

3. copy of the 2003 Valley Council of Government Strategic Plan of Conservation & Development
4. copy of the 2005-2010 State of Connecticut Conservation & Development Plan, City of Shelton location guide map
5. referral to the Valley Council of Government on this referral
6. notification to property owners
7. letter dated January, 11, 2008 to the U.S. Army Corp. of Engineers

Additionally, Mr. Schultz read two pieces of correspondence from the first public hearing. He indicated that a second recommendation referral was made to the Valley Council of Governments, but the first recommendation stands.

***See attached letter from the Citizen's Advisory Board dated 2/26/08.**
***See attached memorandum from the Valley Council of Governments dated 2/13/08.**

Mr. Schultz indicated that within the exhibits presented tonight, there is a document that has been prepared on behalf of the Planning & Zoning Commission to the U.S. Army Corp. of Engineers permit application dated 1/11/08. He read two excerpts from that document that reference the zone change area.

Mr. Schultz showed the location map for this proposal to the audience. He indicated that the first time it was presented to the Commission they had a statutory issue with the posting of the legal notice. Everything is essentially the same. The map identifies the area in question as indicated from going to the center line of the Housatonic River and all the way north to where it meets the existing R-1 district. The logic is that this is a continuation southerly of the R-1 district to the Canal Street area which has been rezoned to a PDD to facilitate the redevelopment of the downtown area.

Mr. Schultz showed that it also goes westerly to the center line of Howe Avenue, Rt. 110. Essentially, this map indicates the desire of this Commission to rezone the 70 (plus or minus) acres of three parcels to facilitate the recommendation of the 2006 Plan of Conservation and Development that was adopted by the Shelton Planning and Zoning Commission.

Chairman Pogoda asked if the Commissioners had any questions or comments. There were none. He asked if there was anyone from the audience who wished to comment.

Joseph Zarmack, Jr., co-owner and managing partner of McCallum Enterprises and the Shelton Canal Company addressed the Commission.

Mr. Zarmack indicated that he strongly opposed the rezoning of a privately owned property for the following reasons:

1. The City of Shelton has indicated, in writing, its purpose to give Shelton a record of having designated the private property of Shelton Canal Company as a public park in the City Master Plan. There have been various e-mails from the Shelton Conservation Commission, etc. The City has taken no action to rezone the Shelton Canal Company from R-4 to R-1 until the Shelton Canal Company and McCallum Enterprises took steps to develop the property as high density housing by filing an application with the Army Corp. of Engineers to develop a portion of the Canal.

2. The City of Shelton is acting unlawfully to bring about the conservation of private property into public space by destroying the fair market value of the property. It is unlawful for the City to use its zoning powers to render property undevelopable when the purpose behind such actions is the defacto of taking of that property. The City claims that the current action does not amount to spot zoning, but two public properties are included in the rezoning. One property is a railroad track bed which is undevelopable either as R-4 or R-1 due to the long, narrow configuration of the property, and it's used as a railroad track. The second property is already zoned as a public park which cannot be lawfully developed unless the City itself was to develop it.

Mr. Zarmack indicated that, in effect, the sole property at which the zoning is directed is the Shelton Canal Company. The City's attempt of camouflaging its actions by including these two other properties will not prevent a court reviewing its actions and seeing it for what it is – spot zoning. The City's actions perpetuate fraud. If the City were to purchase the property, it would be required to pay fair market value which would be determined, in part, by the property's potential uses pursuant to the existing underlying zone. If the City wishes to negotiate the purchase, the same considerations would apply. By fraudulently changing the underlying zone, it is clear the City is attempting to reduce the fair market value by reducing the number of housing units that can be built as a matter of right pursuant to the R-4 zone.

Mr. Zarmack continued to state that it was questionable whether or not the City has jurisdictional authority to change the zone on the Shelton Canal Company property or if the property is subject to terms from the Federal Energy Regulatory Commission jurisdiction. The terms of the first license for use of their properties supersedes the jurisdiction from the City of Shelton Zoning Commission. This fact which was acknowledged by the City of Shelton P&Z Commission and the Inland/Wetlands Commission at the time the Derby Dam Hydroelectric project was permitted and constructed. The actions by certain individuals acting on behalf of the City of Shelton to act fraudulently under these considerations exposed the same individuals to personal liability on federal regulations. Certain public servants should know that they are acting to deprive a citizen of the value of his or her property without due process and that they are masking the real intent of their actions in order to bring about a result that they would not otherwise be able to achieve.

