.

Comm. Sylvester commented that he agreed with all of that, he couldn't argue with any of it, and he didn't intend to; however, the downtown traffic is bumper to bumper. He continued to say that there are certain times of the day that it is impossible to get through it. This is another street that can be used to bale out, get out of there, go up and go around without waiting through all the traffic lights.

Comm. Sylvester continued to say that it is good that they continue to develop downtown, adding more apartments and more stores – he's all for disposable income. However, he commented that no one was going to tell him that eliminating a street was good just because it's difficult at this particular time to use that street, or because it would be prettier if it were extended, or because you could do this or because you could do that. It still eliminates an area – a place where people can go and get around traffic and help move the traffic that is coming to gridlock at many times in downtown Shelton.

Comm. Sylvester continued to say that, pure and simple, as far as traffic is concerned what they are doing here at this table is trying to develop a downtown that will produce a healthy economy. He thinks that is happening and he's happy for that. But as they produce a healthy economy, produce more places for people to live, thus more places to drive to, there needs to be more places for people to drive on. He added that for someone who has been here for twenty some odd years, it isn't about planning and zoning, it's

about common sense – you don't shut down a street that people can travel on and tell him that is doing a good job for downtown Shelton.

Mr. Panico asked Comm. Sylvester if he was saying that street is used every day.

Comm. Sylvester answered yes, that street is used every day.

Mr. Panico commented that he isn't in the center of Shelton every day, but he hasn't witnessed it.

Comm. McGorty commented that he uses it every morning. He commented that he thinks the safety aspects for pedestrians supersede the little use that it does get though. Because he uses that intersection everyday for his business, walking through the intersections by the Conte Building, and as it does get busier he has seen pedestrians freeze because there are cars making a left or a right not knowing if they are going over the bridge or down there. From a safety aspect it makes a lot of sense to him as the foot traffic downtown increases.

Comm. Sylvester restated that it makes no sense to him as far as shutting down a street is concerned.

Comm. Harger commented that if someone wanted to take a right down the street proposed to be shut, going left or right, they would only really be gaining one block because there is no way they could down this side of the traffic and coming up the other way there is no sense in taking a right and going back to where they came from.

Comm. McGorty commented that if they go by Dunkin Donuts and get stuck there, they could also go by Conte's, take that right and go down to the back road, come out by Luther's, take a right there and bypass all that.

Comm. Sylvester added that they've talked about the Center Street connection of going from Center Street in Shelton to Derby and out.

Mr. Panico asked the Commissioners to notice on the map that they asked the Applicant to illustrate that connection because they feel strongly that the first increment – taking Center Street from Canal Street West to Canal Street East is very important.

Comm. Sylvester asked Mr. Panico to clarify that on the map.

Mr. Panico identified the connection – two black squares, linking the two Canal Streets. He restated that it was an important connection because as plans evolve for the area across the street where the factory renovation is planned, there needs to be some attempt to create a new connection up to the bridge eliminating that very tight connector that exists now – sneaking between the factory building and the road. It would be better to come in directly across at a nice T intersection rather than the way it is now.

He continued to say that they felt it would help that corner significantly because it provides a workable bypass to downtown now going all the way down to Wooster Street rather than simply going to White Street. Secondly, it will set up access onto the bridge which in turn unloads a lot of the traffic on Center Street that makes a left for one block to make the right onto Bridge Street would be able to stay on Center Street, cross the tracks and go up to the bridge.

Comm. Sylvester stated that he went down to that area several times since the last discussion, and he found that he could bale out of traffic - go right or go left and it was easy to do. Also, if that turn is missed, it provides the opportunity to make a right and go back to the Conte building or to the area for parking in that location.

Comm. McGorty commented that he has used all those side streets, sometimes everyday; however, he feels that public safety supersedes any traffic issue. He added that he uses that intersection many times and there are a few disabled people in the buildings that have gotten stuck because it is such a long walk to cross that intersection.

Comm. Sylvester responded that he agreed it was a long haul to walk across but there is a triangular island centered there to stop at to alleviate the safety issue. Safety is always an issue, and he can't argue against it; however, they are so limited in space for downtown traffic to move that he can't endorse closing any street.

Comm. McGorty added that there were a couple other options he would use before using that street.

Comm. Sylvester asked what those options would be.

Comm. McGorty responded that he would use the backside of Conte's or Dunkin Donuts. He doesn't use it going in the other direction.

Comm. Sylvester commented that they did shut down the opposite side of Bridge Street, but, essentially it is not shut down because it can be used.

Mr. Panico responded that he didn't think it could be used by vehicles.

Comm. Sylvester stated that it is being used all the time as a bale out area. People make turns on a No Turn area using that street. Coming across the bridge is the obvious way to avoid getting tied up in traffic and go straight across.

Mr. Panico commented that he misunderstood having just realized that he thought the discussion was about the closed off portion by the Post Office.

Comm. Lopera commented that he thought Comm. Sylvester was talking about that street as well.

After the miscommunication about the streets, Comm. Sylvester stated that streets and connectors are very dear to people traveling and working downtown and just for the development of this area, shutting down a street does not make sense to him.

Mr. Panico clarified that it wouldn't be done for the developer. He added that the developer has reservations that it is something that he wants to do. He's fully prepared to go forward with this project without it.

Comm. Sylvester asked Mr. Panico if he had been the one who brought this to the table.

Mr. Panico responded that from day one they suggested to him that he give consideration to that because they felt that planning-wise, it was a logical thing to do.

Comm. Sylvester asked if Mr. Panico if this was his idea.

Mr. Panico responded that the origination of the closing of that street was Staff's idea – yes. As sound planning in the area, they felt it merited consideration. The Applicant came back with their proposal. He's fully prepared to execute that plan without it. It would require some minor adjustments, but the bulk of that structure doesn't rely on that right of way.

Comm. Sylvester stated that was good for him then. He clarified that he was not against this development. He's pleased with the things the Applicant wants to do, and he's thankful that there are people who want to take on issues like this to help downtown Shelton. He stated that he's committed to this area, the living of this area, and he's seeing on a daily, weekly, monthly and yearly – more traffic on downtown Shelton streets. When it gets fully developed and other things continue to happen, they are building themselves up to not being able to handle this traffic. He continued to say that he's spoken to other people about the traffic patterns in Shelton, and it's agreed that Shelton is stuck with limited ways into and out of town to and from Route 8, River Road and the Merritt Parkway. He noted that Center Street has become a nightmare with tie ups in more than one spot to get in and out of the community. The traffic seems to mount as things begin to happen, and he's seen nothing happening as far as the infrastructure is

concerned. As far as the southbound ramp is concerned – they've been talking about it for over twenty years.

Mr. Panico added that the longer they wait, the more it is going to cost.

Comm. Sylvester stated that representing the people he represents, he can't in good conscience vote to shut a street down. He knows that he's in the minority, but that's the way he feels about it. He added that he's spoken to a lot of people who feel the same way about it and don't want to see streets shut down. They believe that it's being shut down for the developer which makes it even more difficult situation. He had no idea that closing the street was Staff's idea and not the developer's idea.

Mr. Panico commented that unfortunately, the P&Z Commission is not the commission that is going to make the decision to close or not close the street.

Comm. Sylvester responded that he understands and knows that it's decided by the BOA.

Mr. Panico stated that this Commission would make a recommendation to close or not close the street through an 8-24 Referral. The BOA can follow that recommendation or toss it aside and do what they would like to do.

Comm. Sylvester stated that they get to talk about it here.

Mr. Panico agreed that it was good to talk about it with the background of this project. But it is also important to note that this project can go forward with or without the street.

Comm. Sylvester added that he hopes that what they have touched on is not just about this street. This street is only one small part of what is happening in downtown Shelton. As Shelton grows in one way, it is cutting its throat in another way, in his opinion. He has no personal investment in downtown, although his family does, but as far as what they are doing in regard to traffic and parking in downtown Shelton is not keeping up with what is happening with economic development and investment is concerned.

Comm. Lopera commented that besides thinking about the traffic, they need to think about the pedestrian traffic. There are a lot of people downtown, and it needs to be a safe environment. He commented that since this street is just a one way and can't be traversed both ways, it is not going to be an outlet, it's a street that would just be a cut through.

He asked the question that if this street is eliminated, with both sides having no cut through, would it force traffic onto Bridge Street and over the bridge? He asked if that was the intent of that street to begin with because there are two exit ramps....

Comm. Sylvester clarified for Comm. Lopera that there had been businesses (the deli, the club) there on both sides to serve traffic and business as one way streets.

Comm. Lopera asked if they were both one ways, and they are taken out, would it disperse the traffic a little more so that people would have to exit streets earlier to try and alleviate the traffic light that Leon mentioned is at the center of everything.

