

The Shelton Planning and Zoning Commission held a Special Meeting on February 26, 2008 in the Shelton City Hall, Room 303 at 7:00 p.m., 54 Hill Street, Shelton, CT.

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

The following members were present: Vice Chairman, Patrick Lapera  
Comm. Virginia Harger  
Comm. Chris Jones (alternate for D. Oraziatti)  
Comm. Thomas McGorty  
(alternate for Chairman/Comm. Pogoda)  
Comm. Ruth Parkins  
Comm. Leon Sylvester

Staff members present: Richard Schultz, Administrator  
Anthony Panico, Consultant  
Pat Gargiulo, Court Stenographer  
Karin Tuke, Recording Secretary

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

Vice Chairman Lapera opened the meeting with the Pledge of Allegiance at 7 p.m.

### **PUBLIC HEARING**

#### **PROPOSAL OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND THE BUILDING ZONE MAP BY CHANGING FROM RESIDENCE R-4 TO RESIDENCE R-1 FOR PROPERTIES NORTH OF UPPER CANAL STREET INCLUDING MCCALLUM ENTERPRISES, RIVERVIEW PARK, HOUSATONIC RAILROAD COMPANY AND PROPERTIES NORTH OF THE PARK (MAP 139, LOTS 1 AND 2 AND MAP 138, LOTS 36, 37, 38, 39, 40, 41, 42, 43 AND 51).**

Richard Schultz read the call of the hearing. He read one piece of correspondence from the Valley Council of Governments.

**\*See attached letter dated 2/13/08 to Richard Schultz from Executive Director, Valley Council of Governments, Rick Dunne.**

Mr. Schultz passed a copy of the staff report around the table for the Commissioners to read. He indicated that he would be presenting some exhibits. He displayed the location map for the benefit of the public and the Commission. He indicated that the list of exhibits to be shown include the location map dated 1/29/08, the 2006 Shelton Plan of Conservation and Development, and the 2005 – 2010 State of Connecticut Conservation and Development Plan.

Mr. Schultz stated that approximately two months ago Staff advised the Commission, through its Staff Report, that the McCallum ownership had sent a request to the Army Corp. of Engineers to fill the canal area property. At that time, the Commission asked Staff about the current zoning and requested that Staff provide a recommendation from the 2006 Plan of Conservation & Development. Staff indicated that the property was R-4. All of the Housatonic Railroad Company property was also R-4, as well as all of Riverview Park. Mr. Schultz indicated that the POCD recommends the McCallum property and all of the railroad company property be in an open space area.

Mr. Schultz continued that the State of Connecticut master plan recommends that the McCallum property be in a preservation area, which means no development. This is the first area outside of a development area, obviously, because Canal Street has been developed since the Industrial Revolution. Now with the master plan for the redevelopment of that property, they have mixed use in that proposed location. He stated that the Commission directed Staff to prepare the map to make the referral to the Council of Governments. It has been read into the record to meet the statutory requirement for the proposal.

Mr. Schultz commented that they have received numerous calls from nine property owners. He identified the highlighted areas on the upper portion of the map showing these properties. The Commission directed Staff to advise these property owners that if they did not want to see this zone change be done, they would honor it. He wanted to note for the record that the area demarcated on the map would be left out of this proposed zone change. He traced the area on the displayed map to show the proposed limit of the zone change beginning along the Housatonic going northerly on Howe Avenue but leaving the aforementioned 9 parcels out, easterly toward the railroad company and back to the center line of the river.

Mr. Schultz stated that the original boundary area was approximately 72 acres. They would be going into the centerline of the Housatonic River because that's the boundary line of the City of Shelton. The 72 acres includes a lot of water area. He stated that the Commission is seeing the map that was presented and filed in the Town Clerk's Office with the noted adjustments. He concluded that he's explained the adjustments, read the correspondence and referenced the exhibits that are on file, and he recommended that the Commission take any public comments at this time.

Comm. Sylvester commented that he was a member of the Board over 20 years ago when Mr. McCallum came to the Commission seeking permission to build the power plant. At that time there had been a great deal of discussion. He recalled that there had been two other people that sided with him due to their interest in the use of the river and access to open space. They sought and received some effect on the zoning as was granted. He remembered that they were granted public access, specifically for fishing. The DEP has a sign down there now that the area is open for it. There had also been a caveat in there because they tried to get a fish ladder. The State wouldn't side with them at the time. However, there are some structures down there for educational purposes.

Comm. Sylvester asked if there had been any amendments to the approval that would affect what they are doing right now. It's zoned R-4. He asked if they did anything at that time which would limit any use of that property other than what it's used for. He asked if Staff could go back into the text of the approvals and discussions to see if there's any historical information.

Comm. Parkins asked if that would have become part of the Firk? License, because they gave them the license to operate.

Comm. Sylvester commented that he didn't know anything about the licensing; he was talking about the zoning.

Mr. Schultz stated that he would get that information and make sure the historical background is in the file.

Comm. Sylvester commented that walking in there, a board is set-up; although it bothers him that it isn't kept up, but that was part of the approval – that the student body couldn't have daily access to the hydro-electric plant. They had some sort of historical area dedicated to what that site was. He wasn't certain because it was 20 years ago; however, he remembers that there had been a lot of discussion and negotiation.

Mr. Schultz stated, for the benefit of the public, that he wanted to explain the difference between an R-4 and R-1. He explained that the R-4 was the multi-family zone which is found in downtown Shelton requiring 7500 square feet per dwelling unit in determining the density. The R-1 zone, which is mainly what Shelton consists of today, is a builder's acre of 40,000 square feet, one single family dwelling per lot. He added that Shelton does not have an open space zone or a preservation zone, so the best zone for this proposal was the R-1 designation. That is the history behind the determination of the R-4 to R-1 zoning.

Vice-Chairman Lopera asked that if they could incorporate the old Planning & Zoning records, if they could be found.

Comm. Sylvester added that he'd just like to refresh his memory about it and share with others what took place 20 years ago.

Mr. Panico commented that he remembered there had been a lot of dialogue about renovating the locks and providing access for fishing, etc.

Vice Chairman Lopera asked Rick Schultz to check into the Firk? license too, to see if there is anything in their license. He asked if there were any more comments from the Commissioners. There were none. He opened the discussion to the public to hear comments from anyone speaking for or against the application.

**James Oram, 181 Division Avenue addressed the Commission.** Mr. Oram stated that he served as chairperson for the Citizen's Advisory Board. He read a letter from the Citizen's Advisory Board that expressed their concerns in regard to development on the Riverfront.

**\*See attached letter from the Citizen's Advisory Board to the P&Z Commission.**  
The letter was read into the record and marked as an exhibit.

**Atty. Dominick Thomas addressed the Commission representing Sarah Carey, one of the property owners.** He indicated that her concerns had been about rendering these properties as pre-existing, non-conforming which would create some hardships; however, now that it's been indicated that those properties would be taken out of the zone, her issue has been resolved.

Vice Chairman Lopera asked if there was anyone else from the public who wanted to speak for or against the application. Since there were no other comments, he requested a motion to close the public hearing.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted to close the public hearing for the Shelton Planning & Zoning Commission Proposal Building Zone Map R-4 to R-1 Amendment for properties north of upper Canal Street including McCallum Enterprises, Riverview Park, Housatonic Railroad Company and properties north of the Park (Map 139, Lots 1 and 2 & Map 138, Lots 36, 37, 38, 39, 40, 41, 42, 43 and 51).**

## **OLD BUSINESS**

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

Mr. Schultz stated that Staff has reviewed the Standard Applications 1 – 18 and they all meet the regulations of Shelton Zoning Regulations. He recommended approval.

**On a motion made by Thomas McGorty seconded by Chris Jones, it was unanimously voted to approve the Applications for Certificates of Zoning Compliance, Standards 1 – 18.**

## **SEPARATES**

### **SEPARATE #007 CHRIS IANNUCCI, 13 BROWNSON DRIVE, IN-LAW**

Mr. Schultz stated that this was for an accessory dwelling unit. This application went before the ZBA and was rejected as a 900 square foot in-law. They have now modified their application and it is in compliance. He passed a floor plan and elevation drawing around the table for the Commissioners to review.

He indicated that the old two-car garage would be finished into a livable floor area with an addition off of it. The addition in the front would be the new two-car garage. The revised proposal for the in-law apartment would be 22x40 square feet, which complies with the requirements. They have received approval from the Health Department. He stated that the illustration shows that the architectural was in line with that neighborhood. The original proposal exceeded and the Commission directed Staff to write a letter to the ZBA, who rejected the request. They've decided to comply, Staff recommends this modified version.

**On a motion made to by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve Separate #007.**

### **SEPARATE #6807 MDC INVESTMENT PROP. XI LLC, ONE WATERVIEW DR., BUSINESS SEPARATE #6808 JOSEPH COCI, ONE WATERVIEW DR., BLDG IMPROVEMENTS SEPARATE #6809 MDC INVESTMENT PROP XI LLC, ONE WATERVIEW DR., BUSINESS**

Mr. Schultz stated that the next 3 Separates would be taken together regarding One Waterview Drive, the multi-tenant office building (going up to Pitney Bowes on the right hand side). Separate #6807 is for a new office occupant, part of the New York Stock Exchange, occupying 52,000 square feet. They are also proposing an outside patio. He added that they have really maintained this piece of property and they would like to enhance the facility for the new tenant coming in. In order to accommodate the new tenant, they need to relocate an existing tenant within the same building; therefore, resulting in these three activities going on. Staff recommends approval.

**On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously voted to approve Separate #6807, #6808 and #6809.**

### **SEPARATE #6803 AL'S FAMILY CARPET & TILE, 215 BPT AVE, BUSINESS/SIGNS**

Mr. Schultz stated that he was sad to report that the old Castiello's Deli was closing and would be replaced by a carpet and tile store. This proposal is for both the occupancy, which is a permitted use in this commercial zone, and signage. He clarified that this was the two-story mix-use building by Exit 13. He passed around photographs of the replacement signs including a wall sign and a freestanding sign. He stated that the Applicant would be going with the uniform red and white with black silhouette. Staff recommends approval.

