

Atty. Bellis continued that in accordance with the long range plan, keeping a business like Swageloc in this town and this state would be a benefit to Shelton. They've been a great tenant for years and would continue to be so at this facility.

As far as the second building, Atty. Bellis indicated that they've sent a letter to Rick Schultz, thereby making an amendment to the plan. The plan would include a reduction of the 2nd building; the office/contractor's building. He referenced a building layout/site plan that showed the original submission for the 2nd building to be 100 ft x 80 ft or 8,000 square ft. building with its units approximately 35.4 feet away.

Atty. Bellis showed the revised building plan which reduced the 2nd building to an 80 ft x 60 ft or 4,800 square ft. structure. By doing so, the building would now be 85 ft. to the residential property line that is adjacent to it. Also, the landscaping plan would include plantings of white pines, Douglas fir and other evergreen-type trees that exist all year round.

The Applicant, Michael Salemme, commented to Atty. Bellis that he would be planting a buffer on his own property. Additionally, there is already 30 feet of open space belonging to the City of Shelton that had been deeded by the Applicant on a prior occasion. That open space provides an additional natural buffer that cannot be cleared.

The second change involves an amendment to the proposed Statement of Uses. Atty. Bellis stated that this is only an initial concept plan. He has sent a letter to Rick Schultz to eliminate certain types of uses that may potentially pose a problem to neighboring residents. There would be no landscapers, no snowplowers; those types of activities that could potentially cause too much noise or early morning or late evening activity.

Atty. Bellis clarified that this building does not have that many units – only four or five bays - and the intended use is for contractors, such as the Applicant, who is a builder with no office. It would be used to keep such things as carpet samples, extra materials, extra windows, unused supplies, filing cabinets for customer paperwork and tax records, etc. These tenants would not be working out of these units. He has limited the Statement of Uses and would include any additional limitations that the Commission might like to have.

In regard to the letter from the Conservation Commission, Atty. Bellis responded that this project has been approved by the Inland Wetlands Commission. As part of that approval, the Applicant agreed to put in an oil separator, or catch basin, in the event that there was a spillage, preventing any debris from discharging into the wetlands. Atty. Bellis added that an oil separator is very rarely used on a small project such as this one. It is more commonly seen on large industrial sites. However, as a condition of the Inland Wetlands approval, the Applicant agreed to put this oil separator in along with an annual maintenance plan for it.

Atty. Bellis continued to mention other conditions of that approval such as the installation of a fence, or separation, between the back of the property and the wetlands to prevent the occurrence of any dumping in that area. Also, there is a conservation easement in which no clearing or tree cutting can take place in the wetlands buffer.

Atty. Bellis referenced the site drawing and pointed out some small squares representing the location of infiltrators where storm water drainage from the buildings would be caught, routed through a riff-raff and drained into the wetlands.

Atty. Bellis concluded that they now have a smaller contractor's building that pulls away further from the residential home adjacent to it, natural evergreen buffers, oil separators in the event of spillage and limitations to the Statement of Uses. Also, he reiterated that Swageloc would not be doing any manufacturing at this site, so there would be no spills. Additionally, it is a very quiet operation.

Atty. Bellis stated that the reason they were present was to request a PDD because the zone is split with residential and light industrial. It's accepted in the regulations that in a situation such as this, a PDD is the proper remedy. He's requesting approval for the overall PDD plan and initial concept. He recalled his opening remarks that this is what the town has always wanted in this area. Since 1966, the town has wanted light industrial. They want the tax base. He recognizes the nearby residential homes; however, they've been cognizant of the long-term plan. When they bought their properties, this was not new to them; it was not a surprise to them. They were buying into an area targeted for industrial use by the town. Everyone has a right to choose where they want to live, and that is where they chose to live. But there was no surprise here by changing the zone. They were not ambushed and nothing could be further from the truth. They knew going in when they bought their property that the long term development plan had targeted this area for light industrial use, and they shouldn't come in here now and complain about it.

Atty. Bellis stated that the Applicant, Mr. Salemme, has done a good job in providing the protection to the adjacent property owner. He made a large concession in the size of the building and has taken precautions to protect the wetlands. In rebuttal, this meets all the regulations. He's discussed them all in his presentation, and he honestly feels that this application should be approved. He offered to answer any questions from the Commission.

Comm. Harger indicated that there was 85 feet on the right side to the property line. She asked about that distance on the left side of the 9200 square foot building.

The Applicant, Mr. Salemme, responded that the left side borders an industrial property.

Chairman Pogoda asked that the record show that Comm. Parkins arrived at 7:05 p.m.

The Chairman asked if there were any further questions from the Commission. There were none. He asked if there was anyone from the Public who would like to comment.

Karen Platt, 253 Long Hill Cross Road, Shelton, addressed the Commission.

Ms. Platt indicated that she lives next door at 253 Long Hill Cross Road, making her the immediate next door neighbor to the proposed development. Ms. Platt stated that she is not well-versed in politics; however, she has followed the rules, attended the meetings and only spoken when she was allowed to; and yet the Applicant has been allowed to seek and receive advice and guidance from the P&Z staff before making its initial proposal and again before making tonight's proposal.

Ms. Platt stated that as a resident, she feels it is unfair that she is not given the same opportunities. Therefore, she is here again to present her family's point of view. They do not want this PDD granted. She referenced Atty. Bellis' statement that there was no surprise when they bought their home. They knew when they purchased #253 that they were surrounded by R-1 zoning. They knew

about the small LIP parcel on the far side of the lot. It makes no difference how small or large the contractor's building is, if this is passed, this building will be the first thing her family hears everyday from their bedroom windows.

