

SHELTON PLANNING AND ZONING COMMISSION APRIL 28, 2009

The Shelton Planning and Zoning Commission held a special meeting on April 28, 2009 in the Shelton City Hall, Room 303 at 7:00 p.m., 54 Hill Street, Shelton, CT. The Chairman reserved the right to take items out of sequence.

Commissioners Present:

- Chairman Anthony Pogoda
- Commissioner Virginia Harger
- Commissioner Chris Jones
- Commissioner Thomas McGorty
(alternate for Comm. Lapera)
- Commissioner Ruth Parkins
(arrived 7:37 p.m.)
- Commissioner Joe Sedlock
(alternate for Ruth Parkins)
- Commissioner Leon Sylvester
(arrived 7:12 p.m.)

Staff Present:

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

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

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Chairman Pogoda began the meeting at 7:00 p.m. with the Pledge of Allegiance. He indicated that Commissioner McGorty would be the alternate for Commissioner Pat Lapera and Comm. Sedlock would be the alternate for Comm. Ruth Parkins until her arrival later in this meeting.

OLD BUSINESS

APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE

SEPARATE #6750 605 HUNTINGTON STREET, WIRELESS COMMUNICATIONS AND PROPANE TANK

Mr. Schultz indicated that Staff was contacted by Verizon to add additional antennas on the water tank. The green water tanks are located on the corner of Huntington Street and Isinglass Road on the top of the hill, and there is an access drive that gets to it. Two years ago, the Commission approved the antennas that went on top of it. For the newer commissioners, the Commission strives to get co-location for the telecommunications industry.

Mr. Schultz added that this is to install additional antennas on the water tank and to install a propane tank as a back-up in the event of a power outage. Most of Corporate Shelton has been requesting that over the year and the same thing applies for the telecommunication.

The concrete pad for the propane tank is 5' x 18'. He showed the Commission a site plan showing the water tank, and a side view showing white pines surrounding the tank because this is Water Company property. Most of this will be screened by evergreen trees.

Staff asked Verizon to install a privacy fence because there is a home down gradient from it, and three homes in the immediate area. The generator is housed within the structure so that helps muffle it. They have agreed to construct a 6 foot solid wood fence to screen it. This is consistent with Shelton Zoning Regs where they promote co-location instead of a need to build additional towers.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to approve Separate #6750, 605 Huntington Street.

SEPARATE #6761, 576 BOOTH HILL ROAD, HOME OCCUPANCY

Mr. Schultz indicated that this was tabled from the last meeting and the Commission directed Staff to call the Applicant and have her contact her neighbors. The applicant is present, and she will confirm that she did that for the record. Also this will be the first for many of the newer commissioners regarding home occupation – this is not a home office. This is a situation where the homeowner provides a service, and this is for personal training. This will occupy a 300 square foot area for training services, one employee. This homeowner is a certified trainer. Hours of operation are Monday 2:00 p.m. – 5:00 p.m.; Tuesday 3:00 – 7:00 p.m.; Wednesday 9:00 a.m. – 3:00 p.m.; Thursday 3:00 p.m. – 8:00 p.m.; Sunday 8:00 a.m. – 12 noon.

Mr. Schultz informed the Commission that they need to determine what reasonable use is because the regulations specifically state this shall not impair the residential character of the premises nor interfere with the reasonable use, enjoyment, and value of other residential properties in the neighborhood. Additionally, there shall be no evidence of the business office or home occupation outside of the dwelling unit, except permitted signs.

Mr. Schultz indicated that he suggested to the Applicant that she self-impose a maximum of 3 clients per day, but that is something that this Commission has to determine, if it's reasonable.

Liza Bailey, 576 Booth Hill Road, Shelton, CT addressed the Commission. Ms. Bailey indicated that she brought a photograph of the studio because she wanted to clarify that this is not a gym that is open to the public. She clarified that she has scheduled clientele; she is also a nutritional consultant with a Master's Degree in Nutrition and Certified Pilates Trainer. Ms. Bailey stated that she provides a service for many clients that are coming off of physical therapy.

Ms. Bailey stressed that she is not open to the public. She works on an appointment basis only. The hours of operation only indicate that she is available during those days/hours, but she does not necessarily have clients coming in all those days or all those hours.

In regard to the neighbors, one of the only neighbors is a vacant house that is up for sale right now. There is another neighbor quite far from her home and blocked by trees; she has been unable to reach them after a couple attempts.

She provided a photo of her Pilates Studio which is located in the back of her house and a photo of her driveway from different angles to show that there is ample parking. Any client coming in would park in the driveway and go around to the back of the house – not in and out of her front door. Any neighbors can't see anyone coming in or out anyway.

Mr. Panico asked how many clients she would be servicing at any one time.

Ms. Bailey responded that depending on her schedule, it could be one or two a day. She doesn't overbook herself because she is a mother with two children. At any given time, she could have two clients at a time, but it is mostly one-on-one.