Vice-Chairman Lopera asked if the signs complied with all the size requirements.

Mr. Schultz responded that they did comply.

Comm. Harger asked about the delivery of supplies and inventory and if the parking lot could accommodate trucks going in and out.

Mr. Schultz answered that they work around the hours of the child daycare center, which is in the back, just as the deli did. All deliveries are made in the front.

Comm. Harger asked if there was a loading dock in the front.

Mr. Schultz answered that there was not, just the main entrance.

Comm. Harger asked if that delivery to the main entrance was all permitted.

Mr. Schultz responded that it was permitted.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6803.**

**SEPARATE #6827 GREGORY KOLLIPOULOS, 150 HOWE AVENUE, BUSINESS**

Mr. Schultz indicated that this was for commercial business, a building on Howe Avenue, the first floor, unoccupied storefront that had been a dance studio. This would be mostly an Internet consignment shop with two employees, 1200 square feet.

Comm. Parkins asked what they would be consigning.

Mr. Schultz responded that it would be computer hardware and equipment resale. It's the first of its kind that he's seen. He added that it's right next door to Howe Convenience. He indicated that Staff recommended approval. There was no sign, but they have uniform signs. When they receive the sign request, they'll process it before this Commission. There had been another application for the same site for a retail vitamin store, but they pulled out today.

**On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Separate #6827.**

**SEPARATE #6821 LOU KATHRAKIS, 704 BPT. AVE., OUTDOOR SEATING**

Mr. Schultz stated that this was for the Panchero's Mexican Grille, 1<sup>st</sup> floor at Split Rock. He passed some photographs to the Commissioners of the 3 small tables with chairs to be put on their sidewalk. This would be outdoor seating in the front of that location. The tables are small and there are no umbrellas. The Commission has been concerned about commercial umbrellas especially if they don't match. Staff recommends that this be seasonal and if umbrellas are going to be considered, the proposal should be reviewed.

Comm. Parkins asked if they had a liquor license there.

**Mr. Kathrakis, Panchero's Mexican Grille, addressed the Commission** and responded that they had no liquor license.

Vice Chairman Lopera asked what months they would have the outdoor seating.

Mr. Schultz responded that it would be April through November.

Mr. Panico commented on the photographs and stated that they need to make sure that the tables don't start encroaching on the regular sidewalk because there isn't a lot of room there.

Mr. Schultz added that was correct, especially if using umbrellas.

Comm. Sylvester asked if they would be set up as in the photo, in between the pillars.

Mr. Kathrakis responded that was correct.

Mr. Panico noted that it was all in front of his operation.

Comm. McGorty asked if there was a spot to the left of the entranceway. He commented that he saw two spots in front of the windows in the photo.

Mr. Kathrakis answered that there were two, and then one and another enclosure.

Mr. Panico asked if customers would go inside to get their food and bring it outside to eat it or if they would be served outside.

Mr. Kathrakis responded that they would get their food inside and bring it outside.

Mr. Panico asked if they would be apt to have debris blowing around from paper napkins and plates, because that is usually the biggest concern for this Commission with regard to outside dining.

Mr. Kathrakis responded that they could be very focused on keeping the area clean.

Mr. Panico commented that part was very important.

Comm. Sylvester asked if they would be using paper plates or dishes.

Mr. Kathrakis response was inaudible.

Mr. Panico stated that normally they would create a designated area for outdoor dining that is screened in to control that. This is right out there, next to the parking lot, so try it out but put on a time limit to see if it works. It's not a big investment.

Comm. Jones agreed with the idea of designating a trial period.

Vice Chairman Lopera asked for a motion to open this up for more discussion.

**On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously decided to discuss Separate #6821.**

Comm. Sylvester commented that traditionally they have been very careful about debris blowing around any kind of development, especially in this area. Paper goods and the possibility of tables not being cleaned up in a timely fashion outside could become unsightly to the rest of the community.

Mr. Kathrakis indicated that even currently, keeping up on the litter has been his priority. They do a full sweep of the parking lot and sidewalk every day.

Comm. Sylvester suggested that the Commission designate a period of time where this is tried out – a trial period - to ensure that it isn't an intrusion on the other tenants and that it's done in a manner that is beneficial to everyone.

Mr. Panico added that he didn't think that was an onerous requirement because there is no major expense in setting this up other than 3 tables and 6 chairs.

Comm. Harger asked if there would be trash containers outside.

Mr. Panico responded that he would assume they would provide a convenient trash container to dispose of rubbish.

Comm. Jones added that it should be a convenient and attractive trash container.

Mr. Schultz asked the Commission when they would like Staff to report back.

Comm. Sylvester suggested when they are satisfied that it is happening.

Vice Chairman Lopera responded that he'd like to go through a month-to-month period.

Comm. Parkins expressed her concerns about people gathering those six chairs around one small table, and it becoming a large amount of people.

Mr. Schultz asked Mr. Kathrakis when he would begin doing this.

Mr. Kathrakis responded that they could try it out in March or April.

Mr. Schultz told the Commission he would report back in May or June.

Comm. Harger commented that she had concerns about the trashcans and insects – flies, bees or other health hazards there. She agreed with Comm. Parkin's comment about the chairs too.

Comm. Parkins stated that her concern was about groups of people gathering all the chairs around one table resulting in a large crowd of people on the sidewalk in a limited spot.

Mr. Panico asked Mr. Kathrakis how many people he could accommodate sitting inside his establishment.

Mr. Kathrakis responded that they could seat about 62 people.

Mr. Panico commented that the tables are physically separated with three seats at each one; they have the rest of the walkway outside of the columns.

Comm. Parkins added that they wouldn't be able to control if people came and took the chairs and moved them to other tables though.

Mr. Schultz commented that if they saw a pattern of that happening, they would take photographs of it and report on it.

Mr. Kathrakis added that with the wall the way it is physically, it is impossible to get two tables together.

Mr. Panico stated that he thought what Comm. Parkins was concerned about would be if three people go together and someone else takes a chair and moves over to that table, there might suddenly be a blockage of the sidewalk. He advised Mr. Kathrakis that he would have to monitor that, and if more than three people want to sit together, than they have to go inside.

Mr. Kathrakis responded that he could control anyone who violates that.

Comm. Harger commented that as much as she likes to support every business town, she didn't see many positive features to this. She indicated that she felt as though she would make a motion to deny this.

Vice Chairman Lopera stated that he'd like to get a consensus. He asked Comm. Sylvester what his feeling was about it.

Comm. Sylvester responded that he would be OK with this if Staff monitored it and reported back.

Comm. McGorty added that they need to make sure that the space can accommodate it without encroaching on the walkway. Also, there is drive-through there that people spin around in to go to the bank and there's foot traffic from Perkin Elmer. He said that he is up there quite a bit and it's busy, giving people a place to walk is of great concern. Also, he was concerned about where the garbage cans would go.

Vice Chairman Lopera asked Comm. McGorty if he was OK with the trial period.

Comm. McGorty responded that they need to take a look at the area where that second table would be put to make sure it can accommodate it. Otherwise, he commented that he thought it would go further out to the sidewalk. It is on the end there, and that is the driveway that goes around for the drive through. It could potentially be a hazardous situation there.

Comm. Jones stated that he felt a three or four month time period was a good idea.

Mr. Schultz added that it's a highly visible location.

Comm. McGorty noted that if they fit, they fit – and if it doesn't come out into the sidewalk, he has no issue with it. He's out there everyday but he's never paid attention to the spacing there.

Comm. Parkins suggested tabling this issue because she didn't think Staff should have to be policing tableside restaurant service. She indicated that she'd be in favor of the temporary situation if the Commission felt the sidewalk could accommodate it. She hasn't been there, and indicated that she can't really visualize it.

Mr. Panico asked if it could be set up so Staff could take a look at it.

Comm. McGorty indicated that he had no issue as long as the sidewalk can accommodate it.

Mr. Schultz stated that it was the Commission's call because it wouldn't be put up for a while anyway. So whether or not it's tabled, and the Commission wants to take a look at it...

Comm. Parkins commented that if they give a temporary permission and then it's decided that there really isn't any space for it, it couldn't be rescinded, right?

Mr. Schultz responded that wasn't the case. This is a Planned Development District, and if there's a problem, it will be addressed.

Mr. Panico stated that the Commission could take an action conditioned upon Rick Schultz double-checking it, and if he were in agreement it would be approved for a limited period of time

to see how it operates. Rick can come back and say that it won't work with three tables and needs to be cut back to two. If it seems fine, he'll watch it for the first month or two and come back and let the Commission know how it is working out. If the Commission decides at the end of that period of time that it isn't working, the approval is rescinded.

Comm. Harger asked the paper goods and trash.

Mr. Panico responded that they need to have a receptacle there for the litter, and the restaurant staff needs to come outside frequently to ensure there is no debris in the parking lot.

Comm. Harger commented that there had been restrictions put on Dutchess a number of years ago for no paper plates.

Mr. Panico responded that in the past all the approvals relative to outside dining have been in a contained area. They've always taken those extra steps to make sure that they were protected so that napkins and other stuff that gets off the tables is trapped and doesn't inadvertently escape on to the road.

Vice Chairman Lopera stated that he wanted to make it clear for the record that the conditions would be for a temporary approval with Rick coming back in August. .

Mr. Panico commented that Rick should come back sooner than that. He suggested an approval for 90 days to let them get started and operate for about six weeks. If the Commission is satisfied with Rick's report, then it can be extended for a longer period of time.

Vice Chairman Lopera reiterated that the conditions would be for no more than a 90 day approval with the other conditions for trash receptacles, tables to be monitored by tenant staff, area kept clean, and tables not blocking the sidewalk.