She commented that Mr. Salemm mentioned at an Inland Wetlands meeting that he did not want to be a bad guy and shove something down the neighbors' throats that they do not want. Ms. Platt reiterated that they don't want it. She continued to state that this proposed development does not add jobs to the town. It simply adds more noise, more traffic, more congestion and an industrial development in what is now a residential area.

Ms. Platt commented that Atty. Bellis repeatedly references the town planners of 1966 recommending the economic and industrial development of the Route 8 corridor. And yet in the 42 years that have passed since that idea was quoted, the City has not taken measures to make that idea a reality in her immediate neighborhood. She indicated that her family's home was built in 1992. She asked that if this neighborhood was intended for non-residential uses, why were homes built there? – perhaps, because predecessors saw the potential in this neighborhood for families. They are right around the corner from Long Hill Elementary School, and they have gorgeous acres of what is now conservation land behind them.

Ms. Platt added that incidentally, the natural buffer with the 30 feet between her property and the Applicant's property is mostly deciduous providing no buffer from December through May. She added that her home has a beautiful view from their front yard to farm land across the street – they are surrounded by R1. The predecessor's actions of maintaining this R1 zone speaks louder than words. As a compromise to this proposal, their neighborhood has repeatedly indicated that they would welcome a single family home on the R1 portion of the land and absolutely support the building on the LIP property to keep a good company like Swageloc in this town.

Ms. Platt commented that if the Commission grants this PDD this item will be off of their agenda and out of their minds. There is no guarantee of the future uses of this development if Mr. Salemm decides to sell. No one knows the future uses that these buildings may accommodate; furthermore, it provides no protection for her family.

Ms. Platt concluded that she and her husband have invested their time, hard work and money into their house. Her children love living there. She asked the Commission to consider their decision between the Applicant's profit and the protection and needs of the residents in this neighborhood. She urged the Commissioners to protect the integrity of R1 zoning in this neighborhood, to protect her family's home, their financial investment in it, and their quality of life.

Ms. Platt's comments were received with applause from the other Long Hill neighbors in attendance.

Donald Sosenko, 248 Long Hill Crossroads, Shelton addressed the Commission.

Mr. Sosenko indicated that he owns a farm and a house at 248 Long Hill Crossroads across the street from this proposal. This proposal overlaps a split zone R1 and LIP. He's against the part of the proposal that includes building a warehouse structure in R1. The area for the building is too dense for the 1.3 acres of build-able space. In his opinion, it's an overdevelopment of the land. Additionally, the warehouse would be only 420 feet from the Long Hill School property line and its ball fields. It will only have a 58 foot buffer zone to the next property line and be 15 feet from the road. If this warehouse building is

LIP-zoned, the required buffer would need to be 75 feet from the next property line and 75 feet from the road. He only supports the Swageloc building because he thinks they are a good company and he wants them to stay in Shelton.

Mr. Sosenko added that putting a new home in the middle of a split zone proposal would not be a wise choice either. The same type of residential issues would arise for any new owner. He proposes that the R1 section of this lot be given to the Conservation Commission to prevent anyone from building on it. This area could be used as a buffer or transition access area to the open space behind Long Hill School. His house is across the street from this proposal. It's been there since the 1800's, and his family has owned it since 1926. There were no zoning regulations back then. P&Z has been changing the rules by squeezing more and more into this area. Mr. Sosenko urged the Commission to stop the overdevelopment of this land.

Mr. Sosenko's comments received applause from other neighbors in attendance.

Ingrid Walters, 261 Long Hill Crossroads, Shelton addressed the Commission. Mrs. Walters indicated that she felt ambushed by comments made by Atty. Bellis during public hearings held on August 5th, August 14th and September 11th of this year.

***See attached letter to the Planning & Zoning Committee from Ingrid Waters regarding Lot 29, Map 51 Long Hill Cross Road.**

Mrs. Waters read her letter, submitted for the record, with comments in opposition to those made by Atty. Bellis. She commented that she had been shocked by his statements that homeowners in this area knew what they were getting into when they bought homes on Long Hill Cross Road.

Mrs. Waters indicated that she would not have bought her home from Al Salemme, the Applicant's brother, if he had been truthful about the area being earmarked for light industrial use. Additionally, City Hall indicated that this area was a stable R1 zone.

Mrs. Waters relayed discrepancy in Mr. Bellis' comments that these 3.0 acres are split ½ R-1 and ½ LIP. It's not the perfect place for a PDD because the correct measurements for the two parcels are 1/3 LIP and 2/3 R-1.

Her other comments pertained to opposition of the commercial garages being built in this location, the impact of this development on area residents and the abuse of R-1 zoned land in Ward 3.

Mrs. Waters's letter received applause from neighbors attending the meeting.

John Anglace, 676 Long Hill Avenue, Shelton, CT addressed the Commission. Mr. Anglace indicated that he lives ½ mile away from Long Hill Crossroads and represents the residents of the area as Alderman. He thanked the Commission for keeping the public hearing open as long as they have. He pointed out the significance of keeping it open because this plan has changed. The public wouldn't have had an opportunity to comment on that change if this public hearing had been closed before tonight. Alderman Anglace stated that he thought that was significant because when dealing with Planned Development Districts, once the public hearing is concluded, everything is in P&Z's hands. This is a good opportunity for the public to let the Commission know how they feel about this modified plan.

He indicated that he wanted to incorporate or reference everything he said in the initial public hearing on August 5th. Subsequent to the public hearing, he spoke

to the Applicant and suggested the position of the neighbors as supporting the industrial building on the LIP zoned part of the property and the building of a home on the R1 property. The neighbors indicated the full support of any variances necessary to provide a new home for Swageloc. They welcome Swageloc. They want them to stay in Shelton, and they want the developer to begin that project. But they want the R1 part of that property protected and they don't want a PDD.