Chairman Pogoda asked if her equipment was portable – if it was something she could possibly bring to the client.

Ms. Bailey responded that no it is not portable – it's physical therapy-type equipment.

Comm. Sedlock asked how long her sessions were.

Ms. Bailey responded that they are approximately an hour – but really 55 minutes – to ensure that she has a 5 minute window if she needs it. Usually, she wouldn't have anyone waiting to come in.

Mr. Schultz stated that the maximum would be 2 cars at a time. He asked approx. how many sessions she'd have per day.

Ms. Bailey responded that would depend upon the day – with her schedule and the kids – when she provided the list of her hours, it was only to denote her availability. She does leave the house in the afternoons because she teaches somewhere else in the afternoon.

Mr. Schultz informed Ms. Bailey that if his office gets a complaint, he has to advise this Commission, and they can revoke and/or modify her permit. Of course, they would prefer not to do that.

Ms. Bailey acknowledged that and explained that she probably has more cars in her driveway for her kid's play date than she does for this service. She thinks that if her neighbors had a problem with cars, they would have complained about that by now. She has resided there for four years and is friendly with her neighbors and does not anticipate any problems.

Chairman Pogoda summarized that in any home occupations, it would only be necessary to go out there for complaints of noise or junk conditions. He doesn't think there would be any problems here.

Mr. Schultz asked Ms. Bailey if she would require any signs. She responded no signs would be necessary.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Separate #6761, 576 Booth Hill Road.

APPLICATION #09-02 PRIMROSE COMPANIES FOR FINAL DETAIL DEVELOPMENT PLANS FOR SITES C & D (MULTI-FAMILY COMMERCIAL USES) PDD#60, CANAL STREET (MAP 129, LOTS 17 & 18) – DISCUSSION AND POSSIBLE ACTION

Mr. Schultz indicated that all the Commissioners have a copy of the report resolution which Mr. Panico would read.

Mr. Panico stated that he'd go through the proposed resolution and action first. Mr. Guedes is present and has brought updated drawings reflecting much of the stuff that they put in the resolution.

Mr. Panico read the Proposed Report/Resolution for Final Site Development Plans for Sites C & D.

***See attached Shelton Planning and Zoning Commission Report dated April 24, 2009 for Application #09-02 Primrose Companies Final Detailed Development Plans**

John Guedes, President, Primrose Companies, addressed the Commission.

Mr. Guedes indicated that he has attempted to address all of the issues from Staff and the Fire Marshal. He relayed that he met with the Fire Marshal to address his concerns, and the Fire Marshal has submitted a letter to Rick Schultz stating his satisfaction that the terms have been met.

Mr. Guedes discussed another concern raised by the City Engineer, this Commission and Inland/Wetlands regarding the outlet on the drainage. Since that time, they've revised the drawings and provided them to the City Engineer.

Additionally, he wanted to discuss another issue raised by the City's Consultant, Tony Panico, concerning the grading of the site D parking area. In order to address issues regarding flood plane elevations, the new structures have to be raised. The buildings in the back have to be kept at elevation 27.5 and their Engineers assumed that the existing grades at the rear of the existing buildings were to be met. That is where they had a problem; whereby, they introduced the catch basins all along the new curb.

He met with them, and they have since redesigned the parking area and raised the entire area by two feet. Mr. Guedes showed the revised renderings to depict it and provide a better understanding of it. He indicated he would leave these drawings with the Commission.

Mr. Panico asked if that would give them positive drainage to those basins.

Mr. Guedes responded that yes, it was fine – instead of having a 3-foot hole or pen as indicated, they now have a 16" to 12" (inaudible due to outside traffic).

Mr. Guedes pointed out on the new drawings there is now a gradual slope. They are basically grading up to the road instead of to the back of the existing buildings.

Mr. Guedes addressed another concern from both the Fire Marshal and the STC regarding the interconnecting sites and the ability for emergency vehicles to go from one site to another. The Fire Marshal was concerned about the dead end situation. That was something that had been picked up earlier on by the State

Traffic Control Commission and the revised design indicated that they had a cross-connection from Site D on to Site E. He showed the drawing that illustrates how that connection for emergency situations would work with a ramp up leading to the existing level of the Riverwalk, only to be utilized in the case of emergencies.

Mr. Guedes commented that there was also a question as to how they would screen the trash containers. The screen is meant to be a brick wall with a decorative metal wrought iron gate.

Another concern that he wanted to address - because of the elevations depicted on the design drawings of the structures – it only provided a flat perspective. He has tried, with difficulty, to create a dimensional rendering on the computer so the Commissioners could get a better idea. He passed out the computer-generated renderings of the proposed structures planned; they would be a mix of brick and siding with some gable features to it and so forth. There was some concern as to how the back of the buildings would look.