Mr. Zarmack reminded the Commission that this was private property and rendering it undevelopable ultimately increases the value of other riverfront properties. It also hasn't escaped him that this Board has allowed a very high density 10 feet from their property line; and somehow other riverfront property, namely, the Mayor's, will be zoned more restrictive. It is a question of fundamental fairness. Both McCallum Enterprises Ltd and Shelton Canal Company will pursue all available legal remedies against the City of Shelton for persons acting under the color of authority for the City of Shelton, to make certain that this unlawful activity is not taken. Both McCallum and Shelton Canal Company have made it clear in face to face meetings with the Mayor of Shelton and in correspondence with the City of Shelton that they are willing to sell the property that the City of Shelton has designated as a public park.

Mr. Zarmack concluded that there was no need to destroy the fair market values when the Shelton Canal Company is a willing seller. McCallum and Shelton Canal Company implore the P&Z Commission to refrain from taking this unlawful action and instead refer this to the proper authorities within the City of Shelton to negotiate a sale of this property.

Thomas Harbinson, 15 Soundcrest Drive, Shelton, Chairman of the Conservation Commission, addressed the Commission. Mr. Harbinson commented that he also served on the Plan of Conservation & Development Advisory Committee, so in that regard, he was glad to see the zone change being considered because he thinks it does follow some of the principles outlined in the Plan of Conservation and Development.

Mr. Harbinson referenced comments from the previous speaker, and indicated that the area, up until recently, was available to the public to enjoy but McCallum Enterprises recently applied to FERC to limit the public accessibility for portage and fishing access on the River. So up until recently, it was a publicly accessible park.

Comm. Sylvester responded that it was his contention that access to this property for public recreation/fishing was part of the approval of the construction of the power plant. He wanted that stated for the record. He's asked Staff to review past records, and they have, and Rick Schultz has stated on the record that it was part of the approval.

Comm. Sylvester stated that he sat on the Board that gave the original approval for the power plant. At that time, if he recalls, they did not have much recourse, and they were essentially mandated to allow the power plant to happen. However, he remembers at least two things that they negotiated – public access for fishing/recreation and, he recalls a promise from the State for a fish ladder at this site. The decision made at that time was that a fish ladder was not appropriate because there weren't enough significant species at the bottom of the dam to require the State construction of one. As he understands it, that request was a lasting request, and when they saw fit for the installation of a fish ladder it wasn't going to be part of the approval. He wants the record to reflect the actions taken in the late 1980's.

Chairman Pogoda asked if there were any other questions or comments. There were none.

On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to close the public hearing for the Shelton Planning & Zoning Proposal to amend the Building Zone Map for properties north of upper Canal Street.

The public hearing ended at 7:30 p.m.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATES OF ZONING COMPLIANCE

SEPARATE #6687, TNC PROPERTIES, 350 BPT AVENUE, SPORTS BAR/RESTAURANT

Mr. Schultz indicated that the Commission had asked him to do a comparative analysis for 350 Bridgeport Avenue for this proposed sports bar/restaurant and the old Madison's Restaurant formerly located at 515 Bridgeport Avenue.

He stated that the proposed business for 350 Bridgeport Avenue would be a sports bar/restaurant; whereas Madison's was a restaurant/bar/catering facility.

The type of liquor license being requested for 350 Bpt. Ave. is a café license. At Madison's it was a restaurant liquor license.

The floor area for the proposed application is for 3000 square feet. Madison's was 10,000 square feet.

Maximum occupancy, as established by the Fire Marshal, for the proposal is approx. 250 and for Madison's it was 450+.

In regard to parking spaces, Mr. Schultz stated that he took the number of spaces required for that particular leased area and how many parking spaces are actually permitted for the night time hours. For the proposed bar/restaurant, 32 – 50 spaces are provided; at Madison's, there had been 60 – 70.

The ratio of parking spaces to floor area for the proposed application is 16 spaces per 1000; for Madison's it had been 7 spaces, hence, there were problems with parking. Madison's was three times the size of this facility. The parking ratio is much better for the proposed facility. He indicated that he spoke to the Fire Marshal regarding this issue and he is confident this will work. He added that the maximum, before it becomes necessary to have internal sprinklers, is approx. 252; so, there's a threshold if the building wasn't equipped with sprinklers. That is another code requirement he wanted to point out to the Commissioners.