Alderman Anglace stated that he inquired as to why the application was changed after the August 5th hearing because it caught him by surprise. He came to that public hearing and commented on what was presented, and now it's gone to Inland Wetlands and it's a different, modified plan. It was approved by Inland Wetlands and has returned to this Commission, but the neighbors were not given any notice. They didn't know about it and the Aldermen didn't know.

Alderman Anglace commented that he understands that this came about as a technical meeting between Staff and the Applicant based on concerns raised at the first public hearing. He added that the minutes reflect that there have been many meetings between Staff and the Applicant in regard to the uses of this area and the development of two buildings instead of one large building to make it more harmonious with the existing dwellings; that is appropriate. However, there have been absolutely no meetings between Staff and the neighbors and their elected representatives on the same issue. There was not even a communication – when do they level the playing field and bring the other side into the equation? Where is the balance? If something like this is going to be done, give them notice and give them a chance to comment and be a part of internal discussions.

Alderman Anglace stated that actions such as this are not transparent, and they create suspicion, doubt, and the erosion of public trust. He added they he realizes this was not intentional on their part, but they need to realize how it is viewed by the public; it is not acceptable.

Alderman Anglace suggested the following, for those who are interested in a fair resolution of this PDD:

1. The PDD is within the discretion of the P&Z Commission and it is not necessary to achieve a neighborhood pleasing resolution for this transitional area.
2. The requested PDD should not be granted.
3. The developer should be allowed to build his Swageloc building on the LIP part of his site as a matter of right.
4. The developer should be allowed to build a home on the R1 part of the site, also as a matter of right.

Alderman Anglace added that by accepting his suggestions, this will allow the developer to commence almost immediately and eliminate the unnecessary doubt and trauma associated with a sound Shelton business seeking a new and larger home, and to continue to operate in Shelton.

5. The full support of the neighbors who understand the nature of this transitional zone and the unfortunate history created by predecessor P&Z Commissions who set difficult zoning lines for this Commission to deal with.

Alderman Anglace concluded that his suggestions represent the best way they can move forward in everyone's best interest. He hopes the Commission will adopt it.

Chairman Pogoda asked if there were any other comments from the public.

Irving Steiner, 23 Partridge Lane, Shelton, CT addressed the Commission. Mr. Steiner agreed with Alderman Anglace's comments. He stated that he represents We Are One, and naturally, they are very protective of R1 property. He commented that it seems ironic that the Salemme family initially sold homes to these people on the R1 property and profited from those sales. Now they are lowering the value of this property by attempting to get a PDD and converting this property to an LIP. It's a transitional property, an area that should remain stable. A PDD doesn't maintain stability. This Commission loses authority and control over this sensitive area by the installation of a PDD. Mr. Steiner added that he saw no positive requirement for it. It isn't absolutely necessary. All it does is allow the Applicant to operate with less control than normally applied. Therefore, he is also against the PDD, and no one has said why it is necessary. Down the road, it could allow any combination of different applications to this area and create disruption to the homeowners there.

Sara Boulier (sp?), resident of Cheshire, CT and owner of property on Long Hill Avenue, Shelton, CT addressed the Commission. She commented on behalf of her parents and grandparents who are no longer here, that they have had that property in the family for many years. The property is very important to them, and her family would like to keep it as open space and conserved as an R1 area. Ms. Boulier indicated that they've seen and been squeezed by all of this development around them. She added that it is time to stop this overdevelopment.

End of Tape 1A – 7:46 p.m.

Chairman Pogoda asked if there was anyone else in the audience wishing to speak.

Atty. Steven Bellis responded to comments made about losing control of this zone if it is a PDD. He indicated that there is a lot of control that the Board has on a PDD that they don't have if they use the regulations. He doesn't understand the comments about losing control over what could be done on that property. Those comments are false. The initial concept plan and the detailed development plan still have to be approved by this Commission.

In regard to comments as to why they need a PDD, Atty. Bellis responded by quoting from the regulations, under 34.2 for a Planned Development District, "to accomplish a transition between single family residential use and establish non-residential areas." He stated that was exactly what they have. Under 34.2.1 for when to grant a PDD, he read "when it's consistent with any comprehensive plan of development adopted by the Commission."

Atty. Bellis added that there was no question that they have a property that's split and they are going to need a PDD. He showed a map to illustrate what he was talking about. He showed the zone line separating the R1 and LIP zones with the shaded area representing this application. He showed Long Hill Cross Road and the zone lines across the street (designated as Map 51, Lot 28) where there are two industrial buildings that were there prior to anyone buying homes in that area. Atty. Bellis commented that this isn't White Hills where they are trying to come in and plop a PDD right smack in the middle of an R1, and the evidence doesn't show that. The evidence shows that there are at least 6 buildings that are manufacturing or light industrial right on Long Hill Crossroads, and one directly across the street with two buildings.

Atty. Bellis used the map of the area to explain that it wasn't feasible to have a house on the R1 portion and a building on the LIP because of the wetlands that preclude getting the necessary setbacks. They are asking for the relief of the

PDD to control what is going to be built there. This Commission could control how big the building is going to be, where it would be located and what the uses are. He concluded that this was the prudent way to fix this zoning problem that occurred as a result of poor planning years ago. He stated again that this meets the regulations for a PDD and it is consistent with comprehensive plan of development.

Atty. Bellis commented that he gets upset when people in the public make comments and they don't know what they are talking about as far as this Applicant wanting to park trucks from the Waste to Energy plant. This has nothing to do with that. It's not the same company, it's a different LIP, and it's not the same family member. That is not what is intended here.