He showed that in the back there would be French doors leading to a large deck to provide a living space that would face the River. He will work with Staff to determine if they need to put some dog houses up on the roof to dress it up or something.

Chairman Pogoda commented that his perception of the rear of the buildings is that it looks like an Army barracks – the color and everything else – he spent enough time inside them, so he knows what they look like. He added that's his impression when he first saw the picture. Can something be done on the roof – if it's possible, to break it up...He asking because he really doesn't know what they could do...

Mr. Guedes responded that they are looking at architectural concepts. Now that they have the model in the computer, they can take another look at it and make changes.

Mr. Panico commented that a substantial gable thing needed to be introduced – not just little doghouses. Little doghouses would look terrible. The front has a fairly significant gable so they could pick up that motif.

Comm. Parkins arrived at 7:37 p.m.

Mr. Guedes responded that the biggest problem they have in the back is the decks because they want to introduce the decks because that's the feature of the Riverfront. Because of the grades, there are two decks – ground level and the upper level.

Mr. Panico asked if both the decks were the same unit.

End of Tape 1, Side A 8:45 p.m.

Mr. Guedes responded yes – he’s trying to create an exterior living space, so it’s whatever they can do up above it. He’ll take another look at it.

Mr. Panico commented that it’s the less attractive of the two buildings. The middle building has a more significant projection of one of the elements and that does break it up a lot. This is the worst case scenario.

Mr. Guedes responded that they are looking at creating some jogs. He did this quickly on the computer for this meeting. Also, he suggested raising some of the roofs a little further up to give it more definition. Those are minor details that they can work on.

Mr. Guedes indicated that for the most part, the critical part was the grading on Site D, the screening of the trash container, the interconnecting of the two spaces, the Fire Marshal’s requirements and if the Commission has any questions, he’ll try to answer them.

Comm. McGorty asked if these were single units.

Mr. Guedes responded yes, they are townhouses.

Comm. Parkins asked if they would be ground level though, like the basement – she asked what was on the first floor.

Mr. Guedes responded that it was basically the back of the garage – the bonus room in the back of the garage.

There was a lot of discussion regarding the drawings and what was on the first level.

Comm. McGorty suggested that it looks like a walk out – and he suggested a patio. Mr. Panico responded that it already is a walk out - from the family room.

Mr. Guedes showed the garage level on the drawing and reminded everyone that they are about 4 feet high – he showed the garage level and commented that the River Walk is still 6 feet lower. He added that there would be landscaping in the plan, screening and other features that aren’t shown on this rendering.

Comm. Parkins asked if it was possible to raise the grade up so that they don't have ...

Mr. Guedes responded that no, the problem is with the Riverwalk going behind it - they have to be careful as to how that whole thing is blended in. They'll have to screen it underneath with lattice, or something, but to raise it another 3 feet would create a tremendous slope.

Mr. Panico asked how far above grade the lower deck would be.

Mr. Guedes responded that it was 3 feet – he added that they should keep in mind, that it is being raised an average of 5 feet by the building.

Mr. Panico asked - if the lower level patio is roughly 3 feet above grade, then is that grade about 4 feet above the Riverwalk?

Mr. Guedes responded yes, and showed another rendering of their final grading plan. The first floor elevation is basically 27 in these buildings. The back of the building averages between 24 – 26 feet, so in some case it is a grade up. The top of the wall is a grade 23 and the Riverwalk would be a grade 19. That works out fine because as people are walking here, their eye level is basically the bushes. Anyone looking over their deck, they would see people's heads.

Mr. Panico asked about the building to the left and if it was about the same grade as the middle one he just pointed to.

Mr. Guedes pointed out the dark line on the rendering and indicated it was grade 24 and the first floor is 27. On the drawing he showed, that on one end of the building it shows the worst case scenario of 24, but at the other end, it's showing 26 with the first floor being 12 inches above grade. But for the worst case scenario, it's about 3 feet higher. If they could do something different, they'll try, but that is where they are.

Mr. Panico stated that Comm. Parkins suggested that for aesthetics, it might look better if the lower level is a patio as opposed to decks – but if there's 3 feet, then that can't be done.

Mr. Guedes responded that they need to remember that this is a combination of private and public because they are going to have the public 25 feet away with the Riverwalk.

Mr. Panico asked about the space, that he is going to call a crawl space for lack of a better term, and if it was going to be vulnerable to animals crawling in there.

Mr. Guedes responded that it would have to be screened either by plants or lattice work – they aren't going to have an opening underneath. He showed that the design has a grade 26 from one corner to the other corner, but from the middle of the building all the way through, the deck is basically 12 inches above grade.

Comm. Harger asked if this was just a preliminary plan, and if it is supposed to be just three units here?

Mr. Guedes responded that no, there would be six units – he showed that there were 6 decks.