Comm. Sylvester stated that giving the approval is great, but 6 months later, things may go to hell in a handbag – why not just give them...

Mr. Panico added that the initial approval would be for 90 days, and then the Commission can decide to continue it.

Comm. Sylvester asked if they gave approval but it's not taken care of, could they rescind the approval?

Comm. McGorty commented that it would die when the first 90 days expire.

Mr. Panico responded that if they take no action after 90 days, then it is no longer approved.

Comm. Parkins added that in nine months from now, after the 90 days, if it's a mess – could they rescind it?

Mr. Panico responded that his recommendation would be, if they were satisfied after that first 90 days, and then give him a seasonal approval. This is a seasonal operation that would be required to be re-approved in the following spring.

Vice Chairman Lopera suggested that the Commissioners take a look within the next 90 days, and if everyone feels strongly, they will deal with it at that time.

**On a motion made by Leon Sylvester seconded by Virginia Harger, it was unanimously voted to approve a 90-day approval with conditions for Separate #6821.**

**SEPARATE #4969 BOB CAMMISA, 344 RIVER ROAD, SIGN/CANOPY**

Mr. Schultz recommended that the Commission just act favorably on the pole sign replacement. The Commission has been very successful in asking the garages in town not to put advertisements or signs on the canopies. He added that the photographs would indicate why Staff has made this suggestion. The pole sign has a plexi-glass face, it's an older one and the canopy is clean without it and they are looking for more advertisement.

Mr. Panico asked if this was an existing sign – and were they just replacing the face.

Mr. Schultz responded that the pole sign was just a replacement with different parts that they are using as they advertise it. They are looking for more advertisement on the canopy, and the Commission has always tried to keep that clean. Staff recommends the pole sign but not the canopy.

Mr. Panico asked if the permit was for a canopy or for signage on the canopy.

Mr. Schultz answered that it was for signage on the canopy. He stated that they go to the extreme by asking for the nice dental molding on the canopy so they don't have to see the signage.

Comm. Sylvester commented that Cammisa's Garage has been there for a long, long time. He asked Rick for his recommendation.

Mr. Schultz responded that he would recommend approving the pole sign replacement but not the canopy sign.

Comm. Jones asked if the part of the sign that said "full or self-service" at the bottom would be eliminated because it appears to be crossed out on the photograph.

Mr. Schultz responded that it would be taken out.

**End of Tape 1, Side 1 7:47 p.m.**

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve the pole signage and deny the canopy signage for Separate #4969.**

**SEPARATE #6812, DARCU RAY, 768 BPT AVE, SIGN**

Mr. Schultz stated that this would be for Bertucci's Restaurant. They are also replacing their wall sign and pole sign. He distributed photographs of the before and after signage for the Commissioners to review. He wanted the Commission to know that when Bertucci's was constructed 8 or 9 years ago, they tried very hard to persuade them to do a monument sign. The State made them move their entrance and they wanted better exposure for their sign. In that location, where it needed to go; it had to go on top because there is a rise there up on the hill. Mr. Schultz added that he asked them to voluntarily consider this for tonight's meeting. However, they indicated that at this time, they cannot, but when they are scheduled for any upgrades, it would be considered at that time. He wanted to share this with the Commission because they are interested in continuity on Bridgeport Avenue with the monument signs.

Mr. Schultz continued to say that the sign company contacted their corporate office and that was the response. He noted that it was not an attractive sign; it's a pole sign.

Comm. Harger asked for clarification about them doing this with their improvements.

Mr. Schultz responded that if they come back with an additional improvements for this site, Staff will ask them again consider replacing the pole sign.

Comm. Parkins asked if the pole sign in the photograph was there right now.

Mr. Schultz responded that it was, but they are changing the panel. There's a box sign on the building.

Comm. Jones asked what they said about doing the monument sign.

Mr. Schultz responded that they said they would look upon it favorably when they do additional upgrades down the road. It will be put in the record that if they come back in 6 months or year, the Commission will ask their position on the sign.

Comm. Jones commented that the new sign looked much more appealing.

Mr. Schultz stated that it was an internally illuminated pole sign.

Mr. Panico commented that the word *Italian* in a crescent shape above "Bertucci's" doesn't exist on the old sign – it's a new logo. It looks more attractive.

Mr. Schultz commented that it's a subjective thing. Staff recommends approval with the notes indicated by Staff.

**On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously voted to approve Separate #6812 with Staff comments regarding future upgrades.**

**SEPARATE #6825, SHELTON HOTEL ASSOC., 830 BPT AVE., SIGNS**

**SEPARATE #6826, SHELTON HOTEL ASSOC., 830 BPT AVE., GENERATOR/PAD**

Mr. Schultz stated that this was for the new Sierra Hotel. One request was for the wall signage and the second is for their pumped up generator on the pad. Their counsel is here to answer any questions.

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT addressed the Commission, representing the Applicant.** Mr. Thomas indicated that he spoke to the engineer in Wichita today, and the wall signs are halo-lit and backlit. Mr. Schultz distributed copies of the proposed signage for the Commissioners.

Mr. Thomas indicated that halo-lit meant that light would be coming out of the sides slightly to create a halo effect, and back lit as well. The colors are simply black and white with the HS emblem in a light greenish color. He stated that one sign would be facing Bridgeport Avenue, and one would be facing the main entrance.

Vice Chairman Lopera asked if the size complied with the zoning requirements.

Atty. Thomas responded that this was a PDD and it was the Commission's call.

Vice Chairman Lopera asked Mr. Schultz if it was consistent with other signs in the area.

Mr. Schultz responded that it did and this building was set back pretty far as well. He added that the last signage issue would be the monument sign.

Atty. Thomas commented about the generator and what they hoped would be a third application tonight for the dumpster location. He stated that the dumpster location would be located in an easement on what is referred to as Parcel 1. Parcel 1 includes Commerce Bank, Chili's and Longhorn. The property line runs along the outline of one of the parking garages. He stated that on the map the Commission was looking at right now, he had highlighted the area with the enclosure. There's a smaller map showing a view of it with the metal gates and masonry enclosure. It faces Parcel 1 at the top of the sheet, facing out toward the back of the Commerce Bank. However, in an email that he received today, it appears that the proposed location for the dumpster would be in front of those parking spaces tucked in the corner, right up against the property line.

Vice Chairman Lopera, looking at the drawing, asked if the dumpster is in front of the generator

Atty. Thomas indicated that it is in front of it as shown by the dotted line but it doesn't actually block access to the generator.

Mr. Panico asked if they were saying that the site for the dumpster would be located on a piece of property leased from the adjacent property.

Atty. Thomas responded that it would be an easement, a dumpster easement. He stated that they've done a draft for it, but they didn't have a location for it. He had to research whether or not Shelton requires recycling.

Mr. Panico asked if the site was convenient enough for the building – it seems like it's 30 or 40 feet away from the building

Atty. Thomas responded that they would be walking it over there.

Comm. Parkins asked if they would be walking on their own property, in the road, or by the bank drive-through.

Atty. Thomas responded that there would be a restriction in the documents that are being drafted up regarding the dumpster services being conducted during the off hours of the bank because they don't want trucks interfering with the drive through. Any dumpster pick-ups would have to be restricted to early morning or evening when the bank isn't operating. They don't want trucks turning around near the drive through lanes of the bank. He added that it had not been finalized yet.

Comm. Parkins commented that they also needed to address the concerns of the mobile home park. A dumpster being picked up and trucks backing out at 4 a.m. would be disruptive.

Atty. Thomas responded that they have addressed that concern, and probably the most ideal time to pick up would be after the bank closes in the evening or early morning, not 4:00 a.m. but 6:00 a.m.

Mr. Panico asked about the generator pad enclosure, and if it was a masonry enclosure with a dry(?) finish.

Atty. Thomas responded by asking Mr. Panico why he always had to ask those engineering questions...whatever is on there is what he has received about it.

Mr. Panico read the drawing and indicated it was a concrete masonry.

Vice Chairman Lapera asked what was to the rear of the generator.

Atty. Thomas responded that it was the hotel. The larger blow-up to the right is the mobile home park. He commented that at that location there was basically a rock cut that averaged anywhere from 8 – 14 feet. It's a relatively steep rock cut that keeps going up at the mobile home park.

Vice Chairman Lapera asked if the generator was running all the time.

Atty. Thomas responded that it would not be, it's an emergency generator, tested periodically.

Mr. Panico commented that he couldn't see the height of the wall, but he assumed it was high enough to screen the generator from view.

Atty. Thomas responded that was a condition of approval.

Vice Chairman Lapera asked for further comments. There were none.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6825 and Separate #6826. Comm. Sylvester abstained from voting.**

**SEPARATE #4987, AVALON BAY COMMUNITIES, 915 BPT AVE., MULTI-FAMILY**

Mr. Schultz stated that this was for the Avalon Shelton 2, 99 multi-family dwellings. He stated that Staff wanted to remind everyone that there were three modifications – utilities, water, clubhouse and sidewalk changes. The Commission has acted on them accordingly.

Comm. Parkins asked what this was for then.

Mr. Schultz responded that they finally took out their building permit. They initially did the site work without taking out a Certification of Zoning Compliance because they knew there would be these three modifications.

Comm. Sylvester asked for clarification that there had been no new additions or modifications since those three approvals had been made.

Mr. Schultz responded that there was nothing new. The number of units has stayed the same. This authorizes them to issue a zoning certificate. This is the final step now. They've fulfilled everything and incorporated the three changes – the sewers, the utilities coming in from Huntington, the reduction/consolidation of the clubhouse, addition of some parking and retaining walls, and they have saved some trees.

Mr. Panico added that this is an administrative function that would normally fall to Staff; however, in Shelton's case, this Commission has decided that they would like to have the final approval on the permits. Otherwise, it's an administrative function. This Commission is just acting in an administrative capacity. It's in accordance with previously approved plans.