He indicated that what is intended is in the Statement of Uses as they have told everyone up front. According to regulations, they are supposed to meet with Staff ahead of time to get some feedback. Everything has been done above the board here, and he gets annoyed when people make insinuations about things they don't understand.

Mr. Salemme, the Applicant, added that he thinks they are aware that he has nothing to do with Connecticut Waste, and that's the upsetting part.

Ingrid Waters, 261 Long Hill Crossroads, asked for clarification about some things shown on Atty. Ellis's map. She showed the 2/3 LIP and 1/3 R1 sections as being proportioned differently than Atty. Bellis stated. She added that this misconception has been repeatedly made.

Mrs. Waters, added that when Mr. Michael Salemme purchased this land he knew what he was buying, just like they were told as homeowners. She clarified that the two buildings across the street are office buildings. They have nothing against office buildings because they are quiet. However, they are concerned about the commercial garages. She clarified that she has nothing personally against the Salemme family.

Karen Platt, 253 Long Hill Cross Road, rebutted Atty. Bellis' comments.

She commented that Long Hill Crossroad is a transitional road, but just because there are industrial/commercial buildings already there, it doesn't mean that there should be more. There are homes and families living there and she doesn't understand how that is a decent transition between R1 and a contractor's garage next door.

Chairman Pogoda asked if there was anyone else, any Commissioners who wanted to comment. He asked for a motion to close the public hearing.

Comm. Harger made a motion to close the hearing. Irving Steiner asked why they didn't ask if anyone else wanted to speak.

Chairman Pogoda responded that he did ...

Mr. Steiner asked if... (inaudible) they were done?

Chairman Pogoda responded that he asked before Atty. Bellis spoke and rebutted anything from the Public.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to close the public hearing for Application #08-15.

APPLICATION #08-16M R.D. SCINTO, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (OFFICE BUILDING), WATERVIEW DRIVE (MAP 79, LOT 14) (CONTINUED FROM 8/5/08)

Mr. Schultz stated that the Applicant has submitted an addendum to the traffic report.

***See attached letter to Mr. R. D. Scinto from J. Constantino, Engineering, dated 9/9/08.**

Robert Scinto, One Corporate Drive, Shelton, CT addressed the Commission. Mr. Scinto stated that they were present from the last public hearing, which was kept open. They've submitted the final traffic report with all the levels, and they are here tonight to answer additional questions that anyone might have.

Chairman Pogoda asked Jim Swift if he had anything to add.

Jim Swift, Landscape Architect and Professional Engineer, addressed the Commission. Mr. Swift indicated that there was nothing additional, as Mr. Scinto pointed out. They've submitted the level of service records and he recalled that the hearing was kept open in order for other Commissioners to ask questions.

Chairman Pogoda asked the Commissioners if they had any additional questions. They did not. He asked if there was anyone from the Public who had a question or comment.

Judy Lang, 53 Catherine Court, Rivendell Condominiums, Shelton addressed the Commission. Ms. Lang commented that she lives in a section of Rivendell Condos that is a building with five units in it. She indicated that two years ago, there was a building going into the Ivy Brook Office Park area and further down on Constitution Blvd. During the time of construction, she could hear the pre-blast/post-blast whistles and she could feel the blasting. Her building shook, and as she mentioned, she is in the middle of five units. She doesn't know what was going on with the units further out to the periphery. Ms. Lang stated that she experienced a separation of molding on her stairs and baseboards, nail pops on the walls. She called and reported it at the time, and it was repaired, but she has concerns now because this building will be even closer than the buildings across the street.

Emanuel Pallart, 126 Morningside Court, Rivendell Condominiums, Shelton, addressed the Commission. Mr. Pallart had concerns about the traffic. He indicated that at the Rivendell Condos there were approx. 250 cars (estimating 2 cars per unit) entering and exiting Rivendell onto Waterview Drive. Mr. Pallart indicated that as it is, it's bad with Pitney Bowes and the other companies up there and the traffic that goes by. Now they would be faced with 360 to 400 additional cars. There are curves in this road that obstruct vision going up and down. There is a public bus stop there now, as well as the school buses. He explained the difficulties for a driver attempting to take a left turn out of Waterview Drive onto Constitution Blvd. It's a dangerous situation. He expressed concerns about the possibility of more buildings being put there because it would exacerbate this traffic situation.

Chairman Pogoda responded to Ms. Lang, the resident with the blasting concerns. He informed her that the City of Shelton has just enacted a new plan regarding blasting measures. The City will enforce the new measures, as adopted by the Board of Aldermen and the Fire Marshal's Office. The City will enforce the new measures adopted by the Blasting Committee.

Ms. Lang asked if it allowed for any recourse if she experiences problems as a result of the blasting.

Chairman Pogoda responded that there were pre-blast surveys requirements, he asked Rick to provide more information.

Mr. Schultz responded that all those questions should be directed to the Fire Marshal's Office during City Hall hours, 8 a.m. – 5:30 p.m. He added that the Fire Marshal has literature available about blasting.

Mr. Schultz added that this is an adopted policy; it is a policy that is above and beyond the state statutes. Only time will tell if they're enforceable because everything is governed by state statute. The state statutes have to be changed. In the meantime, the City has adopted this policy.

Mr. Scinto responded to Ms. Lang's concerns about the blasting by explaining that there weren't a lot of cuts. There is only one corner that might have a little cut. The building won't require much cutting. He explained that it would require more filling than blasting.

Mr. Scinto added that the blasters make videotapes and look at all the homes, they put machines on those properties and those tapes are available to the neighbors. So when they do blast, everyone knows what has been done. Also, the people they use for blasting are probably the best people in the business. He's never had any problems with them. He reiterated that there was nothing to worry about on this type of a site.

Chairman Pogoda asked if there was anyone else from the public who wanted to comment about this.