Mr. Panico commented that if it could become more like a patio than a deck it would eliminate all the railings and all of the other busy stuff, because right now, as Ruth just said, it looks like a unit on top of a unit.

Mr. Guedes responded that it is difficult to depict a better level of clarity because this is a computer rendering – and it is really unfinished. The colors aren't correct and the landscaping isn't depicted. Eventually when this is finalized, it will look like a photograph.

Mr. Panico asked Mr. Guedes if he would take another look at the possibility of modifying the roof treatment.

Mr. Guedes responded yes, and added that it is to their advantage to make sure that they do the right thing, because these are going to be the first units to go up new for the market.

Mr. Panico added that it is also the side that will get the greatest public visibility with the Riverwalk right there.

Chairman Pogoda asked Comm. Sylvester if he would like to make his comments now.

Comm. Sylvester indicated that his comments are all about the design and the materials. When Tony was reading that it was an all wooden structure, well, a wooden frame structure – it is just not appealing to him. He asked if these were going to be developed and sold as individual townhouses.

Mr. Guedes responded that it would be condominium format.

Comm. Sylvester asked if they would be sold for individuals. Mr. Guedes responded yes.

Comm. Sylvester commented that he is disappointed in the design and the materials. He mentioned that they went through this with the Radcliffe. He was very pointed in his address on that too. He hates to be so negative and it is really tiring to fight for things Downtown, but if these things were being constructed in other part of town, there is no way they would have this type of structure. It just wouldn't happen – yet it happens Downtown. He stated that he thinks that once they sell the Riverfront – it is sold. He thinks the wood and vinyl approach, even on the front, is a little bit better. They negotiated on the Radcliffe to end up with something more than a vinyl apartment building which is what they have downtown. These are condominiums and he thinks that more attention should be given to the physical quality and eye appeal of what is going to be on the River. He added that he would bet that the condos proposed for the Marina at Beacon Point won't look like this. He doesn't think they should allow it for Downtown.

Mr. Panico responded that part of the difference is that the Marina condos are probably going to be \$700,000. He doesn't know what these are going to be, but they aren't going to be \$700,000.

Comm. Sylvester commented that wasn't what he was here for and he's surprised to hear Tony say that. He would expect that he would be approaching it from the point of view of how can I get the most appealing product for the Downtown Riverfront. That's all he is trying to do – he isn't trying to knock the developer or start an argument. But if this is what they have to look forward to, then he's not satisfied.

Comm. Parkins suggested changing the windows on the top level.

Mr. Guedes responded that they could go all night with this, what he suggested is that, he has heard the concerns, and as always, he'll put together a program so that eventually they wind up with something that everyone is happy with.

Comm. Parkins commented that she thinks he could dress up the back without increasing a lot of the costs.

Mr. Guedes responded that he'll go through it again, as he did for the Radcliffe, so he'll do it here.

Chairman Pogoda indicated that he'd like to table this and get a meeting of the Downtown Subcommittee to have a more thorough discussion and give John some more time to work on his computer graphics for the roof. Leon and Ginny are on the Subcommittee, so they've heard his comments. When that is done, it can come back to the Commission to get some other things resolved without

finalizing it tonight. He asked the Commission for a motion to table this and he asked Rick to set up a meeting with John and the Downtown Subcommittee.

Comm. Sylvester asked a question about the additional parking across Canal Street – where is that located?

Mr. Guedes showed the location of the lot that was part of the Apex parking.

Mr. Panico added that from the end of the existing parking facility where the deck is, that improvement will be carried all the way through to the new intersection. The area remaining between the intersection and the recently constructed parking for the deck and the surface lot – that whole strip gets finished now as part of this Application.

There was further discussion regarding the renderings of the parking lot areas but it was mostly inaudible due to outside traffic noise.

On a motion made by Virginia Harger seconded by Thomas McGorty, it was unanimously voted to table Application #09-02.

APPLICATION #09-03, PREMIER AMERICA REALTY CORP FOR SITE PLAN APPROVAL (BLDG, RENOVATION AND PARKING RECONFIGURATION), 42 AND 44 BRIDGEPORT AVENUE (MAP 117D, LOT 3), CB-2 DISTRICT – DISCUSSION AND POSSIBLE ACTION

Mr. Schultz put the site drawings and the architecturals on the table for the Commission to review. Commission Harger asked if there were any significant changes since the last meeting. Mr. Schultz responded that there were, as Staff mentioned at the last meeting, there were recommendations from the City Engineer having to deal with the flood elevation and details of the retaining wall and they have been addressed.

Mr. Schultz indicated that the State System drains to Burying Ground Brook and that head wall fell down. The Applicant has complied with that. They have a favorable letter from the Fire Marshal as well.

Mr. Schultz reviewed that this was the renovation of the old Bondos Building. There is an apartment upstairs in which they are going to remove an appendage on the left corner of the building and build a new façade with brick along the front and vinyl siding on the sides and to the rear.