Mr. Schultz recalled that at the last meeting the comfort level was there for the parking but this comparative analysis was needed. There are a lot of distinctions between the two.

Comm. Parkins asked if the banquet hall was included, in the comparison to Madison's 10,000 square feet.

Mr. Schultz responded that it was – it was all inclusive.

Comm. Parkins noted that wasn't the majority of Madison's business. She asked what the square footage of just the restaurant and bar area was at Madison's.

Mr. Schultz responded that he thought it was between 5000-6000 square feet.

Comm. Parkins commented that she thought that was a more fair comparison to what the proposed operation may be.

Mr. Schultz indicated that it was the parking ratio that failed at Madison's, but the comfort level is there for this one, and the Fire Marshal echoed that to him. He commented that the Commission wants to do their due diligence because the Commission was criticized on the Madison operation - it was a very popular restaurant and a lot of single people drove to the facility.

Chairman Pogoda asked Rick how many total spaces they have at the 350 Bridgeport Avenue shopping center.

Mr. Schultz responded that the 70 spaces represent the front parking area, and then they have the parking on the side – with 32 spaces earmarked. He added that was for 8 per 1000.

Chairman Pogoda asked if they were supposed to be getting 16 per thousand.

Mr. Schultz responded that was based upon the 50 spaces that would clearly be available during the night time hours because of the types of other operations (pet store, bank, nail salon) there.

Chairman Pogoda noted that the pizza place would be open until about 10 p.m.

Comm. Sylvester asked about a provision for night parking and the location of the Hertz rental cars.

Chairman Pogoda responded that the rental cars are supposed to be in the back anyway, and they should not take up any spaces in the front or on the side.

Mr. Schultz indicated that the project afforded the Commission to get more parking than was needed based upon the square footage of the building. The Madison's site had constraints because of the blasting that was needed – it wasn't very deep. This has a very deep front. Staff recommends approval.

Comm. Harger asked to see a floor plan of the proposed bar/restaurant.

Chairman Pogoda asked about Staff monitoring the site. He expressed concerns about outdoor music and outdoor seating.

Comm. Parkins asked again about the total number of spaces available at night.

Mr. Schultz responded that there were 70 total available in the front – 32 are required by Zoning. That doesn't include the side area near the retaining wall and parking available in the back too. He added that there really are a lot of parking spaces there.

Comm. Lopera commented that there was a lot of open space on the floor plan and indicated that there could be a lot of people on the floor of that open bar area - drinking and watching TV. Comm. Parkins concurred that she thought the bar area was large.

Comm. Lopera added that if there were 100 or 150 people in there – then there could be 150 cars.

Mr. Schultz responded that the single drivers were of the greatest concern.

Comm. Lopera asked about the number of available spaces front, side and back.

Chairman Pogoda responded that there were roughly 20 spaces on the side and 70 in front that are easy to access – about 90 without including the rear of the building because he assumed that would be employees.

Comm. Lopera asked about the limit of people per the fire codes.

Mr. Schultz responded that the code would limit it to 250 people if it were not internally sprinklered.

Comm. Jones asked what the max was if it had internal sprinklers.

Mr. Schultz responded that it could go higher and (inaudible due to side discussions). The maximum number is 250 without the internal sprinklers.

Comm. Jones asked if it had sprinklers.

Chairman Pogoda indicated that he didn't know and that determination would need to be made by the Fire Marshal.

There was more than one discussion taking place (inaudible) about floor space, bar area, number of tables, parking ratios, etc.

Comm. Lopera commented in regard to the floor plan and there were not very many tables for eating. Most of this is a bar. There isn't a lot of seating.

Comm. Sylvester added that if they are taking 900 square feet for a kitchen, then they intend to do something with food. A 900 square foot kitchen is a big kitchen for a facility like that.

Chairman Pogoda asked if this layout showed all the planned seating, because he recalled that at the last meeting he had asked to see how much seating they would have – how many tables and chairs they are going to have.

Mr. Schultz asked if the Applicant was present.