Comm. Sylvester responded that if that is eliminated, it wouldn't disperse traffic. It would force traffic into a more centralized area. He restated that he uses this road to go back, reverse direction, or avoid a traffic tie up. The difficulty is with the traffic lights, and people encroaching on the lights and not waiting for them to change and blocking off traffic. By going around it and coming up he explained that he has a much better opportunity to get through the light, up and out toward Huntington or his home. It allows him to escape traffic or reverse his direction.

Comm. McGorty commented that of the people who know of it, they would use another alternative if they know that it is closed. Traffic downtown is predictable. Everyone knows when it is going to be bad. If people know it isn't there, they will know that they have to bale out of traffic sooner.

Mr. Panico commented that he could understand Comm. Sylvester's concerns more if that street had some continuity to it in one direction or the other so that it would be part of a street pattern or street system. But this street isn't and it doesn't. It is simply a linkage, one block, from one street to another. It only goes from Howe Avenue to Canal Street.

Comm. Sylvester added that going south, he can take a left, use it to go down and around, go out and go down River Road.

Chairman Pogoda asked why he wouldn't just use White Street at that point. Why go down Bridge Street? He commented that he would never go down Bridge Street, he'd go down White Street.

Comm. Sylvester answered that he would probably go down White Street too, but if he missed White Street, he could use Bridge Street. The traffic tie-up can be at one light or the other light, trying to go across the bridge.

Comm. McGorty commented that heading south on 110, the bulk of the traffic is at Center Street and then it alleviates somewhat by Bridge Street. He commented that he never took a right there because if he made it through traffic that far, it starts to lighten up at the intersection by Bridge Street – there's no sense in not finishing and going through.

Comm. Sylvester responded that it's a matter of preference then, because he does use that right turn.

Mr. Panico commented that the parking aspect was a wash. There are a few - half a dozen parking spaces – that would be lost at the curb, but on the other hand it does accommodate the lower level parking area of the proposed development to be enlarged by utilizing a subterranean portion of that right of way for parking. It allows them to have double-loaded parking. Without the street being abandoned, the parking would be narrowed up, and there would be a reconfiguration of it with a loss of about six spaces.

Comm. Sylvester commented about the loss of six spaces in total not being a sales point.

Mr. Panico responded that the parking is a wash-out. If the street is abandoned, the curb spaces that are lost are recovered in the lower level parking. If the street is left there, the lower level parking loses approx. six spaces – give or take a space.

Comm. Sylvester responded that he misunderstood, but now he understands about the parking.

Chairman Pogoda commented about the area where the railroad spur is located because the City is actively pursuing the railroad company. He said that according to Jim Ryan at the board meeting that morning, there had been positive talk about the railroad company giving the City the ability to put parking on the right hand side of Bridge Street down to the bottom. Therefore, any parking lost from the street closing could be made up through leasing or buying those parking spaces.

Comm. Sylvester responded that his thoughts weren't about the parking as much as available access roads.

Chairman Pogoda stated that for this discussion, they need to give Staff some consensus so they can write a resolution with this plan – Plan A – of closing Bridge Street. The Applicant has another proposal if for some reason the closure is not approved by the BOA.

Mr. Panico commented that he would be tempted to put less focus on the closure of the street and more on the physical project acknowledging the fact that the project can be built with or without the street being closed; although it would require some minor revision or modification. He added that if they are going to impose on the developer an obligation to provide one off-street parking space for each dwelling unit created, there

will be some design repercussions if that lower level parking can't be as big (6 spaces) as he thought. In that case, he's going to have to do something about those six dwelling units. However, the basic project would still be intact. He continued to say that the Commission could express support or lack of support for closing the street, but the ultimate decision will be made by the Board of Aldermen. The determination needs to be made that the project is a workable project. Its approval can't be hinged on the closing of that street without knowing whether or not it's going to be closed because that is going to be determined by a different board.

Chairman Pogoda asked what Staff would need from the Commission tonight.

Mr. Schultz answered that Staff would need a favorable or unfavorable consensus for the mixed use project with the possible closure of Bridge Street.

Mr. Panico added that the consensus should include recognition that in the event the closure of Bridge Street is not achieved, the residential density would have to be adjusted to reflect one parking space per one dwelling unit.

Mr. Schultz clarified that would be required for the detailed final plans.

Comm. Parkins commented that right now the developer is proposing his project based upon the street being closed.

Mr. Panico concurred those are the plans before the Commission. He's done his due diligence. He's had his engineers go back and look at what happens to this project if he doesn't close the street. He continued to state that was why he had the information about the impact of the parking. He stated that he didn't generate that information, the developer's engineers generated it. Because looking at the structure of the building, it does not go out into the street. The back of the sidewalk is still the back of the sidewalk where it exists today. What happens with the street being closed is that beneath the sidewalk, he would be able to extend the parking by 10 feet or so. And in doing so, he gains enough width to make double-loaded parking at that lower level. He'd have to put in some parallel parking in if he loses that double-loaded parking. There would be a loss of approx. six or seven spaces.

He commented that when creating new dwelling units in the downtown area, the Commission's parameters have always been to create an off-street parking space with each unit.

Chairman Pogoda asked Comm. Lopera for his comments.

Comm. Lopera stated that he likes the project as it is.

Comm. Parkins stated that she respects that Comm. Sylvester uses that road; however she differs in opinion because she doesn't use that road. She continued that she has traveled through there often over 30 years. The only time she did use that side road was to park when there was a deli there. Comm. Parkins stated that she couldn't see keeping it open just to use it as a cut-through to avoid traffic when danger can be eliminated for any pedestrians crossing that street; especially as Shelton begins attracting more walking traffic in the downtown area with all the restaurants and walkways. She stated that she would be in favor of approving the application as proposed.

Comm. Sylvester commented that because it has gone on record that it is dangerous, he wants to state that he's lived here all his life, and he doesn't know of any accidents that have taken place there or of anyone that has been hit by a car. He added that it acknowledges that there used to be some sort of a rotary in the middle for crossing convenience which is much easier to establish than shutting down a road. However, to use this as a safety issue all of a sudden doesn't make sense because it has never been an issue there – and he's lived here all his life.

Comm. Jones asked if there had been any input by the Fire Department.

Mr. Schultz stated that correspondence from the Fire Marshal and City Engineer is in the packet provided to the Commissioners.

Comm. Jones asked if they were in favor of the shutting of the street.

Mr. Schultz responded that they are in support of it and express no reservations.

Comm. Jones commented that would have been his concern about the fire department getting access to a large 60 foot structure there.

Chairman Pogoda added that the Fire Department provided a favorable report.

Comm. Sylvester commented that he hadn't seen this packet until tonight.

Mr. Panico asked the Chairman for one clarification to avoid a future problem down the road. He inquired whether or not alternate Comm. Jones stepped back upon the arrival of Comm. Sylvester at 7:06 p.m. or if he was now taking the place of Comm. Orazietti.

Chairman Pogoda commented that Comm. Jones originally took Comm. Sylvester's place and he kept Comm. McGortey on...

Mr. Panico wanted to know if it would continue that way because they have been cautioned by Corporation Counsel once before that if the alternate is not sitting, he can't participate in the discussion.

Comm. Jones stated that he thought he was sitting for Comm. Orazietti now even though it wasn't stated for the record when Mr. Sylvester arrived.

Mr. Panico commented that Comm. McGorty would need to step down now because both alternates cannot participate in the discussion. He added that Comm. Jones could continue to discuss it but Comm. McGorty would have to refrain from the discussion because he wasn't a sitting member. Mr. Panico stated that they've been advised by Corporation Counsel that is how it needs to be done.

Comm. Harger stated that she thought the report brought out some valid reasons to close the street. In her opinion, for someone heading up Howe Avenue taking a right turn, bypassing one block doesn't save that much. Additionally, she noted that as the potential is there for more pedestrian traffic, so is the likelihood that something could happen. Comm. Harger indicated that she was more comfortable in eliminating an additional cut-through like that.

Comm. Jones stated that he uses it on a daily basis in front of Dunkin Donuts because he knows the turn is there; however, after seeing the recommendations from the Fire Department being in favor of the closure, going up another block to White Street isn't a big deal.

Chairman Pogoda asked Comm. Jones if he was in favor of the application on this drawing.

Comm. Jones asked if there was a better depiction of what would be there.

Chairman Pogoda showed the artist's rendering with an outdoor café with tables, garage, walkway closer to the bridge...

Mr. Panico used the drawing to explain the proposed sidewalk at the Howe Avenue level and the long pedestrian ramp leading down to the Canal Street level.

Comm. Jones asked if that would be up to the level of the bridge – or close.