He added that the Applicant heard loud and clear from the Commission that they have to do something with the front because they don't want parking there. That is why the parking reconfiguration is on the side. There is two parts to it –

the five spaces on grade from Bridgeport Avenue and a retaining wall is going to be built; there will be two spaces down below that will accommodate a contractor who will use the basement level.

Mr. Schultz indicated that there are three levels here – basement level elevation for a contractor type of business, the first floor which was the printing shop will now be subdivided into two low-key office spaces, and the apartment on the third floor. Obviously, the occupancy is going to be critical and they need to scrutinize it because of the lack of parking.

It was recommended by Staff to provide a concrete sidewalk and the Applicant first had it on their property, but they thought it made sense to pull it to the State right of way, that's in keeping with the other sidewalks that are in the State right of way. However, it still leaves an area from where the sidewalk ends to the travel light so it makes sense to put some type of curbing in there because they don't want cars hopping onto the sidewalk. It was suggested that bituminous curbing be provided. He asked Alan Shepard to elaborate on that.

Alan Shepard, P.E., Nowakowski, O'Bymachow & Kane, 1215 Howe Avenue, Shelton addressed the Commission. He showed a site drawing of the building and surrounding area.

Comm. Sylvester asked where the road ends right now.

Mr. Shepard showed that the State owns an additional 12 feet so it will be in the right of way but it won't be in the traffic lane. They aren't narrowing the road; they just want to prevent the cars from going into the right of way, but not the travel way where the cars are.

Mr. Schultz indicated that they are going to put a physical barrier there, a curb, so the cars won't go up there like they used to.

Mr. Panico stated that it would prevent unauthorized parking in front of the building.

Comm. Sylvester responded that he understands that – the Applicant is going to put in some kind of sidewalk in to walk into his facility.

Mr. Panico commented that he was going to put a sidewalk across that portion of his site plus three strips that go to the front doors.

Mr. Schultz indicated that there will be a major transformation to the front façade and John Ruffalo will show the Commission the architectural. As he

reported last time, many Commissioners felt that the structural integrity here was unworthy of renovation, but that has been addressed.

Mr. Panico added that this is a very difficult site and this is about the best way for some parking to be organized. It won't be perfect, but it will be 200% better than the situation that is out there today.

Mr. Schultz stressed the importance of the landscaping; two flowering pear trees will be put in to get more green in there. The sidewalk makes sense; it is a burden on the Applicant, but the Applicant has agreed to do it.

Comm. Parkins asked if spot #1 would be the designated handicapped spot.

Mr. Shepard responded that they really haven't designated a handicapped spot but...they could make it spot #1.

Mr. Panico asked if he was obligated to have one handicapped spot.

Mr. Shepard responded that they could make that one but (inaudible...)

Mr. Schultz indicated that is up to the Building Official – he has control over that – it's his call.

Comm. Sylvester responded that he thinks it is based on the total number of parking spots, there has to be a certain number of parking spots, in order to require a handicapped spot.

Mr. Panico added that if they take that piece of Belgian block area and keep it flush with the rest of the pavement, it is in effect, that is the safety area for the handicapped spot. But if it's labeled as "handicapped parking," then it's eliminated about 15% or 18% of all the parking because others can't use it.

Mr. Schultz reviewed that this application has a lot components, and they've all been discussed – retaining walls, sidewalks, curbing, drainage improvement, and façade improvements. The brick on the front façade, vinyl on the sides and to the rear, and John's going to go over the architectural.

Chairman Pogoda asked if there were any questions before going to the architectural.

Comm. Sylvester commented that he's amazed; he can't believe that they can save this building.

John Ruffalo, John Ruffalo III Architects PC, 415 Howe Avenue, Shelton addressed the Commission.

Mr. Ruffalo indicated that for the front of the building, which is sort of a stucco type building with a porch attachment toward the left side, they are going to take that attachment off so that they have a flat plane. He showed the part of the building on a drawing that, right now has a sort of stepped wall up above the parapet. What they decided to do was take that stepped wall and use it within the dry bit system and build it up to create a crown on the top.

The building itself will have brick veneer, and they are putting in new windows which have a divided light situation. They have two doors to the two tenant's spaces – which would be business type spaces on either end of the building to balance it. He pointed out another door for the existing apartment, and stated that they are going to replace it and upgrade it – so there will be three different entrances off of the street.

He showed a rendering for the lower level, and indicated that this could possibly be used as a contractor space. It has an existing overhead door and the existing ground door which they are going to re-pane and cleanup. On the other side of the building there are several windows on the north side and an existing exit on the side. They are replacing the lower windows. The upper windows are still in good condition. The rear of the building has some windows that are also in good condition but they will clean them up.

As Rick mentioned, they are creating a façade with gooseneck lighting and adding lights at the doors and places above the doors for tenant signage.