Anthony Tadduni, 1431 Monroe Turnpike, Monroe, CT addressed the Commission. Mr. Tadduni commented that he had attended the last meeting and no one had mentioned anything about the seating. Rick Schultz asked him for a sketch when it was in the infancy stages. He said that he has a concept drawing, but he didn't bring it with him tonight. He explained that the seating would be for about 85 people. The 900 square feet includes the area for the bar (that wouldn't be standing room), an office and a liquor cabinet. It would not be a total of 900 square feet just for a kitchen – its non-patron area though.

He clarified that they were on the right path when they talked about it being a sports bar. It isn't going to be five-star dining, but he's going to have food and serve it there.

Comm. Jones asked for clarification that there would be seating for 85 people and the allowable max of 250 people.

Mr. Tadduni responded that was correct.

Comm. Parkins asked if that included the bar stools.

Mr. Tadduni responded that with tabled seating and bar stools it would be approx. 85.

Chairman Pogoda asked how many tables he planned to have in the eating area.

Mr. Tadduni responded that there would be about 17 or 18 tables, and a drink rail with seating as well.

Mr. Schultz asked Mr. Tadduni if he was advising this Commission that his business would be successful with 85.

Mr. Tadduni responded yes.

Chairman Pogoda relayed that the Commission's concerns are about problems similar to what occurred down the road with a previous restaurant.

Mr. Tadduni responded that he recalled the Madison's restaurant and the parking situation there. He added that Madison's was a much bigger place than his. He asked how many parking spaces Madison's had available.

Mr. Schultz responded that they had 70 directly accessible spaces, but there were other spaces that you could fight for.

Atty. Dominick Thomas, 315 Main Street, Derby, CT, representing the landlord, addressed the Commission. Atty. Thomas indicated that the lease he sent out to the Applicant's attorney stated it was for a space of 3620, or 3820, there's been some discrepancy on that. He added that there were quite a few spaces in front of the bank, perhaps not easily accessible.

Chairman Pogoda responded that those spaces were counted in the 70, and there are roughly 20 on the right side closest to them. If the lease says less square footage, that's great because there's that much less space in there. This is always a concern of the Commission.

Comm. Harger asked for clarification about the code for a 250 person capacity. She indicated that the Applicant states his seating capacity is 85 people to be accommodated between 17-18 tables; a drinking rail and bar; taking away the 900 square foot non-patron area from the overall 3600 leaves about 2900 square feet.

Comm. Parkins asked if there would be any live music or bands in there.

Mr. Tadduni responded that with the café license, they were planning on it, yes.

Comm. Parkins asked if the reduction of that space reduces the capacity it would hold per the Fire Marshal. If the Fire Marshal said 250, would it be reduced or is it based upon the space.

Mr. Schultz responded that it would be insignificant, but he has a code because it is not internally sprinklered.

Mr. Tadduni commented about the 250 being based upon his square footage, because his seating (inaudible).

Mr. Schultz commented that the Commission was looking for some guidance and asked if he would be inclined to support a lesser amount on the capacity – because 90 patrons had been mentioned earlier.

Mr. Tadduni responded that 90 was his seating area and it would have standing room as well.

Comm. Jones asked if he could seat 90 and at the bar – how many stools?

Mr. Tadduni responded that it was 25.

Comm. Jones responded that he's at 110.

Chairman Pogoda commented that the total seating was 85 and the bar is 25 more.

Comm. Harger asked if that included the rail.

Mr. Tadduni responded (inaudible).

Comm. Jones asked how many people at the 17 -18 tables. Were they 4 person tables?

Mr. Tadduni responded that they would have some 4-person and some 2-person bar type tables. He can't recall the exact breakdown of table sizes.

Mr. Panico asked the applicant what he anticipates as his practical capacity – sitting and standing.

Mr. Tadduni responded that the number 150 would probably (inaudible).

Mr. Schultz asked if he could pass that number to the Fire Marshal on behalf of the Commission.

Mr. Tadduni responded that his maximum (inaudible due to side discussions).

Mr. Panico explained that the Commission's concern was to maintain a reasonable balance between the people expected and the available parking. They don't want to run the risk of overflow parking spilling out onto Bridgeport Avenue.

Mr. Tadduni responded that on the average, although people come as singles in a car, there are people that come two, three, or four to one car as well.

Chairman Pogoda commented that they just don't want to have a repeat of what went on at Madison's.

Mr. Tadduni agreed that he didn't want that either.