Mr. Scinto added that when he goes to do the next building, he wants to meet with the Association and make sure that they get a very good landscaping plan that offers as much buffer as possible.

Chairman Pogoda asked if there were any more comments from the Public or the Commission. There were none.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to close the public hearing.

APPLICATION #08-17, MJS BUILDERS, LLC FOR RE-SUBDIVISION APPROVAL (2 LOTS: NOLAN SUBDIVISION), 16 SOUNDVIEW AVENUE (MAP 87, LOT 34), R-1 DISTRICT.

Mr. Schultz read the call of the hearing. There was no additional correspondence.

Atty. Stephen Bellis, 47 Perch Road, addressed the Commission representing the Applicant. Atty. Bellis submitted the notifications to property owners to the Chairman. Atty. Bellis used a site map to explain the location near Huntington Center where this property was located.

Atty. Bellis indicated that there is a 250-year old home and an existing barn there right now. The Applicant didn't want to move the barn, but he wanted to keep the barn on the property, so he obtained a variance from the ZBA. The property corner was 11 feet from the property line, so he's already got a variance to have that setback be more than the 32 that's required.

He stated that this particular rear lot was designated as Parcel B. It's almost 65,000 square feet. They subtracted out the access way for the rear lot, so it's actually 60,000. Under the regulations, it has to be 1 ½ times so it meets the necessary land for R1. It has the square, the necessary access way and road frontage of 30(inaudible)...This particular rear lot would meet all the zoning regulations. Had it not been part of a larger subdivision, he would have come in for a subdivision application but these other lots had already been subdivided so he's considering this a re-subdivision. That is why he's here for this public hearing.

Atty. Bellis summarized that the Applicant is going to keep the existing as is, keep the barn. In essence, nothing is going to change on this property. The driveway is going to remain where it is. Everything on Parcel A will stay the way it is. Additionally, it has 43,000 square feet so it meets the R1 zoning regulations. There are no wetlands on the property. It has access to city water, Valley Health approval for septic system, but it also has the possibility to connect to the sanitary sewer off of Soundview Avenue.

Chairman Pogoda asked if there were any questions or comments from the Commission.

Comm. Parkins asked about the sight line coming out of the driveway. She also asked if that was the property bordering St. Lawrence Church.

Atty. Bellis responded that it was the property bordering St. Lawrence Church. He asked Comm. Parkins which driveway she was referring to.

Comm. Parkins responded that she was asking about the new one that they'd be creating that goes into the rear lot.

Mike Salemme, 40 Golden Hill Lane, Shelton, addressed the Commission. He responded that it was just a proposed access.

Comm. Parkins clarified her question about coming out of that driveway because it is a steep slope coming up off the church property.

Mr. Salemme responded that there was enough room to make that grade work fine. He couldn't imagine there being a sight line problem there.

Atty. Bellis added that he would have to meet driveway grade to see if he has to pave it.

Comm. McGorty asked if that was an end lot there, or if there was another house there.

Mr. Salemme responded that there was one home and then the driveway.

Mr. Schultz indicated that Staff just wanted to raise an issue, and he hadn't had a chance to speak to the Applicant. He stated that this property was involved in a two-lot subdivision 10 years ago. He indicated that the lot on the right of the site map and the lot in question had been created. The open space set aside payment in lieu of was waived because this involved a family. Statutes state a five block subdivision or under, if it's deeded to a family member, there's no conveyance of open space, no payment in lieu of. With the re-subdivision, the issue is whether or not to impose the payment in lieu of. He stated that he had not spoken to the applicant about this issue.

Atty. Bellis responded that the applicant doesn't have an issue if they don't want to impose a fee in lieu of. It would be their position that at the initial time they

do this, they'll have the opportunity to designate the open space or the fee in lieu of. That's absolutely correct, under the regulations, (inaudible)...

Chairman Pogoda responded that this is a new lot though.

Atty. Bellis stated that the new lot, this was the lot, part of the big lot, he wanted to clarify that (inaudible)...

Mr. Panico added that now they're creating another one.

Mr. Schultz commented that most of the applicants are aware that the Conservation Commission does recommend to this Commission that payment in lieu of can be considered, so they ask the Applicant to consider that.

Atty. Bellis responded that he understands that the Applicant needs to consider the payment in lieu of.

Chairman Pogoda asked if anyone else on the Commission had any questions. There were none. He asked if there was anyone from the public who had any questions or comments.

Walter Boland, 15 Sportsman Drive, Shelton, CT addressed the Commission. Mr. Boland stated that he lives at the rear of this property. He stated that this is a long-established neighborhood, so consequently, the neighbors in this area don't have any experience with waivers, approvals or subdivisions. They didn't have an opportunity to find out what was going on so they came to this hearing tonight. Mr. Boland indicated that he had difficulty hearing the presentation, so he still doesn't really understand what would be taking place. If this is a conventional lot being cut away, then he doesn't think there's any objection to that. However, they want to be assured that is the case.

Chairman Pogoda asked Atty. Steve Bellis to show Mr. Boland and the neighbors the site plan of the re-subdivision showing the location of the house.

Atty. Bellis displayed the site plan for them and explained that it was a conventional lot in the sense that it exceeds what is required in R1. Instead of having a 40,000 square ft lot, it has a 60,000 square ft lot because it's considered a rear lot which is permitted under zoning regs.

Mr. Boland asked if this was an L-shaped piece of property running from Soundview Avenue west to the property line taking a dog leg to the right.

Atty. Bellis responded that was correct, and they are proposing a 4-bedroom home.

Mr. Boland requested if he and the other neighbors could take a look more closely at the site plan because they are inexperienced at this. They live in an area that doesn't change.