On other rendering of the façade, Mr. Ruffalo showed where they are doing some of the area walkways into the building (inaudible), and most of the existing roof, the shingle area gabled over the apartment area (approx. 780 square feet apartment).

He added that quite a lot of work is being done on this building, as well a lot of interior structural work including new floors, raising the floors, and reinforcing the masonry walls.

Mr. Ruffalo concluded that was an overview of the project and he offered to answer any questions.

Comm. Sylvester commented that this is going to be a big improvement over what is there.

Comm. Parkins asked what the square footage was for the two tenant spaces.

Mr. Ruffalo responded that Tenant #1 is about 800 square feet and Tenant #2 is a little over 2000 square feet. He added that each tenant area had handicapped

restrooms – they are required to have one for the 800 square foot area and two for the larger area. The lower level because it is going to be a tenant of some type, they also put in a handicapped facility down there too.

Comm. Sylvester asked if the smaller 800 square foot area was the apartment.

Mr. Ruffalo responded that no, the apartment is in the area above Tenant #1. The apartment is approx. 780 square feet.

(inaudible due to paper noises and microphone being covered)

Comm. Parkins asked what types of tenants they anticipate leasing these spaces to – would they have a lot of incoming customers.

Mr. Ruffalo responded that it would probably be someone like an attorney or accountant, insurance type of thing.

Mr. Panico added that they have stressed at every meeting for this that they need to watch the occupancy because of the limited amount of available parking.

Comm. Sylvester commented that even though the resident living in the apartment doesn't drive – that can change tomorrow.

Comm. Parkins added that if the two parking spaces in the back are designated for the contractor, and one is for the apartment tenant, there are really only four spaces left for both customers and employees.

Mr. Panico commented that this is a pre-existing condition – they aren't creating it.

Comm. Sylvester noted that they can't park on the road, and there really isn't any parking available next door on either side of it either.

Mr. Shepard responded that this is an existing condition, so all they are asking for is to improve this existing condition. This is not a new site plan. They are making parking where there was parking that pulled right off Bridgeport Avenue.

Comm. Sylvester noted that they are adding another tenant though – there were always only three tenants. Now there are four - the apartment tenant, the tenant below apartment, old Bondos Printing tenant, contractor space tenant.

Mr. Panico commented that the printing space has been subdivided into two tenants and they have nothing to control or prevent that. They don't have the ability to not allow that to happen because they are tied into the square footage

of floor space. The Applicant hasn't increased the amount of floor space. They've had this discussion many times before when one large retail space has been made into two smaller retail spaces - and, subjectively, they know it adds parking.

Comm. Sylvester responded that he personally supports this because of the overall improvement that's taking place there. However, it does present a problem for parking (inaudible due to side discussions).

Mr. Panico commented that the Applicant is totally aware that he has to select his tenants very carefully.

Comm. Parkins added that this a huge improvement.

Chairman Pogoda asked if there were any further questions before Rick reads his draft resolution/motion. There were none.

Mr. Schultz read the draft resolution for P&Z Application #09-03 building renovation and parking reconfiguration.

***See attached Resolution dated 8/15/09 and revised 0424/09 with conditions.**

On a motion made by Leon Sylvester seconded by Virginia Harger, it was unanimously voted to approve Application #09-03, Premier America Realty Corp for Site Plan Approval (Bldg, Renovation and Parking Reconfiguration)

APPLICATION #09-05, LONG HILL CROSS ROAD, LLC FOR FINAL SITE DEVELOPMENT PLANS APPROVAL FOR LOT A (INDUSTRIAL BUILDING), PDD #69, LONG HILL CROSS ROADS (MAP 51, LOT 29) – DISCUSSION AND POSSIBLE ACTION

Mr. Panico presented drawings for the Commission to review for Application #09-05

Mr. Schultz presented the site development plans and the site detail drawings for the Commission to review and explained that they have been revised; details are included in his review report dated March 20, 2009.

He stated that they have received a favorable recommendation from the City Engineer which he read.

***See attached correspondence dated April 24, 2009 from Robert Kulacz, City Engineer.**

Comm. Jones informed the Chairman that he would be recusing himself, as he has been for this application. Chairman Pogoda indicated that Comm. Sedlock will act in Comm. Jones behalf.

Mr. Panico indicated that they worked with the Applicant and got the parking lot revised so that it works a little bit better especially for the truck traffic. They are not going to be spilling into the residential area.

There is still a lot of clean up to be done but in an effort to get it off the table, they've prepared an action which stipulates all the odds and ends that need to be addressed. Mr. Panico stated that he would read it, go through and go back and go into greater detail on each item.

Mr. Panico read the Final Site Development Plan Approval Lot A, PDD #69. He reminded the Commission that this PDD has split uses with industrial and residential.

***See attached Draft Final Site Development Plan Approval dated April 28, 2009 for Application #09-05.**

Chairman Pogoda asked the Applicant if he brought in any material samples to show the Commission.