**On a motion made by Comm. McGorty seconded by Comm. Harger, it was voted to approve Separate #4987. Comm. Sylvester voted in opposition.**

**SEPARATE #4994, 239-241 DIVISION AVENUE, 4 TO 3 FAMILY**

Mr. Schultz explained that this was a voluntary request for the number of dwelling units in the downtown area. This is on Division Avenue near City Hall. It is a four family; the property owners have had issues with the sewer assessment fees, the general taxation, and the inspections by the Fire Marshal's Office on dwellings with three units or more. They are quite involved. Mr. Schultz explained that the owners came in stating that he had a pre-existing, non-conforming four family dwelling that he'd like to reduce to three. It would help with the overall taxation issues.

Mr. Schultz added that they saw an application similar to this about 8 months ago, and the Commission may see more. Staff will be checking this after completion, because proper permits must be taken out. These are older homes without Certificates of Occupancy that were built at the turn of the century. Staff will check that these reductions are complied with. This one goes from a four to a three.

Vice Chairman Lapera asked if the pre-existing, non-conforming use would then go away.

Mr. Schultz responded that it would not. It would still be pre-existing, non-conforming. They cannot go back to four – and that's stated here.

Comm. Parkins asked if they would be making modifications to it.

Mr. Schultz stated that they needed to do some internal changes such as the wiring for the meters, which is all handled by the building department. Staff will follow-up when it's completed. Staff recommends approval.

**On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve Separate #4994.**

**SEPARATE #6785 DUANE IANCE INSULATION, 200 KNEEN STREET, HOME OFFICE**

Mr. Schultz stated that this was for a contractor that does pipe and duct work installation. He has a Dodge Dakota 4x4 vehicle with no commercial lettering and the standard conditions for a contractor have been included. It's 100 square feet to be used as an office. Staff recommends approval with standard conditions.

**On a motion made Chris Jones seconded by Ruth Parkins, it was unanimously voted to approve Separate #6785.**

**SEPARATE #6817, MARK THOMAS, LLC, 69 CORNELL STREET, HOME OFFICE**

Mr. Schultz stated that this was for a residential painting company with one employee, 100 square feet, same conditions of no commercial vehicles and no inventory.

Comm. Parkins asked if they were not allowed to have any commercial vehicles for home businesses.

Mr. Schultz responded that they could have vehicles but no signage except the magnetic signs that can be taken off. They can have combination plates but not commercial plates. They have a vehicle weight limitation so that large dump trucks and moving vehicles aren't there. This Commission had a policy change ten years ago and they actually have to adopt some other zoning change amendments, but that's the way they've been doing it.

Comm. Parkins asked if a painting business could have ladders on the truck and park it outside of his residence.

Mr. Schultz responded that they don't want any outside evidence of that, which is why they put standard conditions on it – no commercial lettering on vans, outside ladders/equipment, deliveries, inventory on the roof.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6817.FGV**

**SEPARATE #4989, DANIEL HANSON, 116 TOAS STREET, HOME OFFICE**

Mr. Schultz stated that this was for a home office, carpentry, 100 square feet, one employee, and one vehicle, Mazda. Staff recommends approval with standard conditions.

**On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Separate #4989.**

**SEPARATE #4993, DAVID BIRCH, 219 DIVISION AVENUE, HOME OFFICE**

Mr. Schultz stated that they had a letter from the property owner, John Bondos; this is for a courier (package) service for private transportation. There are two of these tonight, Shelton has been seeing more of that in Shelton, it is for 100 square feet. Staff recommends approval.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #4993.**

**SEPARATE #4998, MICHAEL HANSON, 116 TOAS STREET, HOME OFFICE**

Mr. Schultz stated that this was for home office, carpentry services. It was 100 square feet with the same conditions of approval.

Comm. Parkins commented that this was the same address as Separate #4989 – were there two businesses taking place at the same address.

Mr. Schultz responded that he just noticed that it was two family members there. He asked how the Commission wanted to handle that.

Mr. Panico responded that they live together but each have their own business – painting and contract carpentry. He commented that they are paid as separate independent contractors – they share the same space but have two separate checking accounts so they have to have to separate permits.

Mr. Schultz indicated that Staff would monitor it.

**On a motion made Leon Sylvester seconded by Thomas McGorty, it was unanimously voted to approve Separate #4998.**

**SEPARATE #6810, KEITH TRAPASSO, 6 CHAUCER DRIVE, HOME OFFICE**

Mr. Schultz stated that this was another courier service, and Staff recommended approval with the standard conditions.

**On a motion made by Virginia Harger seconded by Leon Sylvester, it was unanimously voted approve Separate #6810**

**SEPARATE #6814, ANDIZES DROZDZ, 116 CLIFF STREET, HOME OFFICE**

Mr. Schultz stated that this was for a trade person with a tiling business, 75 square foot home office, one employee. Staff recommends approval with the standard conditions.

**On a motion made by Thomas McGorty seconded by Chris Jones, it was unanimously voted to approve Separate #6814.**

**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 AND POSSIBLE ACTION**

Mr. Schultz stated that after ongoing discussions, the Commission directed Staff to write a favorable resolution with the Commission having an additional discussion in regard to the total number of units. The current extension takes this to the end of February '08. He stated that Mr. Panico would read the draft resolution.

Mr. Panico stated that they tried to summarize the various points leading up to the instruction of writing this favorable decision leaving the density question open. Mr. Panico read the draft resolution.

**\*See attached Shelton Planning & Zoning Commission Document dated 02/26/08 entitled Application #07-46 Petition of Dominick Thomas for Robert & Carol Farrell Proposed Planned Development District for a Residential Community entitled Meadow View Subdivision on Buddington Road (Map 62, Parcel 31) in an R-1 Zone an LIP Zone.**

**End of Tape 1, Side B, 8:35 p.m. (during reading of the bottom of page #6 Item#11. Final Development Plans...)**

Mr. Panico concluded the reading the draft resolution indicating that, if approved, after the final number of dwelling units has been decided, the subject PDD would be identified as PDD #68.

Vice Chairman Lopera opened the discussion by stating that they needed to come to some kind of resolution on this number. They've heard the resolution, been present at the different hearings, heard differing viewpoints, and now they need to do what makes sense as planning and zoning commissioners. This isn't an easy or popular decision, but they need to do the best that they can. He asked the other Commissioners for their thoughts on how to approach the question as to the number of houses.

Comm. Jones wanted to know if the blank meant that the Commission wanted to reduce the proposed number.

Vice Chairman Lopera responded that they needed to come to some kind of a consensus where the motion would either pass or not pass. The Applicant has asked for seven dwelling units.

Mr. Panico added that they had pointed out some geometric spacing problems, etc. and the Applicant provided a response as to how they could address those issues by removing one of the

units down below bringing the number of units down to six; thereby, addressing a number of other issues. How far below that number of units it goes, is up to the Commission.

Comm. Parkins asked if removing one unit gets it completely out of any wetland buffer.

Mr. Panico responded that removing one takes it out of the wetland buffer, allows for a reconfiguration of the lot lines, repositioning of the lots, allows for an increase of the buffers on the two side lines, it allows for the achievement of a minimum of 95 – 100 feet from the condominiums on one and the nearest single family home on the other side. He added that in terms of spatial setback, they could achieve that. It generates ample buffer space to do supplementary landscaping and to control any potential spillage of headlight glare and things of that nature.

Comm. Jones asked about Finding #8 regarding net units per net acre, if they do 7 they fall within the required density, correct?

Mr. Panico responded that 7 units would fall within the range of density but there is a physical difficulty of fitting the seven on the site. That was how this started; they couldn't achieve a reasonable spacing between units. They've always strived for a 30-foot minimum space between units. One of the houses would have required an approval to encroach on the regulated upland area of the wetland.

Mr. Panico continued to say that the Applicant demonstrated to Staff that they could take one out and satisfy those issues.

Comm. Jones asked if they were satisfied with six.

Mr. Panico responded that he didn't know, but they said they could do that.

Vice Chairman Lapera clarified that the question was not if the Applicant is satisfied, but what the Commission was prepared to approve or not approve.

Comm. Parkins asked about parking. She noted that, typically, living in a condo complex, as she does, parking is limited. Would the reduction allow enough room to fit two or three cars on the driveway, assuming that parking on the street would be discouraged?

Mr. Panico responded that each dwelling unit has two garage units and ample apron space for two more cars. The opportunity's there for four cars at each house location with three more visitor parking spots whether or not there are three or four houses down there.

Comm. Parkins commented that wasn't typical for a cluster-housing situation, or is it?

Mr. Panico responded that for average scale developments they look for a 1/3 space per unit to be set-aside for visitor parking. They normally look for 2.3 spaces per unit. He asked Comm. Parkins if her concern was that there ought to be more visitor spaces or that there's no need for it?

Comm. Parkins answered that she didn't think they needed more.

Mr. Panico added that there's room to create more visitor spaces if the Commission feels it's necessary.

Comm. Parkins responded that she didn't think it was necessary, but she questioned if there was enough room to park on the street in front of their homes, because so many people tend to not want to walk far.

Mr. Panico responded that it is better that they do not park on the road. The Fire Marshal usually sets these private drives through private developments as fire lanes anyway, so theoretically, they'd be parking in a fire lane. Also, they usually require condominium owners to tell their tenants not to park on the condo roads, just designated parking spaces.

Comm. Harger asked if a further reduction would give them the ability to expand for more parking.

Mr. Panico responded that it would. There's room to provide more parking with one reduction. He asked Rick for another drawing. Looking at another site plan, he explained that it would be conceivable depending upon the final number of houses and their configuration.

Comm. McGorty asked what plan they were looking at.

Mr. Panico responded that this was the original plan showing 7.

Comm. Sylvester asked to see the site plan for 6 homes.