Chairman Pogoda explained that they would stay at the Howe Avenue level with the portion going down just being for pedestrians.

Mr. Panico used the drawing to show how the ramp and sidewalk would meet, the stairways that do the same thing and the location of the handicapped access. He added that it would be treated in a manner so that skateboarders would not be able to go up and down it.

Comm. Jones indicated that he had a clearer understanding of the plan. He agreed with Comm. Sylvester that he didn't like closing down roads. He doesn't like the fact the front of the Post Office was closed down – it seemed like a great cut-through from the bridge. However, aesthetically the proposal looks nice and he would vote in favor of it.

Comm. Sylvester added that he still wasn't in favor of shutting down any street

Chairman Pogoda stated that he also favored the proposal as shown on the drawing.

Mr. Panico commented that it is on the record that Comm. Sylvester is in support of the project but is not in favor of the street component. It is fair to say that his only reservation is the closing of that street.

Comm. Sylvester clarified that it wasn't a reservation, it was an objection, and he was opposed to shutting down any street in downtown Shelton.

Mr. Panico asked him if, more importantly, he was supportive with respect to the proposal.

Comm. Sylvester agreed that he supported the concept of the proposal but objected to the proposal of the street.

Chairman Pogoda added that this can still go either way – it is up to the BOA who has the final decision. The Applicant does have another way to go if he has to.

Mr. Panico commented that was a valid point because in drafting the resolution, there will be language in it to deal with the project in the event that the street is not closed. It needs to be pointed out, if for no other reason than to remind the Applicant that he has the obligation of meeting the standards of his residential components and available parking.

Mr. Panico asked if Staff could take this as authorization to go ahead and prepare a resolution.

Chairman Pogoda confirmed that it was because he knows that the Applicant wants to start with the demolition of the Pulaski Club. The demolition wouldn't interfere with whether the road closed or not.

**APPLICATION #07-46, DOMINICK THOMAS FOR PDD ZONE CHANGE (INITIAL DEVELOPMENT PLANS: 7 UNIT CLUSTER RESIDENTIAL DEVELOPMENT), 122 BUDDINGTON ROAD (MAP 62, LOT 31), R-1/LIP DISTRICTS (PUBLIC HEARING CLOSED ON 11/27/07) – DISCUSSION ONLY**

Chairman Pogoda excused himself from participation in the discussion of this application with Vice-Chairman Lopera acting in his behalf and Comm. McGorty sitting in as well.

Vice-Chairman Lopera asked Rick Schultz and Tony Panico if they had comments before turning it over to the Commission for discussion.

Mr. Panico provided a revised drawing for the Commissioners to review. He stated that the Applicant responded with some modifications in regard to some of the technical issues that were raised about the proximity of the buildings to the marsh, and the tightness of the buildings. He explained that they've chosen to eliminate one of the units down at the cul-de-sac. In doing so the other buildings are more generously spaced. He added that he was not addressing the two units at the top of the site. He commented in regard to the five units below, one has been removed thereby getting the building out of the wetland review area, adding more space between buildings. Additionally, there

would be an increased buffer zone on the southerly side of the property line allowing them to do some banking there.

Comm. Jones asked if the original proposal had two houses at the top and five below – and if there was still five on the bottom.

Mr. Panico stated that was the original proposal submitted. In response to discussions, the Applicants submitted an engineer's plan if a unit were to be taken out. He addressed the concerns about spacing, being too close to property lines and too close to the wetlands. His modified drawings depict the moving of the units out of the wetland upland review area, away from the property lines and with increased spacing between the buildings.

He added that other issues addressed involved the grade of the road coming in because it was a rather steep grade – more than they were comfortable with. The engineer has returned with the explanation that from an engineering point of view it was a safe grade; it could be made flatter, but in order to do so, it would require higher retaining walls to meet the grade of the road. However, they do not have a report from the City Engineer yet. Mr. Panico stated that they would ask Engineering to weigh in on that question before making a decision. He summarized that those were the major points to date.

Numerous separate discussions took place in regard to the revised drawings but most comments were inaudible.

Comm. Parkins asked if this was their new proposal.

Mr. Panico stated that they were addressing the concerns – and they know it is very easy to address the concerns by reducing the unit number from seven to six.

Vice-Chairman Lopera recalled the history of this application being before the ZBA where they turned down three lots. This is mostly a residential R1 zone.

Mr. Panico added that they wanted to do two interior lots and one lot up front.

Vice-Chairman Lopera added that ZBA turned that down and they've come back with six or seven and it's essentially a PDD in R1 zone with a little bit of LIP in the back.

Comm. Jones asked if the houses being proposed got bigger in square footage from the ones originally proposed.

Mr. Panico responded that no – the footprints were the same. Normally, they would not address the size of the footprint because they'd be more concerned with the spacing between them. They could mandate a minimum amount of spacing in between.

Comm. Sylvester asked how many building lots would be available to the developer if they developed it under an R1.

Mr. Panico responded that he could only answer from the history of the site. Without a variance, the Applicant could have created one interior lot – two total.

Vice-Chairman Lopera added that they went to ZBA with a request for three.

Mr. Panico answered that they sought to get two interior lots and create three lots, but they were denied.

Comm. Sylvester commented that they went from two lots that would be available under zoning as of right; they went to ZBA to get three lots, got denied and now they are here to get five lots.

Mr. Panico stated that he was not necessarily going to say that there isn't some scheme, as uneconomical as it might be, to build a public road down there and gain more than just the two lots - because he hasn't looked at that.

Comm. Sylvester stated that he wasn't a developer, and he understands that there are extenuating circumstances; but he's trying to keep within the kind of criticisms they've had about the development of R1 land other than R1 development. So for his understanding, he summarized that they've gone from a two lot to three lot refusal, and now there is a seven lot proposal that's been shaved down to six lots. Refused the two, refused the three, come in at seven at walk out with six.

Mr. Panico responded that they weren't walking out with anything, and that's an oversimplification of it because everything around it cannot be ignored. This is the one remaining sliver, island, peninsula, if you will, of pure R1 with the exception of the industrial zone at the end of it. It's left with what was originally an R1 and is now a condominium development, and with what was originally an R1 and is now a single family cluster development.

Comm. Sylvester commented that he didn't think that was R1.

Mr. Panico responded that before it was R1, it was zoned to be a condominium.

Comm. Sylvester recalled that the cluster development was LIP and R1. At the public hearing, the public preferred it to be a residential development to an LIP development.

Mr. Panico stated that he didn't recall that but the dye has been cast and some additional consideration should be given to this other than pure R1. The degree to which that is done is up to this Board – as to if at all or how many.

Comm. Harger asked Mr. Panico if he had any concerns with the drainage and other water issues.

Mr. Panico responded that he didn't have any concerns as a planner. He added that the engineer for the Applicant has done what appears to be a quality job. He realizes that the water concern is an emotional issue but it is also a very sophisticated component to understand; therefore, they will defer to the City Engineer and his remarks and conclusions. He noted that he wasn't there to advise as an engineer, despite the fact that he's got an engineering background.

Comm. McGorty asked what his first concerns were on this.

Mr. Panico responded that his first concerns were spatially about things fitting and what was reasonable. His initial response was that those concerns could be addressed. There are those two concerns – the grade of the road and the drainage system for which they will look to the City Engineer. In regard to the drainage, whatever it needs to be, it needs to be.

Vice-Chairman Lapera asked Mr. Panico what his opinion was as a planner in regard to the split kind of clustering with two houses here and four houses there.

Mr. Panico responded he thought the property drives it in that regard because the center portion is the weaker developable portion. There is a chunk a developable land here and developable road frontage. The road frontage is consistent with typical Buddington Road, single family in character with a cluster of whatever would be allowed down in the back. As a planner, he looks to make sure there are no problems being created such as lights glaring on to the neighbors and things like at the fine tuning stage of things.

Comm. Jones asked what the reason for the discussion was tonight.

Mr. Panico answered that the Commission has to arrive at a consensus of where they are going with it.

Mr. Schultz responded that that this was a request for a PDD Zone Change. This is the first step of two steps so Staff needs direction on their position of whether or not they are

in support of the zone change. Additionally, they need to approve the proposed number of units or drop it by one – the Commission has the final say.

Comm. Sylvester restated that is what he just tried to put on the table – the Applicant proposed seven and they are willing to drop it by one, but they had been refused three units by ZBA. Adding the fact that they had been refused three, it gives the people at this table the understanding that just because they went from seven to six doesn't mean that's OK. He asked for some help from Staff as to whether this was the best use of this land. He wanted to know how many pieces – 7, 6 or 3 or some other number was the best layout. He stated that he wasn't an expert on what this land could accommodate or how it should be laid out.