Mike Salemme, the Applicant, responded that they had them here at the last meeting but his engineer brought them all back.

Mr. Schultz added that he could say that this buildings complements what is across the street. There are a lot of items brought out – but this is a PDD Application and that is why it is very detailed, but all of these are very minor nature. They have to go over each detail – everything from the dumpster enclosure to the texture of the skin of the building - that is why the PDD works.

Mr. Panico commented that he doesn't think the Applicant has any problem doing this, but if something falls through the cracks, and you've got accustomed for this, and you've sold that lot, now you have to go back to them and gain an easement from them. Plan on it, show it on the drawing, and provide for the easement.

Mr. Salemme asked if he needed an easement for maintaining the trees.

Mr. Panico responded that he thinks that he should retain the right of this property owner to do that. The important thing is – there are going to be cars, 10 cars, with their headlights at that house, and every time a truck comes in – there will be a headlight flash. He commented that he doesn't want to see it done with a fence. They have the opportunity now when they are building to

simply create a berm that is 2.5 or 3 feet high plus landscaping on top of it. It will aesthetically give the protection needed. There is plenty of room there.

Mr. Panico added that they want to protect the homeowner from coming in afterward and cutting down the trees planted there not realizing that they are there for a reason. Originally, they had a lot of landscaping in here, but there was a lot of concern about the maneuvering of the trucks.

Mr. Salemme asked if he added another row or two of pines to the residential area, would they still be concerned about a berm.

Mr. Panico responded that in ten years it would probably be fine, but what about until then? He asked if he was concerned that he'd have material to create this berm. It doesn't involve a lot of material.

Mr. Salemme responded that he wasn't concerned about that but doesn't think an easement is necessary; he thinks that it will be maintained either way.

Mr. Schultz added that it protects it from clear cutting -

Mr. Panico commented that there were two important things – preventing this future homeowner from cutting down trees on his side of the line and giving this person the opportunity to go out and maintain it if the homeowner doesn't.

End of Tape 1B, 8:36 p.m.

Chairman Pogoda asked if there were any further questions. Mr. Panico read the draft resolution; Chairman Pogoda asked for a motion and a second.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously roll call voted (6-0) voted to approve Application #09-05 with stated conditions. Comm. Jones recused himself from voting for this application; Comm. Sedlock acted in his behalf.

APPLICATION #09-07, BRUCE BUTLER/BUTLER COMMERCIAL SERVICES, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL FOR NEW FOOD ESTABLISHMENT WITH DRIVE-THRU, BUILDING/CANOPY RENOVATION AND PARKING RECONFIGURATION, 99 BRIDGEPORT AVENUE (MAP 117, LOT 1), CB-2 DISTRICT (PUBLIC HEARING CLOSED ON 3/24/09) – DISCUSSION ONLY

Mr. Schultz indicated that this is the first discussion that the Commission has had since the public hearing closed so, obviously, Staff would like some feedback. He provided the site drawings for the Commission to review.

Mr. Schultz commented that the Applicant sees the need to do all of this work, including the drive-through, to upgrade the building façade, do a new canopy, and a parking reconfiguration. However, with any Downtown site with a drive-through, it leads to a lot of discussion and review because of its impact. Mr. Schultz indicated he'd like to hear how the Commissioners feel about a drive-through for this particular site. Shelton Auto is going to move over freeing up room on the left corner of the site for some type of food establishment with a drive-through.

Mr. Schultz added that everyone is aware of the existing conditions with the canopy – it fails.

Comm. Parkins asked in what way.

Mr. Schultz responded that when someone goes in for gas, they leave their car and then another car can't get out. They try to put in bypass lanes, but it is very difficult when you want to get out and you can't get out.

Comm. Harger commented that once the parking area past these buildings on Bridgeport Avenue improves, it is going to be a little bit more effective to park there.

Mr. Schultz responded that he wants to hear this type of feedback from the Commission. There are a lot of positives because this is a major renovation of the building and to tone down that yellow that SHELL went with 6 or 8 years ago, because it's horrendous.

In looking at the site drawings, Comm. Harger responded that she thinks this is a vast improvement. It looks like lower Bridgeport Avenue is finally getting some attention now. She thinks there is enough of an area around the back for a drive-through lane and the stacking of the cars. The improvement of the parking farther down is going to help the property overall.

Mr. Panico commented that he thinks that if that rock base back there doesn't break off (*inaudible due to multiple discussions*).

Mr. Schultz indicated that this is a site that has a lot of frontage and they are taking this opportunity to close up some of the curb cuts to make it work better, but there are inherent issues.

Mr. Panico commented that he would think that customers of this new operation would find it much more convenient to access an egress from that (*inaudible*) just to avoid the confusion around the pumps and canopy area.