Vice Chairman Lopera commented that in order to satisfy the upland requirements, they've taken that house on the end out.

Mr. Panico found the drawing with four houses in the back of the property instead of the five. He commented that even with this plan, he would look at reorienting the property lines over to increase spacing on the one side comparable to the spacing that exists on the other side.

Comm. Jones asked for clarification as to one of the homes shown on the drawing.

Mr. Panico responded that it was the closest adjacent home in the Heritage Pointe development. He showed the outline of the back wall of the Budding ton Park condominiums.

Comm. Sylvester asked if the houses there could be moved over.

Mr. Panico responded that it could be moved slightly. He explained that one building could be rotated and pushed back slightly. Another property line can be adjusted over a little bit, and the building pulled over. The physical space can be increased.

Vice Chairman Lopera asked the Commissioners to focus on the number.

Comm. Harger commented that she was definitely more comfortable going down to six. She said that she liked what was stated in the resolution as to giving more of buffer to the developments on either side. Additionally, she had concerns about getting that last house out of the open wetlands.

Mr. Panico stated that the last house encroached on the upland review area. He showed the upland review area on the site drawing as designated by a dotted line adjacent to each designated wetland. The Wetland Commission does permit activities to happen in those areas; they try to keep physical constructions, like homes, out of it, but they do allow other activities. In anticipation of that, the Applicant listened to this Board's concerns, and went back to the drawing board and took a unit out to overcome any spatial concerns.

Comm. McGorty asked Tony Panico about the drainage and water issues.

Mr. Panico responded that the technical issues were deferred to the City Engineer. There was a lot of commentary at the public hearing about the adequacy of the storm drainage system or lack thereof. They asked the City Engineer to address it carefully. The City Engineer was generally satisfied with the storm water management plan. He had some concerns about the calculations having been done on the 25-year storm event and everything was fine. It reduced the peak discharge of the site from what it was pre-development. He wanted to make sure that outlet control structure is designed properly to get that retention effect even for the 1-year, the 2-year, the 5-year and 10-year storms. The engineers for the Applicant, if they haven't already done so, must provide that before the City Engineer can sign off on it.

Mr. Panico continued to state that they also asked the City Engineer to focus on the topography because it causes the private road coming in to have about a 14 percent grade coming in to it. That is more than what they would accept for a public street. The City Engineer looked at it, but compared it to a couple of other 4 or 5 unit developments where private-type driveways had been allowed at that grade level. He added that the City Engineer recommended, because of the grade condition, they should keep the number of units in the back as low as possible.

Comm. Sylvester asked Mr. Panico, as an engineer and a planner, if he was satisfied that 6 works.

Mr. Panico responded that he was satisfied.

Comm. Sylvester asked if it served all of the needs of the community – is 6 the number that works. As an engineer, does that number work?

Mr. Panico responded that he was asking him a subjective question. He stated that he could give a technical answer.

Comm. Sylvester commented that he told him shutting down Bridge Street works. That's about as subjective as anything he can get...OK. He added that they could sit and look at this thing forever, but he wanted to know if 6 works. He was present for the hearing and it seems that over the years, the people that have owned this property have lived within the constraints of everything that has gone on all around them, and they never really complained about any of it. They lived with it and were good neighbors to everyone. He added that was why the Applicant

had neighbors standing up to speak in his behalf. Also, they have voluntarily reduced the number 7 because it was a problem to this Commission. They've reworked it and come back with 6. He's lost in the sauce as to why they are going from 6 to 5, if Tony says that 6 works.

Mr. Panico responded that he was telling them from a spatial point of view based on the parameters outlined in the prepared report that he's trying to create good buffers along the property lines. He showed other site drawings to explain that he tried to maintain a certain spacing by exploring other possibilities by reorienting, sliding property lines and rotating houses, they could achieve this same type of physical space between the nearest building and address the issues with the removal of one unit.

Mr. Panico continued to say that the subjective part of it is that the fewer numbers at the bottom of a 14% grade, the more comfortable it is. That is purely subjective and to be decided by the Commission, not him.

Vice Chairman Lopera commented that in looking at the 2 houses in the front of this site plan, there isn't an issue. But because of the large wetlands, he's uncomfortable with pressing four into the back. He thinks it would work better because of the two lot sizes and the way they are spaced to just put three back there.

Comm. Sylvester asked if he favored 5 then.

Vice Chairman Lopera responded that he did favor 5 because he thinks it works better with this site. The 2 lots in front are nicely spaced, and if there weren't wetlands...(inaudible)

Comm. Jones commented that they took 7 down to 6 to accommodate the wetlands.

Vice Chairman Lopera responded that yes, 6 accommodates the wetlands but this is a PDD so the issue of how much to put in there needs to be decided. He stated that personally, he was more comfortable with a little more spacing between the houses. Because of the huge wetland in the middle, it's kind of like taking a bag and squeezing the ends...he'd rather not try to stuff it in the back because the spacing in the front is good. He added that he agreed with Comm. Harger in thinking that three works better in the back.

Comm. Parkins asked if he thought it worked better from a visual perspective because it can't be seen from the front of the road.

Comm. Harger commented that they were concerned about the wetlands (inaudible)...

Vice Chairman Lopera commented that the City Engineer has indicated they he'd like to see less rather than more.

Comm. Jones stated that the 14% grade works for private roads.

Mr. Panico responded that the grade would work but in general, he doesn't want to have too many houses on the 14% grade.

Vice Chairman Lopera indicated that he was trying to get a consensus – Comm. Sylvester seems OK with the six.

Comm. Sylvester responded that he was OK with 6.

Comm. Jones added that he was OK with 6.

Comm. Parkins said she was OK with 6, but she had a question about the footprint, style and layout of these homes. She wanted to know if the number was dropped down to 3, could the houses be built bigger – was the size of the house determined by a design or an issue to make it fit.

Mr. Panico responded that he couldn't address that, but even at 4, the lot sizes are adequate that they could put any reasonable footprint on it.

Comm. Parkins asked if the number was brought down to 3, could they put in a 200,000 square foot house in that same amount of space.

Mr. Panico responded that yes, but they would have to commit to a footprint before the final development plans which they would be tied down to. He added that these footprints were consistent with the footprints at Heritage Pointe. He wasn't too concerned about variation of the footprint because they're dealing with such a small number.

Comm. Parkins stated that her concern, technically, was that if they don't get approved for 4, and they get approved for 3, then they could typically make them bigger. That would put them back into taking up the same amount of space.

Mr. Panico commented that he didn't really know how a developer would look at it. If he were a developer, and if he lost a unit, he would probably try to build a bigger unit – but they don't always recover. They still need to build for the marketplace. The marketplace looking to one side has cluster housing and the other side has condominiums, so it isn't like a one-acre lot in White Hills or Huntington where a huge home could be built and marketed. Here the market is determined.

Comm. Sylvester stated that if 6 is going to be compatible with what is around it and doesn't take away from any of the established value, and they can be situated in away that doesn't take away from anyone else – than to him, it doesn't seem to be an issue. If it takes away from what's there already, then less is better.

He continued to say that he understands that density is an issue. But in the discussion of density here, they should remember density is also an issue in downtown Shelton and remember it in discussions about 250 apartment houses on a limited infrastructure. He commented that he didn't really see a big deal here, but he needs to know that this fits compatibly and doesn't take away from anything around it.

Mr. Panico responded that these position adjustments can be made, and appropriate berming can be developed. It can be done but he's not the engineer on this project. The decision is a subjective one. But when there's a steep 14% grade coming down, the best thing would be to have one house there – but from a planning point of view that doesn't make any sense. On the other hand, going up to 7 doesn't work either. The answer is somewhere in between.

Comm. Sylvester commented that 5 or 6 – he could go either way. He indicated that he could see the rationale either way. He isn't stuck in this thing. If Tony thinks that 6 can work, he can vote for 6. If he said it couldn't, he'd vote for 5.

Vice Chairman Lopera asked Comm. Sylvester if he'd like to fill in the blank with 6 and make a motion.

Comm. Sylvester agreed to make a motion.

Comm. Parkins asked if Staff would still have final say on the site plan to make sure the spacing and landscaping is what they want.

Mr. Panico responded that they will come back with site plan adjustments that he and Rick feel comfortable with, and then they'll move on to their detailed development plans that will reflect those modifications. The Commission has to approve that detailed development plan. He stated that the action tonight puts the zone in place entitling the Applicant to a development of this sort with a fixed number of units. He added that they would be voting on the PDD and establishing its density and the general format of the PDD. They will go back to the drawing board to do their final details, get their wetland approvals, WPCA work-up, final engineering and final sign off.

Comm. Lopera asked if there was any further discussion. There was none.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was roll call voted to approve Application #07-46. Commissioners' Sylvester, Parkins, Jones, and McGorty voted in favor of the application. Commissioners' Lopera and Harger voted in opposition. Vice Chairman Lopera declared the Resolution adopted with a 4 –2 vote.**

**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) – DISCUSSION AND ACTION**

Mr. Schultz stated that they received a favorable City Engineer report on this underground drainage system. They had an unfavorable report that was worked out, and they've also received a favorable recommendation from the Fire Marshal. He relayed that the City Engineer wants to advise the Commission that the upgraded system is state-of-the-art and will achieve the goals that the City Engineer initially reported on.

Comm. Jones asked for clarification as to which building would have the parking lot expansion.

Mr. Schultz responded that this was the 2<sup>nd</sup> building on Research Drive next to Reservoir Point.

Mr. Panico added that they had done a resolution some time ago but they were awaiting a favorable report from the City Engineer. He'll run through it again, it was prepared back in January.