Comm. Jones asked what Heritage Point started out as – an R1 zone.

Mr. Panico responded that it was about 60% R1, 40% LIP – it was a significant split.

Comm. Jones commented that 3 or 4 houses would be R1 and 2 or 1 ½ would be LIP.

Mr. Panico responded that part of the justification for the request at Heritage Point had been that there was a significant piece of industrial land. If it stayed industrial then they would be forced build a road from Buddington Road into that industrial area and then develop it industrially. The burden of traffic and everything else led them to support the R1 development instead.

Comm. Sylvester added that the neighbors supported the R1 development rather than see industrial development in their neighborhood which makes a lot of sense. He recalled the discussion and there were one or two industrial buildings that could have been built on that property. It was significant. He asked for advice from a technical point of view about what is appropriate there – and is six too many. Additionally, he asked why the other board refused three units.

Mr. Panico responded that he has not read the records from the ZBA. However, in order to create those three –two interior lots they needed certain variance relief. They had to have been able to demonstrate hardship and apparently the ZBA felt there was no hardship demonstrated.

Comm. Sylvester commented that if they go this route with the PDD then they don't need any variance.

Mr. Schultz commented that the only technique available is the PDD.

Mr. Panico responded that was correct because its a zoning procedure. From a practical point of view in his opinion, it wouldn't be practical to go into this back area and just build one house – not when its looking at the back of condominiums on one side and a high-density single-family cluster on the other side. Therefore, one unit doesn't make sense.

Comm. Sylvester asked if that one number would have been three.

Mr. Panico responded that yes it would have been a total of three units. The economics don't justify building just one house down there –for the owner of the property or for the person buying it. He commented that someone would not pay the premium to buy a nice, single-family house on this area. If the same area is taken and is put into the middle of an otherwise homogenous R1 area, they would probably pay an extra \$150K or \$200K because it would be an estate. But they aren't going to create a mini-estate here.

Mr. Schultz commented that this is the first meaningful discussion the Commission has had about this, and he is going to get some more technical assistance from the City Engineer and the other departments.

Comm. Sylvester stated that would be helpful to him because he doesn't know what the right number is. He commented that if he owned this property he'd be trying to do the

same thing – build on each side but what’s the number that works that doesn’t take away from the value of the surrounding area or from itself.

Mr. Panico stated that no matter what is done down here within reason isn’t going to adversely impact the neighbors because it is out of their sight. The only visual impacts, if any, good or bad, are on the condominiums on the one side and a couple of the single family homes in the Heritage Point development. There is no visual impact of this development on Buddington Road. He added that they had some property owners on Buddington Road who spoke and said something like “hey everybody else got to do it – why are you giving this guy a hard time.”

Comm. Sylvester responded that he remembers hearing that said too.

Mr. Schultz indicated that Staff will put together a package like they did for the Kyle’s Korner with inputs from the City Engineer about the drainage and zoning data for both parcels. Staff wanted to get a general sense of how the Commission wanted to go with this and they’ll be meeting again on the 22<sup>nd</sup> and he’ll have that package for everyone.

Comm. Jones asked if this had gone to Inland Wetlands before coming here.

Mr. Panico explained that normally in a situation like this, they would have been asked to go to Inland Wetlands to make sure they could get access to that bottom area. However, in this particular case with the previous variance request, they knew they were going to have to get a driveway to the back. At that time, they went to Inland Wetlands and got whatever necessary permits were needed to put in that driveway. They know they can get there but may have to adjust that permit, and if there’s a revision, they will have to go back to Inland Wetlands to bring them up to speed. But the basic permission from Inland Wetlands to get into that back area was given two or three years ago.

Vice-Chairman Lopera commented that this had been for discussion only. As soon as Chairman Pogoda returns they will move on to #07-53.

**APPLICATION #07-53, HUNTINGTON WOOD, LLC FOR MODIFICATION OF BASIC DEVELOPMENT PLANS AND STATEMENT OF USES AND STANDARDS FOR THE CENTER AT SPLIT ROCK AND DETAILED DEVELOPMENT PLAN APPROVAL, PHASE II (CHILD DAYCARE CENTER), 708 BRIDGEPORT AVENUE (MAP 29, LOT 26) (PUBLIC HEARING CLOSED ON 11/27/07) – DISCUSSION ONLY**

Mr. Schultz reminded the Chairman that there were a couple of things as part of this petition – one of which is to increase the family of uses to include child daycare requiring a modification to the basic development plan. Additionally, they have detailed development plans for the child daycare center.

He continued that this needs to be done sequentially by first broadening the family of uses to include child daycare because that wasn’t adopted. Once they get past that they can get into the detailed development plans. He showed the Commission the plans depicting the location of the existing buildings and the child daycare. Additionally, at the public hearing, the seventh building was discussed for an assisted living facility. That has yet to be submitted, but they hope it is something that the Commission looks at favorably.

Comm. Parkins asked if modification of the family of uses would be just for the child care daycare and not the assisted living facility.

Mr. Schultz responded that it was for both – the child daycare center and the assisted living facility. Also, Staff has received assessment evaluations that he would like to share with the Commission. They are looking for a consensus from the Commission so that this could be put on the January 22<sup>nd</sup> meeting agenda.

Comm. Sylvester asked for clarification about the documents from Steven Bellis regarding Split Rock.

Mr. Schultz clarified that the documents were assessments. The assessments show a comparison of the existing facilities at 698-706 Bridgeport Avenue, the total land area of the lower part (11.5 acres) and the taxes generated based at the assumed mil rate of 17.4 of \$193,000. The area in question tonight, Lot 2 is 2.8 acre area for the two proposed buildings – the daycare center and the assisted living facility. The estimated additional taxes for the assisted living facility would be \$200K-\$250K and the daycare facility would be in the \$25K-\$35K range.

Mr. Panico addressed Comm. Sylvester's question and added that in some of the earlier discussions and at the public hearing, it was asked if they went to a different type of development back there, how much economic development would they be losing or gaining. In other words, what is the tax generation capability and would they be better off with more development like this, and would it be better or worse from a tax point of view.

He continued to state that they didn't know what the taxes were down there. They knew it was upscale development, and they knew it was not run-of-the-mill commercial development on Bridgeport Avenue. Therefore, rather than having Staff do the legwork, they asked the Applicant to do it. They put together the tax generation comparison depicting development similar to what flavor exists down there now as contrasted to their proposal which presents these different uses. As Mr. Schultz just indicated with his figures, the difference is significantly greater in dollars per acre than what is down below.

Comm. Parkins clarified that it was a comparative analysis between the current allowed use and the new proposed uses.

Mr. Panico stated that he hadn't really taken a look at all of the information yet.

Mr. Schultz commented that although they haven't gotten to it yet, the assisted living facility is the big one – it was presented at the public hearing.

Mr. Panico clarified that they were being asked to amend the Statement of Uses that make would make that one of the uses that the Commission could consider.

Comm. Sylvester asked if that meant that they would be including the two new uses but considering only the proposed daycare center at this time.

Mr. Panico responded that was correct. They have asked the Commission to consider the proposed daycare facility at a greater level of detail and perhaps even see fit to give it final approval. They have provided enough of a detailed engineering to satisfy the criteria for detailed development plans so that Staff could complete the review and the Commission could, if they wish, give final approval – and they can be in the ground building that very quickly. Mr. Panico commented that he thinks that is the Applicant's goal.

Mr. Schultz stated that the first consensus is the family of uses.

Comm. Lopera asked what use was right now on Phase 2.

Mr. Schultz responded that it was the same for the whole project.

Mr. Panico added that it was the same family of uses the development plan illustrated for condominium office development.

Comm. Lopera noted that no one has told them what the taxes would be for the condominium office scenario.

Mr. Panico responded that they asked for some of those figures and he has to go back and analyze that. He hadn't realized that they had gotten it; they'll be able to report to the Commission in that regard. The other thing that should be considered is the general level of traffic. Certain types of uses generate traffic at peak hours and certain types of uses

don't generate traffic at peak hours. Obviously any kind of commercial or office development would simply add to the peak hour traffic flows. Residential uses of the type being contemplated do not. The daycare facility should not to a great degree because it is expected that some of the traffic associated with that is going to be related to people working on the site and in adjacent facilities. It isn't a major traffic generator. New office development in this area would definitely be a major traffic generator. That needs to be weighed also.

Mr. Schultz stated that Staff was looking for consensus, just like the other project, this has been the first meaningful discussion about it.

Mr. Panico stated that they had a follow-up session with the Applicant's engineers and he conveyed some concerns he had about the site development associated with the daycare facility and they have been addressed.

Chairman Pogoda asked if they spoke about buses going up there.