Atty. Thomas indicated that the biggest problem Madison's had occurred when they had events. They had small events running in that party room that caused (inaudible due to side discussions). With the bar they had problems because, at that time, they had 10 – 15 of their spaces being taken up by Enterprise, and that is what caused the overflow with Madison's bar/eating. They also had, if he recalls, 5500 restaurant/bar area and many more tables in the eating area. So a full dinner rush, a full bar and 15-20 spaces being taken away by Enterprise created the parking nightmare; a parking tsunami occurred whenever they had a party like the Police Chief's Retirement Dinner.

Comm. Jones asked how soon he needed to open for occupancy – does he plan to open before Thanksgiving.

Mr. Tadduni responded that to start building, yes, he'd like to get this done as quickly as he could.

Comm. Jones asked Staff if he could start doing what he needs to do in there.

Chairman Pogoda responded that they need to see a plan first.

Comm. Jones asked if it could be tabled pending the plan.

Mr. Schultz added that the Commission could authorize him to authorize the Building Department for them to do internal work.

Comm. Jones commented that he'd like to see the Applicant be able to begin building, remodeling, or doing his renovations. Many discussions took place at one time about setting a limit on the number of people they can have (all inaudible).

Chairman Pogoda asked for a motion to table this.

Comm. Sylvester commented that the last thing the Applicant needs is to have the Commission setting a limit until it really.... He's been in this type of business, and the last thing would be to have a limit. He added that Mr. Tadduni is going into business and has invested his money in this. He asked the Commission to take a look at a comparable operation in the community. Madison's left a poor taste in everyone's mouth and it's not a good comparison to this.

Comm. Sylvester mentioned that he's been a patron at the Metro by Stop & Shop and they've never really had a problem with overflow parking. Using the number of 250? – if this guy can bring in 250 an evening than he's going to be smiling all the way to the bank. It would be a huge occasion for him to be over the 150 mark, but it shouldn't be limited because if there's one time when something

happens and the Fire Marshal has to go in, he'll have to put him to task for surpassing some limit. Comm. Sylvester suggested that the Applicant should be able to work with Staff to negotiate something reasonable for him to make a limit without establishing some preset of 150 or something.

Mr. Panico indicated that there is a general comfort level with normal routine operation of a sports bar/restaurant. The concern that is coming into play is if there is live music and if there is a popular band coming in, then there could be 250 people in there.

Comm. Sylvester responded that he didn't realize that there would be live entertainment. He heard sports bar/restaurant and that was what he commented about. On a Saturday night (inaudible)...

Chairman Pogoda asked for a motion to table this.

On a motion made by Chris Jones seconded by Patrick Lapera, it was unanimously voted to table Separate #6687.

End of tape 1A, 7:50 p.m.

SEPARATE #6664, SHELTON AUTO SPA, 811 RIVER ROAD, SIGN REPLACEMENT

Mr. Schultz indicated that this was for the Car Wash on River Road and the electronic sign. He showed a rendering of the 3 ft x 8 ft sign to the Commission. He read that the permit would be subject to the conditions outlined in the ZBA decision of August 28, 2008 in that the electronic message shall not blink; flash, or scroll and the frequency of message change shall be limited to a minimum of one full minute. The owner has indicated that this can be adjusted manually, so the change is not less than one minute. If it becomes an impact to the traveling motorists and the Commission feels the need, that time delay can be increased.

Mr. Schultz indicated that he asked the Applicant if he would be flexible if this became an issue or a concern to the Commission. He agreed that he would be. Staff and the Commission will monitor this.

On a motion made by Chris Jones seconded by Patrick Lapera, it was unanimously voted to approve Separate #6664 with the limitations imposed by the Zoning Board of Appeals.

SEPARATE #6697, ONE FOREST PARKWAY, WALL SIGN

Mr. Schultz showed a drawing of a proposed wall sign for One Forest Parkway that would be internally illuminated. He indicated that it was an attractive sign for the company occupying the office building on the corner of Long Hill Crossroads and Forest Parkway.

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve Separate #6697.

APPLICATION 08-21, DOMINICK J. THOMAS, JR. FOR FINAL SITE DEVELOPMENT AND SUBDIVISION APPROVAL FOR PDD #68 (MEADOW VIEW CLUSTER RESIDENTIAL), BUDDINGTON ROAD, (MAP 62, LOT 31) – DISCUSSION AND ACTION

Chairman Pogoda recused himself from the discussion for this application; Vice-Chairman Lapera acted in his behalf.