**\*See attached Shelton Planning & Zoning Commission Document entitled Application #07-57 MINOR MODIFICATION OF DETAILED DEVELOPMENT PLAN FOR PDD #58.**

Mr. Panico referenced the site plan to explain that when they were looking at this, Staff felt that some parking spaces were so remote that they would only be used if absolutely necessary. Therefore, based on their experience with office buildings in the past, 4 spaces per 1000 is a more than generous figure. Staff suggested working the Applicant, if he could do these by his leases, and prepare the parking area with the drainage but cover it with grass instead of pavement. If it turns out that there's a high-density tenant in the building, it can be paved. Or if the Applicant demonstrates that he really does need these spaces up front, they'll allow him to pave it. He stated that this was the one area that they gave up some semi-natural area in favor of the additional parking; there had been a surface detention pond there originally. That was part of what needed to be eliminated and put into the underground galley system.

Mr. Schultz stated that he had the City Engineer's report and he read it into the record.

\*See attached letter from Robert Kulacz dated 2/21/08.

Vice Chairman Lopera asked if the Commissioners had any other comments. There were none.

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously roll call voted (6-0) to approve Application #07-57.**

**SEPARATE #08-03, WELKIN, INC. FOR SITE PLAN APPROVAL (PROFESSIONAL OFFICE), 71 LONG HILL CROSS ROAD (MAP 51, LOT 7), LIP DISTRICT – DISCUSSION AND ACTION.**

Mr. Schultz stated that the Commission requested that the Applicant to submit a site plan instead of waiving it. The Applicant has done so. They've received a favorable letter from the Fire Marshal and the City Engineer.

\*See attached letter to Richard Schultz from Fire Marshal, dated 2/21/08.

\*See attached letter to Richard Schultz from City Engineer, Robert Kulacz dated 2/21/08.

**Royal Wells, 34 Blueberry Lane, Shelton, CT addressed the Commission.** Mr. Wells stated that 3 weeks ago, he had been asked to come back with a more detailed plan. He indicated that Jim Swift has prepared a site drawing and come to this meeting to answer any questions.

Mr. Wells stated that the house would be used just the way it was as a small professional office – a two-person office with a secretary. It's in sound shape. In the period of time that he's going to own it, he's looking to develop some revenue from the two houses. Right now, he's dealing with the first house. The other house is a residence and he hasn't done anything with it yet.

Mr. Panico asked Jim Swift how large a delivery truck would be able to turn around on site without having to back out

**Jim Swift, PE, LA, 102 Village Drive, Shelton, CT addressed the Commission.** He responded to the question that a panel van, like a UPS truck, would be able to turn around.

Comm. Jones asked if those two houses would be left there.

Mr. Wells responded that he's just putting in a few parking spaces and sidewalks for access. The office needs a sign in the front. He stated that they would be back with sign when they come in for their permits.

Comm. Parkins pointed to the new site drawing and asked Mr. Wells if he was adding one parking spot.

Mr. Panico commented that it was two spaces – one of which is handicapped, and two spaces in front of the garage. He asked Mr. Wells if he was planning to use the spaces in the garage also.

Mr. Wells responded that he wasn't planning to. When he leases it out, he hasn't decided, it might be kept for storage or something.

Mr. Panico asked if he'd be providing four parking spaces and how many professionals were working there – two and a secretary?

Mr. Swift clarified that there would be one visitor spot. There's a tail area in there where cars could park if they had to.

Mr. McGorty asked if that wasn't the turn-around though, in case a truck comes in there when cars are parked, can it turn around without backing into the road?

Mr. Swift responded that if there were cars in there and a truck in there at the same time, the cars have to be parked in the right way – so they wouldn't want to count on that. If the Commission feels that they need another space, then he could put another couple of feet of pavement on the end of that tail.

Comm. Parkins commented that they definitely need at least one more space.

Mr. Wells stated that it's paved now where the two cars are and the turnaround is paved. He plans to add a handicapped walkway up to the front.

Mr. Swift added that if another one or two parking spaces have to be there, he would recommend adding another five feet of pavement at that turnaround.

Comm. Parkins commented that at the last discussion, she couldn't recall who had been present, it was mentioned that since there were two professional people working there, it's a good likelihood that there could be two clients at a given time. The addition of a possible third client arriving early for an appointment would result in three additional cars requiring parking. She added that during a busy tax season, that's a realistic scenario.

Mr. Swift responded that was possible; however, he mails his taxes in – but the point is valid. He commented that they might want to use that garage to park inside.

Mr. Wells responded that it's there.

Comm. McGorty commented that they need the space – his feeling and familiarity with it – if there's going to be three employees there (2 professional & an admin) with three cars and then clients coming in and out for appointments.

Mr. Panico added that if they could provide assurance that the two professionals would park their vehicles in the garage and leave the outside spaces for visitors, and then he thinks there may be enough.

Comm. McGorty commented that there has to be FedEx and UPS going in and out of there.

Mr. Swift responded that they're fortunate that it's a flat area to work with and there's room to work with.

Mr. Wells showed that there was 70 or 80 feet from the State fence. This was surplus that he had his father buy back in 1972 that was left over after the State condemned it.

Mr. Panico told Jim Swift that he felt the Commission would be more comfortable with the addition of two more parking spaces and reserving a turnaround spot for trucks because they can't tolerate vehicles backing out onto Long Hill Crossroad.

Mr. Swift responded that he could accommodate that, and it could be easily done.

Mr. Schultz stated that they would need a motion to approve the site plan for P&Z Application #08-03 changing use from single family dwelling to professional offices and onsite parking improvements. Plans entitled 71 Long Hill Crossroad have been prepared by James R. Swift, PE dated 2/12/08 with stated conditions (4,5,7,10,18,21) and conditions to provide two additional parking spaces and a sufficient turnaround.

Vice Chairman Lopera asked if there was any further discussion on the draft motion. There was none.

**On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously roll call voted (5-0) to approve Application 08-04 with conditions. Vice Chairman Lopera abstained from voting because he had not been there for the initial presentation of the Application.**

**APPLICATION #08-04, PRIMROSE COMPANIES FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD#54 (THE BIRMINGHAM ON THE RIVER: PARKING GARAGE MODIFICATION), CANAL STREET (MAP 120, LOT 22) – ACCEPT, DISCUSSION AND POSSIBLE ACTION.**

Mr. Schultz stated that they had a non-negotiable state mandate on this Application. He began by reading the City Engineer's report and correspondence from the Downtown Subcommittee.

**\*See attached City Engineer's correspondence dated 2/21/08.**

**\*See attached Downtown Subcommittee letter to the Commission dated 2/15/08**

Mr. Panico showed the Commission a site drawing detailing the location of the two ramps. He added that there were two ramps side by side. The State's concern is about the possibility of work being done on that bridge, they would need to take one ramp out of play. There needs to be another way on to the parking deck. They've made a connection immediately alongside the existing one. It has to be treated properly so as not to lead to confusion when it isn't being used.

Mr. Schultz added that it needs to be blocked off correctly and screened correctly. Aesthetically, it has to be handled carefully.

Mr. Panico commented that it needed to be done in a way that this ramp isn't visually misconstrued to be the entrance. There may need to be multiple potted plants there, or something...to create a visual barrier. Because if the State is going to require this, there would probably only be a day or two notice, so if needed, those barriers can be taken out of the way to use it.

Comm. Parkins commented that she thought cement planters would work.

Mr. Panico stated that the slope itself could be done in something other than concrete. He asked if they would be putting pavement on the slope.

Mr. Schultz responded that they would be, so they just need to screen. Staff will be advising the Commission to look at it during the various construction phases. They'll need to watch it carefully, as they will for the entire evolution of Canal Street. There are multiple issues there such as sidewalk, widths, and landscaping details.

Comm. Sylvester added that he still maintains that the parking lot is not appropriately placed. If you park there...you're over the railroad track. It's incredible how that thing got built there. He commented that he's been going down there and looking down there, and he has no idea... The whole concept was, in his opinion, that they were supporting housing to be built on the Riverfront because they felt it would be disposable income for downtown. They thought people would be walking across, coming downtown, shopping in downtown, and he can't see how they are going to rely on a simple pathway across a railroad track. He thinks that they need to start seriously addressing the issue of moving those people, or allowing those people to get from where they're living to downtown Shelton. He commented that there are so many issues going on down there. He recommended that everyone start taking a walk down there to see what it really looks like and what is really happening. It's not what some people would like to think it is.

Mr. Panico responded that walking across the railroad tracks wasn't going to be an issue of safety as much as an issue of aesthetics and attractiveness.

Comm. Sylvester commented that it was an issue of safety when they talked about the Maples. It is an issue. It's time to grab a hold of this issue of moving large numbers of people around town, hopefully, they aren't going to drive—and, no one wants them driving downtown. They need to be creative, inviting, and get those people over the tracks. Especially now because they're talking about the next phase, another 250 apartments...

Comm. McGorty added that it needed to be more pedestrian-friendly

He concluded that he wasn't an engineer and he wasn't a builder, but before things go too far, he hopes everyone joins him in looking at these issues. He also brought up the large amount of graffiti in that area that needs to be addressed. The back road, the walls down there, where the new construction is going to be and where the Dunkin Donuts is – this is going to be an area where there will be a lot of people and traffic - it isn't happening the way it should be happening.

Vice Chairman Lopera agreed that they needed to look at those issues. He asked Rick for the draft motion on the ramp issue.

Mr. Schultz read the draft motion to approve the minor modification of the detailed development plans for PDD#54 for P&Z Application #08-04 entitled Parking Layout Plan with final revision date of 2/4/08. (see attached with conditions).

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Application #08-04.**

**PUBLIC PORTION**

Vice Chairman indicated that the next portion of the meeting was the public portion for anyone wishing to address the Commission on any item not on the agenda.