Comm. Parkins stated that there could be if there are children being dropped off there for before-school or after-school care. There could be an occasional bus.

Mr. Panico commented that the Applicant testified at the hearing that there were be no buses.

Chairman Pogoda stated that he knows the question came up.

Comm. Parkins commented that it happens at Apple Tree and Bright Horizons – they're going to be a daycare center, right?

Mr. Panico stated that the nature of the operation wouldn't call for it.

Comm. Sylvester clarified that public schools buses won't drive, or shouldn't drive on private property anyway. It was only done once during a construction period as a protection for the kids to bring them up above to private property rather than drop them off in the midst of construction.

Mr. Panico stated that no school buses would be anticipated – generally, they only provide care for the younger kids.

Comm. Parkins indicated that was why she asked the question because she would rather see the buses go up there and get the children rather than have the children at the bottom of that hill.

Comm. Sylvester indicated that it wasn't their call – they won't go up there if it's not a public road. He doesn't believe they will unless something has changed.

Mr. Panico clarified that the Applicant for the daycare component indicated that it's predominantly a preschool operation, and they do not anticipate any school bus service being necessary.

Comm. Sylvester suggested that they have the opportunity to research it because there are several large daycare centers in this community right now operating with similar types of traffic. The Ivy Brook one in the industrial park, and the one near the bank. The traffic isn't a problem but it is something that has to be dealt with. As Comm. Parkins mentioned young parents with children in preschool programs are coming and going from this area, dropping off their children on the way to work – there is going to be traffic.

Mr. Panico stated that the concern with the Ivy Brook one was the operation of that intersection of Ivy Brook Road and Constitution Boulevard because it's not the safest intersection in the world.

Comm. Sylvester commented that he drove up there out of curiosity, and it doesn't seem as if that is a problem.

Mr. Schultz commented that it's just when Pitney Bowes leaves – it's a stream of cars and it can be bad.

Comm. Sylvester noted that daycare facilities do not put a whole lot of pressure on anything. He doesn't know what the cuts are up there and the kind of things they would be looking for in terms of children's safety and outside play areas.

Mr. Panico stated that they have gone through that in detail with the Applicant's engineers. Once the children get dropped off, they are in a controlled environment.

Comm. Sylvester commented that at one time, a daycare permit could not be obtained in area where there was an outlet for alcohol. That was one of the things that the State of Connecticut frowned upon. He doesn't know exactly what's around this but that doesn't exist anymore anyway. He recalls that the Mayor tried to get a daycare center in the same building as a catering facility – and he was against it. The daycare center pulled out of it because of that issue.

Mr. Panico recalled that the trend used to be to put daycare centers in residential areas (inaudible).

Comm. Sylvester stated that they just don't go together.

Comm. Parkins indicated that the point she raised about the buses – this is about Tutor Time – they are a national operation. They are a great operation; she used them for her own child care up in the Monroe area.

Comm. Sylvester asked if they were in Shelton right now.

Chairman Pogoda said that no – they are up in Monroe off of 110.

Comm. Parkins added that Tutor Time does take children up to five years old and that would include kindergarten aged children. If it was a working mom situation, the child would have to be bused to and from kindergarten back to Tutor Time. Her point was if that occurs...

Comm. Sylvester asked if they had their own buses - that would be interesting to know – do they pick up and deliver the kids themselves.

Chairman Pogoda added that his granddaughter went to the daycare center at Healthnet, and when she went to kindergarten half days, transportation was provided by the daycare staff to bring her to and from school.

Comm. Parkins noted that the Tutor Time in Monroe had their own bus. However, she asked, if that scenario does exist with parents using this as an after school situation, can a bus safely get up there, because Comm. Sylvester indicated that they aren't allowed to go on private property.

Comm. Sylvester clarified that the school buses can't go on private property. He doesn't think they'd ever get a public school bus to get up there due to the difficulty of meeting the time constraints required to pick up and deliver the kids from school.

Comm. Parkins stated that she was unaware of any daycare facility that goes to all the Shelton public schools to pick up children except for the Boy's Club.

Comm. Sylvester responded that yes, the Boys Club and the one up at the Nike Site – the Hideout – they have their own transportation.

Comm. Parkins asked if that was Shelton's Latch Key Program.

Chairman Pogoda responded that was a private setup and they bus kids.

Comm. Parkins indicated that she would hate to see children waiting down on the busy road.

Chairman Pogoda asked Mr. Panico if that could be written up in the resolution.

Comm. Sylvester stated that he agrees with Comm. Parkins is saying because if there were going to be busing, they would want the kids brought in off of Route 8 rather than have a bus stop on Route 8. He asked where the kids are dropped off on Armstrong Road by the bank – do they go into the parking lot at Staples?

Chairman Pogoda responded that he's never seen a bus there and he goes by there a lot.

Comm. Parkins asked where they are picked up for Bright Horizons.

Comm. Sylvester responded that they pick them up right on the street – Commerce.

Comm. Lopera added that they do pull up to Building 2, right up next to the curb – they don't go into the driveway.

Mr. Panico asked what they do at Ivy Brook Road.

Mr. Schultz responded that they just stop right there on the road.

Comm. Sylvester commented that the perfect example was the nursery school/daycare on Center Street – that one is a problem because they stop right on Center Street and stop traffic while a staff person stands there with the children. It gets crazy if the kids aren't there, the bus has to stop and wait.

Mr. Panico added that the same thing happens on Long Hill Crossroad if they stop.

Comm. Parkins stated that it is typical for most daycare/preschools to have that situation with before and aftercare for kindergarten aged kids, especially because Shelton does not have a full day kindergarten.

Comm. Sylvester commented that he thought this location was very difficult to access for any busing situation.

Mr. Panico responded that he thought they might be inclined to come in the main entrance shared with Perkin Elmer where the light is and take the main driveway but not go all the way in. He pointed to the location on the site drawing where they could pick up and drop off children.

Chairman Pogoda asked for a favorable consensus on the change of uses. He indicated that they can direct Staff to address these questions about whether or not there would be school buses.

Mr. Panico added that his notes specifically state that the Applicant indicated that no school buses would be anticipated and it would be up to the parents to make the arrangements for the transportation.

Comm. Sylvester commented that it's an important issue that should be nailed down. They should set some kind of precedent if daycare centers are going into the middle of a retail development. There should be provision or comment on how it should be handled.

Chairman Pogoda added that they could just not permit them.

Mr. Panico stated that Rick Schultz could make a request for that information as to how they would deal with that.

Comm. Lopera commented that he would like to take a look at the economic information submitted before making a decision.

Comm. Parkins indicated that she would be in favor of the change of uses.

Comm. Harger stated that she had no problem with it.

Comm. Jones stated that he had no problem with it.

Comm. Sylvester agreed with Comm. Lopera that he would like to take a look at the information. He doesn't see any real problem with it, but he'd like to be more comfortable with it.

Mr. Panico asked if he wanted financial economic (tax) information or the school busing situation.

Comm. Sylvester responded that the economic aspect would be of interest to him but how they plan to address safety issues is something he'd like to see.

Mr. Panico indicated to the Chairman that it seemed as though there was a general consensus in support of this so Staff could start to put something together without necessarily finalizing it. They could have a component included that deals with the economics – he hasn't gone through all the information yet. He'll try to summarize it. He indicated to Comm. Lopera that he understands that he'd like to see a comparison between what might have happened here with an office scenario as compared to what could likely happen with a daycare center.

Comm. Parkins commented that she thinks one of the benefits is the traffic.

Mr. Panico stated that they've always visualized this as being an economic development site, and in that sense they are interested in maximizing economic return to the City while keeping other things in balance. He continued to say that they'll try to develop the paperwork based on that, and if the Commission is satisfied with the information, that's fine; otherwise they can modify it.

Comm. Sylvester commented that on its face value he doesn't see any problems with it. But he'd be curious to know if there are any problems with daycare centers in other areas that aren't typically in daycare center-type of areas. He added that it would be a big step in a different direction as far as daycare centers are concerned because he never envisioned a daycare center being in such a large detailed development park. Although he never thought he'd see a school teaching culinary arts off of Research Drive and that seems to be working out very well.

**APPLICATION #07-54, DANA'S POND CONSTRUCTION FOR SUBDIVISION APPROVAL (KAWALAUTZKI SUBDIVISION: 4 LOTS), 203 MOHEGAN ROAD, (MAP 84, LOT 19) – DISCUSSION AND POSSIBLE ACTION**

Mr. Schultz indicated that he had several reports to read. He stated that the location for this application was on Mohegan Road before Wigwam and past Mohegan Gas Station with frontage on Lisa Drive in the back. He used a site map to show the location for the construction of the three new homes at the intersection of Lisa Drive and Frank Drive that were shaded in yellow.