Atty. Bellis provided the drawing and answered questions for the area residents. The side conversations were inaudible. Chairman Pogoda allowed a 5-minute recess for this review of the re-subdivision plan.

After review of the drawings, Chairman Pogoda asked if there were any other questions from the Commission or the public regarding this application.

Howard Seroy, Sportsman Drive, Shelton, CT addressed the Commission. He indicated that this is the 2nd meeting he's come to regarding this application. At the first meeting he attended 3 or 4 weeks ago, he sat for 2

hours only to find out the hearing had been postponed. Initially, this hearing was scheduled to be held upstairs in the P&Z office, but no one announced it was changed to the Auditorium. He asked if someone could try to better communicate this type of information to the public.

Chairman Pogoda responded that the Commission would now be holding public hearings in the Auditorium. If the Auditorium is not available, then the date of the public hearing will be changed to a date/time when it is available. He added that he understands Mr. Seroy's comments and frustrations, but from now on all public hearings will take place in this auditorium.

Comm. McGorty added that changes are posted on the bulletin board outside in the hallway.

Mr. Seroy asked if a sign could be posted on the door if a meeting time or meeting location is changed.

Chairman Pogoda indicated that they would do that and apologized for any inconvenience. He asked if there were any further comments from Atty. Bellis, the public or the Commission. There were none.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #08-17.

OLD BUSINESS
APPLICATION #08-13, (GLEN GROVE ESTATES) – MODIFICATION OF
CONDITIONS OF APPROVAL

Mr. Schultz stated that the Commission recently approved a three-lot subdivision with the condition that the conveyance of open space, the back of Parcel A, be forwarded to the BOA for acceptance. The BOA rejected it at their September 11th meeting, and they felt that the demarcation of the conservation area would make more sense because the land area would be left on the tax roll. Because of the rejection by the BOA, he has to make a referral after the Commission makes a decision. The Commission would need to make a motion to modify the condition of approval by replacing the conveyance of open space for the area in the rear of Parcel A and to demarcate that area as a conservation easement consisting of 9900 square feet.

Atty. Steve Bellis provided the Commission with a map showing Parcel A for them to review. Atty. Bellis showed them what he had presented to the BOA and the area to be open space. He commented that John Anglace had told him that they would be approving the open space but then...(inaudible)

Mr. Schultz added that they heard they got the payment in lieu of. The Applicant agreed to do both.

Atty. Bellis responded that it was OK, it didn't matter, because he made a new map. He showed that the new map was the same thing, they took the open space and made it the conservation area and then continued to (inaudible). He said that on the map, they deleted the words "open space" and put the words "conservation easement." Atty. Bellis showed them the difference between the old and new maps.

Mr. Schultz summarized that they are replacing the conveyance of open space with a conservation easement.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to approve the modification of the conditions of approval for Application #08-13.

APPLICATION #08-14, SPORTS CENTER OF CT FOR MAJOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #30 (VIDEO ARCADE ADDITION), AND CAM SITE PLAN, 784 RIVER ROAD (MAP 12, LOTS 37 AND 38), (PUBLIC HEARING CLOSED ON 7/15/08) – DISCUSSION AND POSSIBLE ACTION

End of Tape 1B – 8:36 p.m.

Mr. Panico stated that they have prepared a draft resolution for the Commission to review and adjust if they choose to. He added that Staff has been working with the Applicant to address the major area of concern taken from the Commission's discussions regarding the question of adequate parking and dealing with the potential that there may not be enough.

Mr. Panico indicated that the Applicant initially thought he was going to be able to make an arrangement with the property owner next door to utilize some of the rear land and expand his parking lot over there. For whatever reasons, economic or otherwise, that has not been able to happen.

He stated that the Applicant also attempted to do some work with a sliver of parking beyond the fence at the driving range. While it looks feasible on a map, it is difficult in reality because of topography, and it's inconvenient because of its location and long, narrow shape. There could be a some parking there, but not the amount the Applicant originally planned.

Mr. Panico read the draft resolution for Application #08-14.

***See the attached P&Z Commission document entitled Conditional Approval of Modified CAM Site Plan and Detailed Development Plans/Adoption of Modified PDD. dated August 4, 2008; Rev. 9/23/08.**

Mr. Panico stopped reading the resolution at various points to explain the Applicant's plan for parking by showing a map of the site. He showed an area along the fence line where the Applicant considered creating a long, linear parking lot. However, without sufficient room for all the cars to back out, the plan doesn't work.

He mentioned another parking consideration that has been contemplated involves the use of a limited number of spaces up in the front reserved for public access to the waterfront, as required under the CAM approval. They've discussed taking some of the spaces out of there and moving them down for better convenience and to free up some room in the front. Additionally, they discussed with the Applicant that he restrict some of his employee parking to allow more parking spaces in the front.

Comm. Sylvester asked for clarification about moving the parking required on the CAM.

Mr. Panico responded that as part of the last approval that they gave, they had to address some Coastal Area Management issues requested from Hartford. One thing that was necessary was to provide some clearly designated spaces reserved for the public to park and go to the open space area – the River. In order to claim some water dependency, they had to be able, at the very least, to make the waterfront accessible to the public. Those spaces were set aside and reserved up front for that purpose.

Mr. Panico indicated that they are located in the far corner in front right of the parking lot. It was suggested that those six spaces be moved to the back parking lot because it is more convenient for that use anyway. Additionally, they spoke to the Applicant to ensure that no employees park in the front lot either.

Comm. Sylvester asked if the spaces for the people using the River would be increased.

Mr. Panico responded that they wouldn't increase the quantity; however, they'd be taking the restriction off those spaces so they could be used during peak activity.