**Steven Gray, 48 Pinetree Hill Road, Shelton, CT addressed the Commission.** He stated that he lived in the upper section of White Hills. He asked the P&Z Board for some direction regarding a very simple yet complex issue. He stated that the back of his property, with his house on a PRD, up against open space. Strangely, he likes the barbed wire that was there when he purchased the house that stretches across the rear of his property. It keeps people from walking into his property from the open space. He stated that there was 4 ½ acres of open space directly behind his house. To the right of that, he has been told there are 130 or so acres of Bridgeport Hydraulic property. There's a fair amount of barbed wire there that he'd like to keep there. He asked if another party, a neighbor, could remove the barbwire from down in that area by the open space. Some have claimed that it's a danger to young children. He doesn't disagree with that but he wanted to know if it was permissible under the Planning & Zoning codes.

Mr. Schultz responded that the Conservation Commission is the caretaker of the open space, and they make that final decision. Residents can take it to the BOA if they feel strongly. Therefore, Mr. Schultz responded that if Mr. Gray felt strongly about the barbed wire and wanted to preserve it, he should first advise the Conservation Commission of his position. He stated that the Conservation Commission would tell him if they agree with it or not. He added that he knew that they don't like the maintenance of barbed wire fencing because of public safety issues. The P&Z Commission has routinely gone back twenty or more years in commercial settings and said no more barbed wire.

Comm. Harger asked if Bridgeport Hydraulic originally put them up.

Mr. Schultz responded that at the Beardsley Farm, the farmers put it up for the livestock. This is the remains of the farmer's fencing.

Vice Chairman asked if there's barbed wire on Mr. Gray's property, is the barbed wire permitted by the zoning laws. Can anyone put barbed wire around their house?

Mr. Schultz responded that there was a state statute that discusses that issue, and they leave it up to the town. Towns are adopting policies on it; Shelton has for commercial settings and says no more of that for automotive establishments, storage areas, junk vehicles, etc. It was done quite routinely in the 60's and 70's.

Vice Chairman Lopera asked if there was any regulation on residential barbed wire.

Mr. Schultz responded that there was none – for the existing; however, if someone were to call the P&Z Office and ask to install it, they would recommend against it. But for existing barbed wire being maintained for livestock purposes, obviously, it would be permitted.

Vice Chairman Lopera added that what is on this property is grand fathered in – it's pre-existing. He informed Mr. Gray that if he likes or doesn't like what's on his property, the suggestion would be to write a letter to the Conservation Commission stating his position and they can decide on the matter.

**Atty. Dominick Thomas addressed the Commission regarding an informal discussion involving Shelton Town Center LLC. Mr. Thomas stated that he was with Joseph Rocco, 350 Bridgeport Avenue, Shelton, CT.**

Before addressing that issue; however, he wanted to make a comment about downtown safety. He informed the Commission that when it snows, nobody shovels the sidewalk on Bridge Street. So, when he walks out of his office, the sidewalk over the main bridge is always shoveled – the City of Derby must do it. However, the second sidewalk which is narrow and only on one side of Bridge Street does not get shoveled; therefore, people have to walk under the bridge on the railroad tracks.

Vice Chairman Lopera responded that they would contact the City Engineer.

Atty. Thomas addressed the issue of 350 Bridgeport Avenue where there are two spaces left. He stated that Shannon Duffy from Hertz Rent-a-Car was present. This was in regard to PDD #257 which permits the retail sale of goods and services. Before making an application, they wanted to get the opinion of the Commission. He presented a position paper that they compiled to explain their services as well as an aerial photo of the shopping center. Mr. Thomas stated that the only rental car place is Enterprise and they have a substantial corporate complex. Their position is to utilize the rear nine spaces with any overflow in the side spaces on the site. He added that Hertz is a retail use.

Comm. Sylvester indicated that he was confused and wanted to know what Atty. Thomas was proposing.

Atty. Thomas stated that this was for Hertz Rent-a-Car to be in the new shopping center across from Curtiss Ryan on Bridgeport Avenue. He continued to state that there were nine parking spaces in the rear, they would not do any car washing on the site, it would support the car dealers, provide competition for Enterprise and most importantly, Hertz has a substantial number of corporate clients that they would be providing service to.

Mr. Thomas stated that it was his interpretation, and he didn't want to be presumptuous in applying, but based on the Statement of Uses and Standards for PDD #57, the retail provision would allow it to be done by virtue of an application of a Certificate of Zoning Compliance to come in with the normal signage. At that point, because it's a PDD, the Commission could put the normal restrictions on that they wanted to for parking in the rear, no car washing...

Mr. Panico asked how they would survive only renting out five cars or even nine.

**Shannon Duffy from Hertz addressed the Commission.** She responded that there would be nine cars available for rent. They are all out on rent, constantly moving throughout the area to service the needs of customers to make sure the right make and model is available at other locations. They would be moving between New Haven, Trumbull and back to Shelton.

Mr. Panico asked if they had a call for a certain car that isn't on site, do they have a resource that could bring that car to this location.

Ms. Duffy responded that yes, they had transporters moving cars all the time.

Comm. Sylvester asked if there was no storefront then?

Atty. Thomas stated that there was – the office operation in the front with the spaces in the back.

Comm. Harger asked for clarification as to what the car transporters were – trucks?

Ms. Duffy responded that she meant that it would just be drivers transporting the cars with no trucks at all.

Mr. Rocco addressed the Commission and clarified that they are planning to present an application for this use and they only wanted to present it ahead of time as a courtesy to Commission members. He stated that they were kind of in the automotive district being across from Curtiss Ryan and D'Addario's group. He wanted them to know that the cars would not be readily seen from Bridgeport Avenue because they would be behind the building, and there is plenty of on site parking. The lot holds 147 cars. The use seems compatible with the City's corporate presence and the increasing number of hotels. They've been having difficulty renting it; Hertz has signed a lease contingent on this Commission's approval.

Comm. Parkins asked why Curtiss Ryan was parking all their vans on his side of Bridgeport Avenue.

Mr. Rocco stated that they have rented 30 spaces to Curtiss Ryan on a month-to-month basis because they have no use on their end cap space, which comprises 4000 out of 20,000 square feet. With 25% of their building vacant right now, it's a way to generate some additional revenue. He added that if they get approval for Hertz, they would be eliminating the Curtiss Ryan cars from being parked there.

Atty. Thomas commented that Rick has addressed this with Curtiss Ryan. His understanding was that it was a temporary situation for Curtiss Ryan for the winter months. Rick has addressed some zoning issues and Curtiss Ryan has taken some steps, in fact he's working with them to find an additional site because of the issue of unregistered vehicles on the site.

Atty. Thomas continued to say that he only had one concern here looking at the PDD, so he wanted some feedback as to whether this would be a Certificate of Zoning Compliance which will still allow for conditions to be placed upon it rather than, since it does provide for retail, a modification of the Statement of Uses and Standards.

Mr. Panico asked Rick Schultz how they treated it with Botti's.

Mr. Schultz responded that they made it a specific use because it was a pre-existing. He told Vice Chairman Lopera that he told these people, that his initial position was that with any PDD, the Commission would want to be informed about all the uses – all the family of uses. He suggested that, if the Commission wants to do this, they should modify the Statement of Uses

and Standards and properly spell this out with the proper conditions. In that way, it's consistent with Crown Pointe; however, it is this Commission's call if it's a major modification or a minor modification. He stated he thought it fell in the major modification of the Statement of Uses and Standards.

He added that he contacted Curtiss Ryan, and they are working on a resolution. It's a temporary situation with new inventory but it's a PDD not a commercial zone where they would have more flexibility.

Atty. Thomas responded that he had no problem with a modification but he would consider it a minor modification. He added that the problem with the major modification was that it put the pressure of a public hearing on them and stretching it out. Adding this use item, which is related to retail, can be handled on a minor modification that provides the same amount of protections. He didn't think it was a matter of public interest as much as a matter zoning interest for this Commission to apply the appropriate restrictions. Therefore, it would allow them to file the application and be on the next agenda with a minor modification without the requirement of the notice of a public hearing and the extended time frame that would take place.

Comm. Harger stated that she had been there and driven around the back of the building and there were some cars being parked in the back, she assumed they were employees. She said that she had counted spaces, not including the ones on the side, and if there were 147 overall spaces, she didn't understand why those cars weren't in the front.

Mr. Rocco responded that most of those cars belonged to employees of the nail salon and Planet Pizza, which he also owns. When the time comes, those spaces would be dedicated with signage indicating that Hertz only use them. Any cars in back would be moved to the front and the Curtiss Ryan vehicles would be gone.

Comm. Harger asked if they had a rear entrance.

Mr. Rocco responded that every store there had a rear entrance.

Comm. Harger asked if that would be something that a potential customer could use so that they wouldn't have to walk all around the building to get to the Hertz car.

Vice Chairman Lopera commented that he didn't wanted to reduce this to a minor modification. He got the sense from Staff that this wasn't a minor modification.

Mr. Panico added that he was influenced by the fact that they were concerned about this for Botti's development and they insisted that it be identified in the Statement of Uses as one of the permitted uses.

Vice Chairman Lopera asked if that meant it was a major modification.

Mr. Panico responded that they couldn't amend the Statement of Uses without a public hearing process. He asked Atty. Thomas what the big deal was about having a public hearing.

Atty. Thomas answered that it was the time frame with respective lease requirements.

Mr. Panico asked Rick Schultz if it couldn't be done sort of quickly. He asked if they filed it yet.

Atty. Thomas stated that he could get the application in and schedule the hearing...

Mr. Panico stated that if the Commission has no issues, they could decide it on the night of the public hearing.

Comm. Sylvester commented that it didn't hear any commissioners saying that they were concerned. He asked if anyone else was concerned...

Vice Chairman Lopera said, "Whoa, whoa, whoa, they can't have a vote on this before they have an application..."

Atty. Thomas responded that according to the timeframe and procedure-wise, if he got the application in before the regular meeting in March, then a public hearing could be set for the second meeting in March since it would be a relatively short public hearing. He indicated that he could get the application in because it would only involve taking the language from PDD# 48 and incorporating it into this PDD.