**\*See attached correspondence from the Conservation Commission to Richard Schultz dated January 8, 2008.**

**\*See attached letter from the Fire Chief dated January 7, 2008.**

**\*See attached report from the City Engineer dated January 4, 2008.**

**\*See attached P&Z Staff Report dated January 8, 2008.**

He continued to state that at their December meeting, the Conservation Commission recommended payment in lieu of open space. It is completely surrounded by residential development, and there is no existing open space.

He read correspondence from the Fire Chief indicating that he had no problem with the development as submitted. Additionally, he read the City Engineer's unfavorable report regarding the developer's plan to extend Lisa Drive approx. 25 feet easterly from the Frank Drive intersection in order to provide road frontage for Lot 4. He relayed the City Engineer's comments that this plan was not acceptable since the roadway terminates in a dead end. The City Engineer, Mr. Kulacz's recommendation was that Frank Drive be extended from the Lisa Drive intersection southerly to provide the frontage for Lots 2, 3 and 4.

Mr. Schultz added that he superimposed those recommendations onto the second page of the site drawing and he indicated that the Project Engineer, Jim Swift was present to answer any questions. He continued to read the City Engineer's report regarding pavement width and specifications for a left offset permanent cul-de-sac. Mr. Schultz added that the City does not want a lot of pavement for obvious maintenance reasons and the neighborhood does not want to see it either. Mr. Schultz read the City Engineer's conditions for endorsement (see attached City Engineer's report).

Mr. Schultz read the Staff Report (see attached) dated January 8<sup>th</sup> which indicated that there were no Inland Wetland activities associated with this development and the property is located within an Aquarion Water Company watershed but not within Aquifer Protection Area or flood hazard or cam area. Additionally, he read the details of the Applicant's sediment erosion control plan and conditions for permits. He indicated that they received a letter from the Naugatuck Valley Health District recommending approval for the individual septic system.

He stated that Staff had inspected the subject property and determined that sidewalks are non-existent. He further explained the City Engineer's recommendations for the cul-de-sac and overall road circulation. He noted that the cul-de-sac design would replace the proposed common driveway design for Lots 2 and 3 and the extension of Lisa Drive for Lot 4 as shown on the original submission.

Mr. Schultz indicated that some blasting was anticipated for this development. Accordingly and consistent with the Blasting Committee, pre-blasting surveys will need to be provided for properties within 250 feet from the blasting area. Notification of blasting should be sent to property owners within 500 feet of the blast area. He specified that this was a voluntary program; state statutes do not endorse this, but they have told the BOA that it would be included in all decisions.

He continued to state that the Applicant was opting for the payment of \$12K to the Open Space Trust Fund in lieu of open space using the lump sum method. He concluded with the Staff recommendations and standard notes (see attached).

**Jim Swift, P.E., 102 Village Drive, Shelton, CT addressed the Commission.** Mr. Swift indicated that the lots are all conforming and there are no issues with drainage or the with the modifications that the City Engineer proposes.

Mr. Schultz added that this was a very nice piece of property from Lisa Drive as it rises up gently and goes back down to Mohegan so those three homes will really be in their own little community. He indicated that he had prepared a draft motion if the Commission was ready.

Chairman Pogoda asked if there were any other questions or comments.

Mr. Schultz moved to approve the interior lots and subdivision for Application #07-54 for four lots off Mohegan Road and Lisa Drive prepared by Lewis Associates Land Surveyors dated 10/07/08 and James R. Swift dated 11/07/07 with conditions. He added that he thinks everyone is in agreement that this is the best design solution.

**On a motion made by Patrick Lapera seconded by Leon Sylvester, it was unanimously voted to approve Application #07-54.**

## **NEW BUSINESS**

### **APPLICATION #07-57, R.D. SCINTO, INC. FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #58 (PARKING EXPANSION), 6 RESEARCH DRIVE (MAP 28, LOT 1) – ACCEPT FOR REVIEW**

Mr. Schultz indicated that this was for the Reservoir Corporate Center building under construction. Mr. Scinto is now aware of who the tenants will be and additional parking spaces are required. The Applicant has made an application to Inland Wetlands and Jim Swift is going to show where the parking areas were going to be expanded. This would be submitted as a minor modification and an administrative action.

Mr. Panico added that the building is under construction right now and apparently he's negotiating leases on a couple of the major tenants who have minimum required parking spaces assigned to them and there aren't enough on the drawing. Although they may never use them, he has to show them to honor the lease.

Mr. Schultz added, for the benefit of the new Commissioners, there was a proposal for an apartment land use here that was previously. Now they are seeing a land use consistent with the master plan.

Mr. Panico noted that going back even further, the drawing shows a building in the corner that what was to be half of a two building complex. The developer of the first building never went any further and wanted to change the land use on the parcel to apartments. The Commission denied it, they went to court and insisted on selling the property to Mr. Scinto. Mr. Scinto brought in the office building.

**Jim Swift, P.E., 102 Village Drive, Shelton, CT addressed the Commission.** Mr. Swift indicated that it was a simple modification. He showed the site drawings and explained that there would be additional parking spaces for 68 total. He pointed out the existing detention pond in one location and a proposed detention pond in another location. He indicated that they would be proposing to expand the parking, and delete the detention pond in one location. He stated that they would not be changing the drainage calculation because they are building underground detention structures, at no small cost, in two different locations. He showed those locations on the site drawing. All the storm water discharge rates stay the same – they wouldn't be pushing in any more water.

Comm. Lopera asked Mr. Swift to go back to the first page showing the detention ponds. He commented that the detention pond was nicer in the front for aesthetic purposes. He asked if they planned to pave right up to the street.

Mr. Panico commented that there is still a lot of green there, it doesn't go to the street because there's another building there.

Mr. Swift stated that they added an island and two interior islands (inaudible).

Mr. Schultz commented that he had seen some walkers (inaudible).

Many comments were made about walkers and sidewalks but it was inaudible due to cross conversations.

Comm. Parkins asked Mr. Swift about his comment that the drainage wouldn't be increasing very much. She questioned that because they planned to take away ponds and put in parking spaces that would increase surface area.

Mr. Swift responded that these underground structures; they are actually a grid of eight feet tall and however wide it is – it is the same volume as the detention pond. He stated that these structures are the same as that volume of those ponds.

Mr. Panico commented that there was more impervious surface.

Mr. Swift responded that he thought it was increased by about 5 percent or something. He added that the nice thing about how these things work is that the bottom is gravel and a detention pond develops a muck at the bottom of it that doesn't infiltrate a lot. These structures don't develop that so all that crushed stone that completely surrounds during a light rain almost always percolates into the ground and maintains that ability to get back into the ground water.

Comm. Sylvester commented that if that want to make a presentation to make a detention pond they shouldn't ask Jim to build it.

Mr. Panico added that they aren't very cost effective but they're better.

Mr. Swift stated that Inland Wetlands is going to be interested in the habitat and there will be water quality and ground water issues discussed.

Mr. Panico commented to Mr. Swift that he understands the reason for Bob's request for these things that even he doesn't think will be needed. He asked if the request could be honored by showing them on an approved plan but deferring installation.

Mr. Swift responded that he will check with him.

Mr. Panico stated that it would be graded, and prepared so that all he has to do is pave it and put the drainage in but not the asphalt. That might satisfy his lease, especially because in that case it is the furthest point from the building. Those spaces are only going to be used if there is no other place to park. He added that if those spaces are put in, they are still going to end up double parking where they are not supposed to park.

Comm. Sylvester added that was what Healthnet had said about their parking.

Comm. Lopera commented that they had a radius of 300 -500 feet and they didn't want to walk any more than 500 feet. Being Healthnet, it would seem they would want to walk... (inaudible).

Mr. Panico asked what the approx. distance was to most remote parking space.

Mr. Swift responded that it was about 400 feet.

Mr. Schultz added that at 300 feet, they start getting lazy. Pitney Bowes was really tough like that...

Chairman Pogoda commented again about the idea of having the parking approved to satisfy the lessee but not pave it, especially at the most remote corner.

Mr. Schultz commented that was a nice level area as well. He added that this will be put on the next meeting agenda to act on it.

**On a motion made by Patrick Lopera seconded by Leon Sylvester, it was unanimously voted to accept for review Application #07-57.**

**APPLICATION #08-01, RADCLIFFE PARK, LLC FOR FINAL SITE DEVELOPMENT PLAN APPROVAL (SITE B: 250 MULTI-FAMILY APARTMENTS) PDD #60, CANAL STREET (MAP 129, LOT 19) – ACCEPT FOR REVIEW**

Mr. Schultz stated that this was 250 units with 2 parking spaces per unit, 500 parking spaces total, 4.4 acres. This will be going before the Downtown Subcommittee.