Comm. Sylvester commented that he's been there during peak activity and those spaces aren't open. In actual use, those parking spaces are used for patrons in the front building, not for public people accessing the River. Comm. Sylvester concluded that in looking to increase parking, those spaces shouldn't be included in the increased count.

Mr. Panico responded that they aren't increasing the count; they are just trying to preserve, to the best of their ability, as much of the parking in the front as possible for the customers to use.

Comm. Sylvester restated that he meant that if the Applicant begins to show more parking in the future, and if the Commission would go along with the opening of the second floor; what he meant was the total parking count, down the road.

Mr. Panico responded that the decision of the degree to which the second floor is used will have to be based on the experience of how things are going down there. It's difficult to project up front what the required number of parking spaces might be. The Commission has always expressed a concern and the Applicant has always indicated that he's never had an issue.

Comm. Sylvester commented that he has issues, he's seen issues. Anyone driving by there in Shelton on the weekend, or people using the facility, see what's happening. That's how he discovered it. He added that he doesn't want to sound negative, because he thinks the Applicant has a very positive impact on the recreational aspects of the community. He does a nice job and keeps his place beautiful.

Mr. Panico stated that the Applicant conveyed to them that if the Commission is really still concerned, he'll build a space and won't use it for the party rooms until the Commission develops a higher comfort level. That way, the Commission can monitor his ability to use that space.

Upon completion of reading the draft resolution, Chairman Pogoda commented about Section A, #2, regarding Leon's comment, he added that he's been there at times when the parking seemed tight, irregular, and helter skelter on the side of the building, especially during the winter.

Chairman Pogoda commented that they'll put the video arcade in, but not use those party rooms. At the time that he is ready to phase them in, the Commission will reassess the parking. If there's not enough parking, then they won't give him permission to put in the party rooms, but he'll be able to use the video arcade. He's in negotiations with the neighboring property owner for more space, so all they are doing is approving the concept. Anything additional will require more parking. He asked for a motion.

Comm. Parkins asked if that would come back to this Board or would it be handled administratively.

Mr. Schultz responded that the Chairman won't sign off on the plans, and that means no zoning permits.

Comm. Sylvester asked if, at the time the Applicant obtains additional parking, would it be brought back to the Commission.

Mr. Panico responded yes, that is not a Staff decision, it's a Commission decision.

Comm. Parkins asked if that meant the Applicant would be making the modifications to his building, but not occupy the upstairs party rooms until he gets more parking.

Chairman Pogoda responded that was correct. He asked for a motion and a roll call vote.

On a motion made by Leon Sylvester seconded by Thomas McGorty, it was unanimously roll call voted (5-0) to approve the resolution for Application #08-14.

APPLICATION #08-16, R. D. SCINTO, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (OFFICE BUILDING), WATERVIEW DRIVE (MAP 79, LOT 14), DISCUSSION AND ACTION.

Mr. Schultz indicated that Staff has prepared a Staff Report that Mr. Panico would read for the Commission.

Comm. Sylvester commented that he was absent during the initial presentation for this Application. Comm. Harger indicated that she was absent, but took the tapes home & listened to them.

Mr. Panico stated that they went through the background material, public hearing notes. There was really no opposition, and only some concerns that were expressed. Some of those concerns will be addressed while others will be deferred to the State Traffic Commission. They've prepared a Staff Report leading up to an action, if the Commission feels prepared to take such an action. He read the report for Application #16.

***See attached P&Z Commission Staff Report dated September 23, 2008 for Application #08-16 R. D. Scinto, Inc.**

Chairman Pogoda asked if any of the Commissioners had any questions or comments regarding the application. There were none. He asked for a motion and a roll call vote.

On a motion made by Thomas McGorty seconded by Ruth Parkins, it was unanimously roll call (4-0) voted to approve Application #08-16. Comm. Sylvester did not vote because he was on a scheduled vacation at the time of the public hearing for this application.

OTHER BUSINESS

A. PZC INITIATED ZONE CHANGE (MCCALLUM, RIVERVIEW PARK AND HOUSATONIC RAILROAD PROPERTIES): RESCHEDULE PUBLIC HEARING

Mr. Schultz indicated that due to conflicts with the BOA meeting, the Auditorium would not be available on the date for this public hearing. In the interest of

FOIA, he suggested rescheduling this public hearing for a date when the Auditorium would be available because the P&Z Office is not large enough for the public hearing.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to change the date of the public hearing from Tuesday, 10/28/08 to Wednesday, 10/29/08 for the PZC Initiated Zone Change (McCallum, Riverview Park and Housatonic Railroad Properties).

B. ZONING SUBCOMMITTEE REPORT: SIGN REGULATIONS AMENDMENT

Chairman Pogoda distributed the sign regulations. Mr. Schultz commented that Corporation Counsel has submitted its recommendations, which appear on the last few pages of the packet. These will be made available to the general public, but as the Chairman indicated, he wants to distribute them tonight so that they can start reviewing them and have meaningful discussions when the time presents itself. He added that the Subcommittee would like to have a public hearing by November, if at all possible.

Chairman Pogoda asked the Commissioners to take a look at it and make any notations that they have, pro or con.

Mr. Schultz added that this was a very comprehensive rewrite. There was a lot to read, but they are constantly reminded at every regular meeting about the signs. These regulations would be City-wide but they have unique issues that deal with Downtown, Bridgeport Avenue, and Huntington Center. The Subcommittee has tried to address all of those geographical areas. Staff will deal with comments from the public and the Chairman will be answering questions from the newspapers. This will receive a lot of interest, as it has in other towns in the area.

C. WELLS AVENUE PHASE IV PAPER STREET EXTENSION : CALL PERFORMANCE BOND

Mr. Schultz indicated that the Commission has received a letter from the City Engineer. He read the letter from R. Kulacz regarding the extension of Wells Avenue, and the Coram Gardens area.