Vice-Chairman Lapera indicated that this application had been before the Commission and they directed Staff to prepare a draft resolution. He asked the Commissioners if they wanted to have a discussion regarding the approval. There were no comments.

Mr. Schultz indicated that Staff would read the resolution and the Applicant is here to show the Commission some of the materials to be used.

Mr. Panico stated that this draft resolution follows the Commission's discussion at the last meeting where they were satisfied with how things had been resolved and with the proposed architectural treatments. He read the Shelton Planning & Zoning draft resolution for Application #08-21.

***See attached document dated 10/29/08 regarding Application #08-21, Dominick Thomas for Robert & Carol Farrell, Approval of Final Development Plans for PDD #68.**

Vice-Chairman Lapera asked if the Commissioners had seen the siding treatments and if there was any further discussion regarding the resolution. There were no comments.

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously roll call voted (6-0) to approve Application #08-21. Chairman Pogoda recused himself from voting and Comm. McGorty voted in his behalf.

APPLICATION #08-22, WILLIAM HODOSI FOR SITE PLAN APPROVAL (AUTO-BODY REPAIR FACILITY), 803 RIVER ROAD (MAP 12, LOT 27), CB-2 DISTRICT – DISCUSSION AND ACTION

Mr. Schultz read two pieces of correspondence providing favorable recommendations for this application. He indicated that the Applicant/Owner was present to address any questions regarding the architectural changes.

***See attached letter dated 10/10/08 from the James Tortora, Fire Marshal**

***See attached letter dated 10/10/08 from Robert Kulacz, City Engineer**

Mr. Hodosi submitted documentation to the Commission stating that the first floor, the entire gable end facing River Road, will be brick.

Mr. Schultz indicated that the only issue Staff had was about the drainage. He spoke Mike about that and there is a state storm drainage system but they are going to use infiltrators. They feel confident that it will allow the water to infiltrate into the soil. However, as a backup, the state drainage system is there.

Mr. Panico asked if the State would allow them to tie in.

Mike O'Bymachow, P.E., Nowakowski, O'Bymachow & Kane, 415 Howe Avenue, Shelton, CT addressed the Commission. Mr. O'Bymachow responded to the question by indicating that they were going to do an overflow from the gallery system, coming out of the right of way, and into the drainage system. He added that they would have to get permission to do that.

Mr. Panico commented that his concern was absent that, he thought they should break the curb or something so if it doesn't take it, it goes out into the State Highway anyhow. He added that they don't want to end up with that area being ponded out.

Mr. O'Bymachow agreed and showed the location on the site drawing where they would put in an overflow as a safety factor.

Mr. Panico asked Mike Hodosi if he had been to the State about the improved plan.

Mr. Hodosi responded that it was submitted and they are reviewing the plans now.

Mr. Panico asked about the landscaping aspect and the screening for some of the cars. He wanted to know if that would necessitate any plantings spilling over into the State right of way.

Mr. Schultz responded that they should be able to do that, and the State does allow planting, but they have to post a bond. They've done that before on River Road. The sight line is very good there and that is critical for the State.

Mr. Panico asked about the details including the dumpster enclosure and the gating for this.

Mr. Schultz responded that all of that would be incorporated before the Chairman signs off on it. He indicated that he prepared a draft motion if the Commissioners had no further questions or comments.

Mr. Schultz read the draft resolution to approve the site plan for P&Z Application #08-22 for a two-story commercial building, 2200 square feet. The plan is entitled William Hodosi, prepared by N,O &K dated 7/6/08 with final revision date of 10/1/08 with conditions. Staff thanked the Applicant because there has been an entire transformation of this architectural design and the Commission is pleased with the results and the willingness of Mr. Hodosi to go with the masonry.

***See attached resolution for Application #08-22.**

On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve Application #08-22.

OTHER BUSINESS
APPROVAL OF MINUTES

On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to approve the minutes from 9/9/08. Comm. Sylvester abstained from voting.

8-24 REFERRAL: U. S. POST OFFICE LEASE AGREEMENT FOR 41 CHURCH STREET

Mr. Schultz indicated that this was from the BOA to approve the lease agreement between the City of Shelton and the U.S. Postal Service for properties near the Huntington Center. Staff has never received any complaints in over 11 years. The upkeep and maintenance has been good.