Mr. Panico added that part of the building is a parking structure.

The rest of the discussion was inaudible due to two separate conversations taking place at the same time.

**On a motion made by Patrick Lapera seconded by Leon Sylvester, it was unanimously voted to accept for review Application #08-01.**

### **PUBLIC PORTION**

Chairman Pogoda asked if there was anyone wishing to speak before the Commission on any item not on the agenda. There were no comments.

**On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to close the Public Portion.**

### **OTHER BUSINESS**

#### **APPROVAL OF THE MINUTES: 12/11/07**

**On a motion made by Ruth Parkins seconded by Patrick Lapera, it was unanimously voted to approve the minutes of 12/11/07.**

#### **8-24 REFERRAL: DIRECTIONAL SIGNAGE FOR WESLEY VILLAGE**

Mr. Schultz stated that they have received a request from the Street Subcommittee, the Board of Alderman. There are entertaining directional signs for Wesley Village up at United Methodist Homes Complex for two locations – River Road at Long Hill Avenue and Constitution Boulevard South at Long Hill Avenue. He asked them to keep in mind that the BOA relies upon the Traffic Authority on the exact location because they talk to the homeowner where it actually goes.

He added that the Commission hasn't gotten a lot of requests like this because the Traffic Authority usually does it. There are requests from churches. These are directional signs such as "the Congregational Church ¼ mile up the road." Because it's a state highway, they usually go to the Department of Transportation.

Mr. Schultz read the following comments from the City Engineer, Robert Kulacz:

- the River Road location is a state highway regulated by Conn. DOT 3 District 3 Permit Office.
- Constitution Boulevard South location is adjacent to our park located at Long Hill.
- He doesn't believe that a Wesley Village directional sign is warranted at the open space park location of Constitution Boulevard South.
- The City has sufficient street signs for Long Hill Avenue and its intersections with both River Road and Constitution Boulevard South.
- Allowing one facility permission to erect directional signage may lead to a proliferation of requests for unnecessary signage which could become unsightly and distracting.

Mr. Schultz stated that it would be a recommendation from the Commission. Everyone relies on directional signs at certain times. Sometimes it is awkward but it is the Commission's call as to whether or not they want to report favorably or unfavorably to the BOA. These are pretty small signs.

Comm. Parkins commented that they aren't the only facility up there – Gardener Heights is there.

Mr. Schultz concurred that was what the City Engineer was saying – if one is allowed then its difficult to say no to others. Historically, the town has allowed the churches to have this. It's an issue to deal with.

Chairman Pogoda added that it didn't include all the churches – St. Joseph's, St. Mary's, St. Lawrence – he's never seen any for them. However, it's a good point whether they would get a proliferation of requests coming in for signs.

Comm. Parkins commented that on that road it was only those two. She wanted to know if there had ever been an issue about it.

Mr. Schultz responded that it was just exposure. His office never gets calls asking him about “ Where is Wesley Village,” or “Where is the United Methodist Home located.”

Comm. Sylvester commented that in today’s day it is so easy to get direct directions to places – like Mapquest...

Mr. Schultz added that it might be from more families outside of the region. He showed the draft signage for Wesley Village to the Commissioners.

Comm. Parkins added that she was not in favor.

Mr. Schultz asked Comm. Parkins if that meant she was in support of the recommendation of the City Engineer.

Comm. Parkins indicated that was correct.

Chairman Pogoda asked for a motion.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted not in favor of an 8-24 Referral for directional signage at Wesley Village.**

**8-24 REFERRAL: REQUEST FOR ABANDONMENT FOR PORTION OF WELLS AVENUE**

**Atty. Steven Bellis, 47 Perch Road, Shelton, CT addressed the Commission representing the Applicant.**

Mr. Schultz showed the location map for the property at Wells Avenue.

Atty. Bellis commented that this was a little unusual because the BOA have already acted and abandoned the property - but it was subject to an 8-24 Referral.

Mr. Schultz stated that on December 20, 2007 the BOA approved the abandonment of a right of way at the end of Wells Avenue, as shown on the map, subject to a favorable 8-24 Referral.

Comm. Lopera asked what the favorable 8-24 vote was ...(inaudible)...

Atty. Bellis indicated that he was there because by statute it had to have an 8-24 Referral.

Mr. Schultz indicated that he would read the City Engineer’s Report.

Atty. Bellis stated that an extension was already approved for Wells Avenue and a cul-de-sac was put at the end so the Applicant went to the Wetlands Commission. At the Wetlands Commission, he proposed to extend Well’s Avenue another 45 feet so that he could get the road to meet one of the lots. The Wetlands Commissioners indicated to him that he should just abandon the road because no one else needs the road – all the others at the bottom of Wells Avenue have their driveways going elsewhere or their land can’t be developed. Therefore, the Wetlands Commission suggested having the BOA abandon the road and bring in a private driveway without impacting the wetlands. Atty. Bellis indicated that everyone was happy with that recommendation

Mr. Panico asked if there would be a discontinuity in Wells ....

Atty. Bellis responded no and they spoke to the neighbors and no one opposed the situation.

Mr. Panico asked which side was Wells.

Atty. Bellis showed the location of Wells and commented that it was total wetland.

Mr. Panico asked if the name changed further down, (inaudible) is it intersected or not being abandoned (inaudible)...

Atty. Bellis stated that it is paper road.

Mr. Panico asked if it would still be there but not abandoned.

Atty. Bellis stated that there was no need to abandon it because no one will ever develop it. He continued to say the BOA voted on it and Counsel (inaudible) and then the City Engineer wrote a letter but he has all the documentation so that is why he's here tonight because it is confusing and its not a typical 8-24 Referral. He showed the letter asking John Cook to strongly recommend to abandon it. He provided the map, the approved lots by P&Z as a pre-existing non-conforming lot, the Wetlands approval, the Wetlands minutes and the title search. He's introducing these documents because the City Engineer is putting up a stumbling point...

Mr. Schultz responded that there is an issue here that he has to read to the Commission. He commented that this was based on a earlier legal opinion in which he and Comm. Sylvester had been present. Each of the 300+ property owners in Coram Garden – remembering that this whole neighborhood was subdivided by the industrial streets leading down to the plants. These roads, they never received title to it, the City did. Normally, they get warranty deeds for the new roads. Accordingly, each of the 300 plus property owners of the Coram Avenue Garden development possesses ownership of all streets and ways including Wells Avenue in common with owners of the other lots. In 1994, under Chairman Russell, the P&Z Commission attempted to abandon a portion of Forest Avenue which is also a part of the Coram Garden Avenue. The abandonment was ruled out due to the common ownership arrangement.

Mr. Schultz stated that Atty. John Welch advised the Commission that they had to get permission from the individual owners. Chairman Russell sent out certified letters and it failed miserably. This is the City Engineer's position.

Atty. Bellis commented that Bob doesn't have a legal degree.

Mr. Schultz stated that he has based his opinion on what occurred in 1994 and he understood that Atty. Bellis was here to clarify things.

Atty. Bellis responded that he was wrong. Everett Wells and he had a title search done of this land and each deed is different. It is harder when there are older streets because nowadays when a developer comes in, the town says that they want a deed. Not only is there a right of way, they want the dirt, the land and everything down to China – and a fee. That is what developers do nowadays, as Rick has stated. This wouldn't happen with new developments because the City owns the roads. It was a huge dilemma back then – who owns the road, who owns the dirt under the road... In any area, in any town, not only Shelton, old deeds have to be looked at and title searches have to be done. Basically, what the towns had was a right of way usually, meaning they had the ability to drive over whosever land it may be for a road or access way. Once the town abandons that, all they have abandoned is the ability to drive over that road or use it as a public thoroughfare.

Mr. Schultz added to maintain and plow it as well.

Atty. Bellis continued to state that it was a title issue of who owns the dirt. The town can abandon it without needing 300 signatures or provide notice to anyone. He'll address the title issues. It has nothing to do with you guys because it is a problem for the developer if he has clear title or not. For abandonment purposes, the planning issues is right of way.

Mr. Schultz added that the planning issue is with providing private driveways over this abandoned area.

Atty. Bellis stated that the reason the Wetlands Commission wanted it to go this way was because they thought it would have less impact on the wetlands. If they extend the road,

they would have to build it up and it would extend farther out into the Ivy Brook. That is why that had John Cook write a letter to the BOA. The BOA didn't even contact them – the just approved it.

Comm. Harger asked a question about the shaded area on the Assessor's map for clarification about the private driveways.

Atty. Bellis clarified her questions about the individual lots and wetlands areas.