***See attached letter to the Commission dated 7/30/08 from R. Kulacz, City Engineer.**

Mr. Schultz added that the same Applicant would be building two more homes off of the cul-de-sac. They just received authorization from Asst. Corporation Counsel that they have legal frontage. The Applicant asks why they should pay at this time when they will be beating it up with the heavy equipment.

Mr. Schultz commented that asphalt plants usually close around Thanksgiving unless there is a mild winter. It takes some time when calling a bond to go through the whole process. That is the reason the City Engineer wrote this letter at the end of July. The Applicant's attorney is present to address this issue.

Atty. Stephen Bellis, 47 Perch Road, addressed the Commission representing the Applicant.

Atty. Bellis indicated that he has serious problems with the letter from Bob Kulacz, the City Engineer. He referenced the first sentence in the letter as stating the cul-de-sac and new homes have been completed and sold and it's

long overdue. Atty. Bellis questioned what legal right Mr. Kulacz had to call a bond because it's overdue. It's not like a library book with a stamped date. It's not overdue. They have a Wetlands application that was approved that has a permit from October 26, 2007 – October 26, 2012. There have been no complaints with the Wetlands regarding dust. There have been no complaints that he's aware of with erosion or anything with that road.

Secondly, the City Engineer's Office has to OK and inspect the drainage that they put in there – a catch basin and a sewer line. He hasn't done that – and now he wants to rush, call the bond and pave it, when he hasn't even inspected the drainage yet.

Atty. Bellis commented that the letter indicated there had been complaints. He responded that he hasn't had any complaints, any letters or documentation from anyone. In fact, he has three homeowners who live on the cul-de-sac, who are in favor of the two houses being built. Not one of them has complained about the road not being completed. He added that he has MJS Builders here as well.

Atty. Bellis stated that as Rick Schultz said, there are two lots directly at the end of the cul-de-sac which the Applicant has approval for – Lots 171 and 172. There was a building permit obtained for those lots, and the Engineer sent a letter to the building inspector telling him to rescind the permit. He had the Corporation Counsel write the letter. Atty. Bellis stated that he told him that was illegal, and he can't do it – and now on the other hand, he's saying let's call the bond. This is blatantly unfair. He knows that there are two more lots that are going to be built, and that they'll have to bring in a lot of fill to make that driveway. Heavy equipment will have to come in to do the foundations. There is no legal basis to call this bond just because Bob Kulacz sends a letter to the Commission. He stated that they should make him document the legality of why that bond should be called.

Atty. Bellis indicated that he specifically wrote this Commission a letter on 8/6/08 saying that he represents the Applicant and the surety is simply to guarantee the construction of the road. The road has been constructed. The fill has been brought in. The cul-de-sac has been graded off, the drainage has been put in, a sewer line has been put in, and the only thing left to do is pave it. He also wrote in his letter that the applicant has every intention to complete the construction of the road including the paving. There is no need for him to rattle the cage, send the Commission a letter, making a mountain out of molehill. There is no need for it. There are no neighbors screaming and crying that this is causing a problem on their road. The only ones affected understand that there is going to be two single family homes that are going to be built. He would ask that before taking any action, this be referred to Corporation Counsel for their legal opinion. Because calling a bond is a serious thing and having a unsubstantiated letter from Bob Kulacz because he says its overdue does not cut it.

Chairman Pogoda responded that they weren't there to debate whether he is telling the truth or not telling the truth. They have to take his word on this. The first thing, just to make it easier for the wintertime, he stated that he thought it would be prudent to just put the first course down. They may be recommending October 15th to get this done – there was mention of the sewer line – Bob could get someone there before that to check that out prior to putting that first course on to prevent digging it all up again.

Atty. Bellis responded that the Engineering Dept. does not allow a builder to put a binder course down and come back later to put a second course on.

Chairman Pogoda commented that they did it in his development, three years ago – it's not a public road though.

Mr. Panico stated that it used to be common practice on a major subdivision to hold off on the last surface coating until everything is done, and then they make it nice and clean.

Atty. Bellis responded that it used to be common practice. They've argued that to the Engineering Dept., requesting that, because as you just said, it makes sense.

Mr. Panico asked if there is an ordinance there.

Mr. Schultz responded that it was his call, a judgment call. They'll need clarification on that.

Chairman Pogoda indicated that he was going to have Staff get clarification, because he can understand not putting down pavement that might possibly be dug up.

Atty. Bellis commented that this isn't going to be future developments. They have permits to build these homes, they started construction until this snafu with the building permits in the Engineer's Office. It's not like this is something that is going to happen ten years down the road. They are going to be building immediately.

Mr. Panico asked if this was going to be done before the winter, or next spring? The Commission is hesitant about going through the winter with an unpaved cul-de-sac.

Atty. Bellis responded that if the Engineering Dept. OK's the drainage – the last thing that his client wants to do is spend money and then rip it up to change the drainage.

Chairman Pogoda agreed with that and stated that this would be tabled until Staff can meet with the Engineering Dept. for clarification.

End of Tape 2A, 9:22 p.m.

Atty. Bellis stated that they've asked him on other projects, although he can't recall them specifically right now, and he said no, both courses have to be done one right after the other. He added that he'd like the drainage issue resolved before they put a binder course (inaudible)...

Chairman Pogoda agreed that was common sense and he asked for a motion to table this to give Staff sufficient time to work with the Engineering Department and come back with some conclusions.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to table the Wells Avenue Phase IV Paper Street Extension Performance Bond.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to adjourn at 9:25 p.m.

Respectfully Submitted,

Karin Tuke