Vice Chairman Lopera commented that the application decision is theirs; however, the consensus seems to be that this isn't a minor modification, it's not a certificate of zoning compliance, it is a major modification that requires a public hearing. He asked if there were any other public

comments not on the agenda. There were no comments. He asked for a motion to close the public portion of the meeting.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the public portion of the meeting.**

**OTHER BUSINESS**  
**APPROVAL OF THE MINUTES**

**On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve the minutes of 1/8/08 and 1/22/08.**

**8-24 REFERRAL: CITY OF SHELTON ACQUISITION OF OPEN SPACE (SOUNDVIEW AVENUE)**

Mr. Schultz stated that he's getting it all tonight.

Vice Chairman Lopera responded that's because Comm. Pogoda went on vacation...and left him here.

Mr. Schultz presented a site drawing of the lot on Soundview next to the Maybeck property. He stated that at their Feb. 14 meeting, the BOA approved a contract to the City of Shelton and the Huntington Development Group LLC for the purchase of real property known as 279 Soundview Avenue, Shelton, CT for the price of \$2,224,500 with a gift from the seller of \$100,000 for a net price of \$2,124,500 with initial funding of \$700,000. He continued to state that \$200,000 would come from the Open Space Trust account and \$500,000 provided by bonding pursuant to Section 7-16 of the City Charter.

Mr. Schultz continued that this was approved and the Mayor was authorized to execute any and all documents subject to an 8-24 Referral from this Commission. He read the correspondence from the City Engineer dated 2/26/08.

**\*See attached letter from R. Kulacz dated 2/26/08.**

Vice Chairman Lopera added that would make it a 27 or 28-acre continuous parcel with both parcels together.

Comm. Jones asked if there was any discussion or historical background on this piece of property.

Mr. Schultz responded that it was a single family dwelling, and it was a hayfield used by the local farmers. Last year the Commission entertained an 11-lot subdivision. There was interest regarding water from adjacent property owners and the water pressure issue. This is something new for the Commission. Now they are using booster pumps individually with a deed put on the land records – that's how Aquarion deals with it.

He continued to state that the Commission approved 11 lots - in August or September of last year.

Comm. Lopera added that it was a conventional R-1 subdivision – they were all conforming lots.

Comm. Sylvester commented that the neighborhood was not in favor of it.

Mr. Panico stated that it had an open space component. There was neighborhood opposition expressed because of the drainage and water supply concerns.

Mr. Schultz added that the Maybecks had livestock and they felt it would be an intrusion – they were present at the meeting too.

Comm. Jones commented that he recalled that there had been a letter and he asked if the Conservation Commission ever had an opportunity to buy this property. Did the City ever get an opportunity to buy this property from the owner?

Mr. Schultz responded that he didn't know – the Conservation Commission has identified all the parcels in town and contacted property owners.

Comm. Jones asked if this had been one of those parcels.

Mr. Schultz answered that it's safe to say that the property owner was probably contacted by the City through the Conservation Commission to let them know of their interest in it. He commented that he didn't know if it was a high or low priority.

Comm. Jones stated that the person that bought these 14 acres paid substantially less than the City is paying for it now, does that sound right? A year and half ago the City of Shelton didn't want to buy this piece of property and someone else bought it for less. He asked for some clarification as to why this parcel was being flipped back to the City a year later and why the City wants to buy it for more than was asked for it a year ago.

Comm. Sylvester commented that what Chris is saying is public knowledge because he has heard about it as well. He indicated that he was going to vote against this, adding that he wouldn't normally vote against the reasonable purchase of any open space; however, because of the issues surrounding this piece, he would vote against it.

Vice Chairman Lopera stated that they don't have control over the buying of property; they are Planning and Zoning, all they can do is zone property.

Comm. Jones stated that if he had an opportunity to speak about this he was going to speak about it.

Vice Chairman Lopera asked Tom Harbinson, who was present if he would address the Commission about this.

**Thomas Harbinson, Chairman, Shelton Conservation Commission addressed the Commission.** He stated that the property does have an agreement; therefore, he can speak about it freely, whereas normally he could not. He indicated that the property was on their quality of life list. Yes, former member Harriet Wilbur was pretty much the designee from the Conservation Commission to establish a relationship and make contact over the years with this property owner.

During that time, the Conservation Commission became aware that the owner placed a sign on her property indicating that it was for sale with a phone number provided. They immediately contacted her and she indicated that she wanted a million dollars and had already received five offers. The City didn't immediately have \$1M sitting around in cash; whereas, certain developers do. The City was very interested, but because of the nature of the price and the immediacy of the owner's request for the money, they couldn't do it. Apparently, the property owner needed this money quickly for personal reasons. The City was interested, they made an effort to reach out and establish a relationship with the owner, but the City didn't have the ability to maneuver the transaction at that time.

Comm. Jones questioned how the City could maneuver \$2M now as opposed to the \$1M then.

Comm. Sylvester stated that he didn't think it was appropriate to debate this right here or at all.

Comm. Harbinson commented that he understood the concerns over funding and it's something that the Conservation Commission struggles with all the time to actively obtain certain parcels with an Open Space Truss account that's properly funded. From a conservation perspective, they also always need to address if the property is worthwhile to be preserved as open space. The financial aspects are frustrating because it's out of their control but they still feel as though this is a worthy parcel of open space. It abuts the school campus, the Wiacek property, and a corridor of Shelton lakes that extends up to Soundview.

Comm. Jones asked why they needed an 8-24 Referral if they already had a contract.

Mr. Schultz responded that there has already been an 8-0 vote and it's a done deal.

Comm. Parkins asked if it mattered if the 8-24 passes or not.

Mr. Schultz stated that it was a missing component.

Vice Chairman Lopera stated that it was more than a component, because the issue for this Commission is whether this makes sense from a planning point of view, so they still have a responsibility to vote. It will still be reflected whether the BOA voted already or not.

Comm. Sylvester stated that it should be mentioned that this Commission voted after the fact though.

Comm. Jones indicated that he thought the BOA needed the 8-24 Referral from P&Z before they could go ahead.

Comm. Sylvester added that they do if they don't have an 8-0 vote; without the 8-24 Referral they would need 2/3 vote. Since they have it, they don't care what this Board thinks; however, out of common courtesy from one Board to another, it would have been better had they waited.

Vice-Chairman Lopera added that it was difficult to know what the timing and contract requirements were on this.

Comm. Sylvester agreed and rescinded his comments about relaying anything negative to the BOA.

**On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to report favorably on the 8-24 Referral for the City acquisition of open space on Soundview Avenue.** For the record, Comm. Sylvester wanted it to be conveyed back to the Board of Alderman that they are concerned to be voting on an 8-24 Referral after-the-fact.

Comm. Sylvester added that he felt that was an appropriate message to send back; that if they were going to do an 8-24 referral, they should at least be making a meaningful vote.

#### **RECONSTRUCTION OF CANAL STREET: RECOMMENDATION BY COMMISSION**

**On a motion made by Ruth Parkins seconded by Leon Sylvester, it was unanimously voted to table the review of the report for the Reconstruction of Canal Street.**

#### **STAFF REPORT**

Mr. Schultz reported that the ZBA approved the use variance to allow a residential use in a commercial zone at 159 Long Hill Avenue. The building is in the commercial part of the property – first level retail going out to Bridgeport Ave and 5 townhouses over it with access on Long Hill Avenue. He commented that this Commission had been very clear in its decision that no hardship had been shown. Additionally, the Commission was prepared to deny the PDD application; however it was withdrawn. Also, there were reasonable alternative developments for the site such as just commercial under as of right. ZBA felt differently and they thought it was a reasonable use taking into consideration the condos next door to it. The Commission now needs to decide if they want to appeal this decision.

Mr. Panico asked what it says in the zoning regulations – doesn't it prohibit them from granting a use variance without a favorable report from this Commission?

Mr. Schultz responded not that far – a mandatory referral is made to the Commission and the Commission has to respond within 14 days. That is why he does the Staff Reports. This Commission meets two weeks before the ZBA.

Mr. Panico asked if this Commission doesn't support a use variance, could the ZBA still grant it.

Mr. Schultz said that absolutely, they could. They had gone a little bit farther and Corporation Counsel advised them not to do it.

Comm. Sylvester added that he recently read in the paper that Trumbull P&Z went all the way.

Mr. Schultz added that he'd be remiss if he didn't bring this up to the Commission because the clock is ticking if they want to appeal. The appeal would be to reverse the granting of the variances. He added that if this Commission decides to appeal it, he'll contact Corporation Council who would then decide who would represent this Commission. At that time, the Chairman, Tony Pogoda would sit with Staff to determine whether or not to go forward. It's also taken up by the legislative body because they fund it.

Comm. Sylvester asked if that meant they had the right to say they can't appeal it.

Mr. Schultz responded that they've never gone that far, but they do take up the matter because they have to authorize the funding. They've never said no; he's been at the staff meetings where they've authorized the funding.

Mr. Panico asked about the time frame.

Mr. Schultz answered that this was approved last Tuesday, and the legal went in last Friday.

Comm. Sylvester asked if it was appropriate for a motion to be made.

Mr. Schultz responded that it was.

Comm. Sylvester indicated that he'd like to make a motion, and it's not to be vindictive. He stated that he thinks that it's an overuse of that piece of property. Secondly, this Board discussed it intelligently and completely, and they compiled a detailed letter indicating why they

didn't think it should be approved. Furthermore, if they didn't do this they're no more than a paper tiger.

Mr. Schultz added that by taking this motion, it gives the Commission the opportunity to take it to the next level. It can always be revisited.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously roll call voted (6-0) to approve the motion to appeal the Zoning Board of Appeals decision for Application 108-2.**

**On a motion made by Leon Sylvester seconded by Virginia Harger it was unanimously decided to pay bills, if funds are available.**

**On a motion made by Leon Sylvester seconded by Virginia Harger, it was unanimously voted to adjourn at 10:10 p.m.**

Respectfully Submitted,

Karin Tuke