Chairman Pogoda commented that for the most part this is a moot point since it has already been approved by the BOA.

**On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted in favor of the 8-24 Referral request for abandonment of a portion of Wells Ave.**

#### **PAYMENT OF BILLS**

**On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve the payment of bills, if funds are available.**

#### **STAFF REPORT**

**\*See attached Staff Report dated January 8, 2008.**

#### **ZBA**

Mr. Schultz read the Staff Report and asked the Commissioners for consensus to report the ZBA regarding the use variance for John Guedas on 159 Long Hill Avenue for the construction of five dwelling units within a mix-use zone of CB-2 and R-5.

Comm. Sylvester commented that more development near Center Street when there are problems there already.

Mr. Panico added that the additional density that that is theoretically allowed by the underlying zone is the residential component and that comes and goes only from the Long Hill Avenue side.

Comm. Sylvester commented that if it is going to be developed – he should develop the piece as commercial.

Mr. Panico stated that he could have built it with offices upstairs under straight commercial zoning but he felt it was more appropriate to have residential because there's no market for second floor office space. Additionally, he felt it was more appropriate residentially coming in from the back because there is a grade change anyway.

Comm. Sylvester commented that he recalled the request that came before them as being more than that was allowed for the property.

Mr. Panico responded that it was an attempt to accommodate the mixture of uses because they don't have a zone that will do that and accommodate it in such a way that the access to the residential component on the second floor was on the Long Hill Avenue side – the higher end of the property. He continued to say that some of the Commissioners had been concerned that was precedent setting and going to influence the future use of the residential properties on either side of it that fronted on Long Hill Avenue.

Chairman Pogoda recalled that they were concerned that could start happening all the way down and that is what they did not want to see. That is why they were prepared to deny it.

Comm. Harger asked what the difference was between that on what is on Howe Avenue across from the Ripton with residential upstairs and retail on the bottom. She asked what the difference was between those proposals and something like this.

Mr. Schultz stated that was in a Central Business District.

Mr. Panico responded that with those buildings the activity is associated with Howe Avenue. On this particular site, Bridgeport Avenue is on one side of the property with Long Hill Avenue on the other side. Mr. Guedas is proposing that the upper level, the residential level goes out to Long Hill Avenue. The feeling was that would be precedent setting in terms of creating pressure to extend that same type of multi-family treatment to other properties down Long Hill Avenue.

Comm. Harger asked if he would be land-locked then if this was approved because there are houses on either side. She asked if there was a real potential for this to create problems going down.

Mr. Panico responded that he thought there was potentially because there are properties on either side that one could come in and argue. Just tonight, they discussed a piece with condos on one side and cluster housing on the other.

Comm. Harger commented that would require a lot of residences that presently exist to be knocked down.

Mr. Schultz added that the only technique that they could use would be a PDD.

Mr. Panico commented that Long Hill Avenue wasn't a pure street either. A couple parcels down there is another condominium there – Colonial Village – that is the perception that people have though.

Comm. Sylvester added that Colonial Village has ended up to be a nice anchor for that particular area.

Mr. Panico stated that was the difference because they went in to create something for that purpose – it can be done reasonably well and it can be pulled off. It's when somebody attempts to salvage an old building and just put more into it. Such as taking an old single or two family house and try to convert it into five units.

Comm. Sylvester commented that the nice part of Colonial Village is that it is spacious, there is room to drive in, turn around and parking is no problem – that is very nice in a downtown area. However, this piece is a very constricted piece of property. Any kind of multiple use, or different kind is going to put a strain on the property, and therefore, not be beneficial to the area.

Comm. Harger asked if he could build two buildings – since he owns the properties.

Comm. Panico responded that it doesn't lend itself to that because of the grade conditions also.

Comm. Sylvester added that they shouldn't forget there's a brook in the middle.

Mr. Panico asked if that brook was closer to Bridgeport Avenue.

Comm. Harger thought it might be a natural divider.

Chairman Pogoda asked Mr. Schultz what he would need from the Commission on this.

Mr. Schultz stated that he would need a consensus – do they want to respond, and what would be the recommendation.

Chairman Pogoda stated that he felt they should.

Comm. Jones asked if he wanted to put one commercial building there.

Mr. Panico responded that he could put a single story commercial building there with access from Bridgeport Avenue.

Comm. Jones asked if he would have to put a bridge over that brook.

Mr. Schultz responded that yes, he would.

Mr. Panico stated that was part of the development of that commercial site no matter what he does on the other side.

Mr. Schultz stated that he's looking for a mixed use.

Mr. Panico stated that a lot depends upon his ability to balance whatever parking he can create with the amount of building that he wants to develop.

Comm. Jones asked what zoning he was asking for relief from.

Mr. Panico stated that he wasn't exactly sure – he asked Mr. Schultz what the variance request was.

Mr. Schultz responded that it was a use variance, lot area, dwelling unit, access and parking and commercial by way of driveway through residence – it is multi-faceted.

Comm. Sylvester commented that goes to show what he was trying to do here. He's trying to stretch the limit of this property.

Mr. Panico responded that he was trying to stretch it in the sense of complying with zoning not necessarily stretching beyond good design though.

Comm. Sylvester added that he thought zoning and good design went together.

Mr. Panico responded that was not necessarily – if zoning says a building has to be 25 feet from the property line as a zoning regulation, it doesn't mean good design doesn't say it could be built 20 feet and be successful.

Mr. Schultz commented that it sounds like it this isn't sitting well with the Commission.

Comm. Parkins asked if the ZBA was looking for comment from them.

Mr. Schultz stated that the regulations require that the Commission receive it and through him, a response can be sent back to ZBA. So he asked if they want to respond and if they do, how do they want to respond.

Mr. Panico added that the reason for the referral is because of the use variance component. They wrote some regulations three or four years ago that tried to tie the ZBA down in their ability to grant use variances. One of the criteria that they put in was that the ZBA get a report from this Commission so that they would know how P&Z felt about the use variance.

Comm. Sylvester asked if they do give relief, this Commission could challenge it and the courts could then decide.

Mr. Schultz responded yes, absolutely.

Mr. Panico responded that theoretically they could challenge any variance. They are trying to avoid that with use variances.

Chairman Pogoda stated that the consensus was that they've considered it and decided it was not appropriate.

Mr. Schultz indicated that the next ZBA issue had to do with the increase in an in-law apartment size which was discussed two months ago. The threshold is 900 square feet. He asked the Commissioners if they had any comments. This is located at High Ridge Road and the request is to increase it from 900 to 1200 square feet.

Mr. Panico added that the intent of the regulation is that it be an accessory dwelling unit. He asked if there was a unique circumstance about this room.

Mr. Schultz responded that a couple of months ago, the Commission made a statement about holding the threshold at 900 square feet.

Comm. Sylvester commented that they did a lot of work on that and they set the limit at 900 square feet. So for them to start to just extend and expand it...as they have with lots, and garages...(inaudible)

Mr. Panico stated that if someone has a huge house and takes three rooms to make an accessory in-law apartment and the square footage totals a little bit over 900 square feet – maybe that's OK. But to go from 900 to 1200 square feet it sounds like its becoming a principal dwelling unit and not an accessory dwelling unit.

Comm. Sylvester commented that it was 1276 square ft – that's almost 1300 square feet. If they wanted to they could change the language in the P&Z regulations if they felt it was appropriate but they haven't had any requests to do it.

Mr. Panico stated that the intent has always been to have these accessory dwellings for parents, or children but to go to 1200 square feet for perhaps a family member who has a family.

Mr. Schultz stated that he would advise the ZBA that the consensus is that the Commission gave a lot of thought and consideration to those regulations and they prefer it be maintained at 900 square feet.

#### **SHELTON CANAL COMPANY/MCCALLUM ENTERPRISES**

Mr. Schultz brought the Commission up to date that the Army Corp of Engineers and the Mayor's Office are formulating a letter in opposition, consistent with this Commission. The City of Shelton will be doing everything in its power to prevent the elimination of this historic site. He added that he'll provide a copy of the letter formulated to the Commissioners.

#### **MONTENARO PROPERTY ON HUNTINGTON STREET**

Mr. Schultz advised the Commission of Mr. Montenaro's plans to merge two properties for the construction of a traditional (4000+ square ft) three story retail building. It would not be all glass. Staff has given a lot of thought to the orientation of the building – there are many issues for the Commission to think about.

Mr. Schultz indicated that the next meeting would be on January 22, 2008 with a public hearing for the Fitness Center, 3<sup>rd</sup> and final occupant in the old Bradlees building.

**On a motion made by Virginia Harger seconded by Patrick Lapera, it was unanimously voted to adjourn at 9:55 p.m.**

Respectfully Submitted,

Karin Tuke