On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to report favorably on the 8-24 referral for the U.S. Post Office Lease Agreement, 41 Church Street.

8-24 REFERRAL: EXTENSION OF PAWTUCKET AVENUE FROM MANTON STREET

Mr. Schultz indicated that this came from the BOA, and with all paper street extensions, the City Engineer makes his recommendation. He read the City Engineer's report dated October 22, 2008.

***See attached report from City Engineer, Robert Kulacz dated 10/22/08.**

Atty. Steve Bellis, 47 Perch Road, Shelton, CT addressed the Commission. Atty. Bellis provided a site map of the lots (#317, #318 & #319) mentioned in the detailed report.

Mr. Schultz summarized that the City Engineer recommends a permanent cul-de-sac so that the BOA does not have to entertain the extension of a temporary cul-de-sac due to severe topographical changes and wetlands. The City Engineer recommends that it should terminate as shown on this map. The report indicated that the City Engineer reluctantly recommends that the Commission give a positive 8-24 Referral report.

Chairman Pogoda indicated that the Commission was just hit with a lot of information, and he asked the Commissioners if they had any questions.

Atty. Steven Bellis responded because he wanted to provide an overview and history. Atty. Bellis indicated that he hadn't read that letter from the City Engineer, so he was not certain that he understands everything in it. However, he indicated that these lots were pre-existing, non-conforming lots that have been around since 1925 with its subdivision. He's concerned to hear about combining a couple of the lots. Presently, since they are pre-existing, non-conforming lots, they meet zoning as long as there is a road in front of it.

Atty. Bellis stated that the City Engineer initially wrote a negative letter, and he had to bring a lawsuit against the City of Shelton. As the lawsuit went along, the appraiser came in and found that the City would have to pay \$855,000 to the plaintiffs for the inverse condemnation of not allowing the extension of this road. Corporation Counsel agreed to a settlement which is a stipulation between the City and the plaintiffs.

Atty. Bellis showed the yellow highlighted area on the site map that indicates the wetlands and added that they had received Wetlands approval. He read the terms of the stipulation for the settlement to the Commissioners.

Mr. Panico added that the City Engineer doesn't want this treated as a temporary cul-de-sac; he would like right of way dedicated.

Mr. Schultz indicated that he wants the final record map to demarcate that so that there is no issue down the road.

Comm. Lapera asked why it couldn't be a permanent cul-de-sac if they aren't planning to extend it.

Mr. Schultz responded that was the position that the City Engineer has.

Atty. Bellis stated that he doesn't want to lose a lot. The City Engineer wants him to combine some lots.

Mr. Schultz reread a portion of the City Engineer's report that recommended "that the two owners of Lots #317, #318, and #319 combine their properties to create two lots. Lot #317 by itself cannot be built on."

Mr. Panico stated that he is suggesting that if they combine these three and make two good lots, it leaves enough room to take some of the lot area off and dedicate it to roadway.

Chairman Pogoda added that they'd get their permanent cul-de-sac.

Atty. Bellis responded that he could live with that but asked if they were concerned about the lot lines at all.

Mr. Panico indicated that they wouldn't because even though they would only have two lots, they'd be bigger than the existing lots – and be less non-conforming. The Commission has the right to do that.

Chairman Pogoda added that it also gives him ample room for a cul-de-sac.

Atty. Bellis asked his engineer to discuss the road width.

Michael ? (name and engineering firm inaudible) showed his own drawings and indicated that he modeled this road after Cranston Avenue which has newer homes. He added that this was the first time that they've heard about this letter. They requested a 26 foot – instead of a 24 foot – he doesn't believe that is going to break anything. They had a radius at the cul-de-sac of 35 feet, and this letter asks for a 45 foot radius. The letter says that Lot #317, #318 & #319 would only support two houses; they only show two houses on their plan. That isn't a problem.

Comm. Lopera suggested that they include the settlement agreement with the 8-24 referral as well as the Wetlands approval for the record.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to report favorably on the 8-24 Referral to extend Pawtucket Avenue and Manton including the City Engineer's recommendations.

Chairman Pogoda indicated that the next meeting would be November 18th and they will be having a second meeting on 11/25/08 for the public hearing to discuss sign regulations, open spaces, and the processing of certificates of zoning compliance.

On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to adjourn at 8:30 p.m.

Respectfully submitted,

Karin Tuke