Comm. Sylvester noted for the record that he was not in attendance for the public hearing on this, so Joe Sedlock would be sitting in for him. However, he knows the place inside out, he's a customer there, and he knows the owner. Comm. Sylvester indicated that he would be listening and would have some things to say because he's in and out of there daily. He wanted to relay, as a customer there, if the approval is given, there has got to be real attention given to the reconfiguration to make an improved traffic circulation there. It's a big deal to get a drive-through downtown, so if it happens, there certainly has to be an improvement.

Comm. Sedlock stated that he had not been present for the hearing either. Comm. Sylvester responded that he knows the property inside out but wanted to disclose that he was not present at the hearing. He'll listen to the tape so that he can participate.

Comm. Parkins asked if there was enough space that the drive-through could be routed on the other side of the parking area to eliminate people walking in front.

Mr. Panico responded that there is difficulty with the grades – it goes up very sharply. It would be taking this type of a cut all the way down – it would be rather extensive earth work.

Comm. Parkins asked if there was enough space to move the parking down.

Mr. Panico responded that there isn't enough room right now because it is set up with 24 foot aisle and two 18 foot stalls.

Comm. Jones that there are going to be a lot of people pulling out of here, cutting through and backing up.

Comm. Parkins stated that if people park there, then they will be walking over to there as well.

Mr. Panico indicated that they should understand that it's a car every three, four or five minutes – it's not a steady flow.

Comm. Jones commented that in the morning it will be, hopefully, if it's a successful operation, it will be.

Mr. Panico responded that the representation has been made that he is seeking a Mom & Pop operation, not a chain. He doesn't think it is big enough to attract a chain. That doesn't mean that there can't be a successful Mom & Pop operation selling a lot coffee in the morning.

Comm. Parkins asked if they could put a Stop Sign there. Mr. Panico responded that they could put a Stop Sign there - or some kind of demarcation.

Comm. McGorty suggested implementing some kind of a crosswalk, a speed bump or a sign.

Comm. Jones commented that it should be all about safety because there is going to be a lot of people walking out of there.

Chairman Pogoda added that there are definitely going to be people walking through because there is no place else to park except right across.

Mr. Panico commented that they don't want to discourage them from walking because they want to encourage the use of those spaces.

Comm. Harger asked if there is any basis for moving that particular exit so that it lines up.

Mr. Panico responded that all the curb cuts are existing but they've shrunk the size of them. They didn't actually close any.

Chairman Pogoda commented that he recalls that they closed one curb cut.

Comm. McGorty pointed out more curb cuts by the Auto Parts Store.

There were multiple discussions (mostly inaudible) about the traffic circulation, the number and size of the curb cuts, and the location of the curb cuts.

Comm. McGorty commented that there are three curb cuts and they are just closing the width of them.

Mr. Schultz added that one side has a sidewalk for its entire front.

Comm. Harger asked about the driveway that goes around the back, up to the hill, and if it was necessary to have that traffic go in and out that way.

Mr. Schultz commented that the tanker needs to go in there from Bridgeport Avenue.

There was a lot of discussion about the site drawing that also showed the location of underground tanks, the island, travel lanes and the configuration of the gas pumps.

Mr. Schultz commented that to his recollection the canopy is modeled after the one on Howe Avenue by the Bridge – clean, white with the dental molding. The Commission was pleased with that site – that is a site that also wanted a drive-through, but it just wouldn't work there.

Comm. Sylvester asked about the back – and what they would allow to be developed in the back – the top.

Mr. Panico responded that the operation of the driveway in the back is not impacted at all by this proposal. If they were going to rework this and make that an entrance, then they would find they are bringing additional traffic down there if people just wanted to go to the drive up window; but that is not how it's been proposed. This grade is kind of heavy there but they should think about it though – it's a possibility.

There was a lot of discussion about a separate lane just for drive through coffee and comparisons to other establishments with an out-of-the way single lane drive through on Route 34 in Derby.

Mr. Panico indicated that he wanted to go back and look at the grades. He likes the idea of another entrance to encourage the drive up window traffic be separate in a different location.

Comm. Sylvester asked if there was going to be any excavation to get the drive through behind the building.

Mr. Panico responded that there is an addition tacked onto the building that is going to be removed, and some grading needs to be done there.

There was a lot of discussion about the amount of rock, exposed earth behind the building, the height, and how a retaining wall would be created.

Mr. Panico added that he thinks that their intent is to use heavy concrete retaining wall blocks because it's not very high.

Mr. Shultz added that they anticipate it being earth material not rock.

Comm. Sylvester commented that he would feel better if Tony and Rick went out and took a look at the grade in the back. He doesn't think it's a problem in what the Applicant is asking for; it's about helping him redesign this place to make a better situation on a very busy road.

Mr. Panico explained that was the reason why the angle of the building got clipped in the back to avoid going into that slope. Rick brought up that this was

a long driveway feeding a drive-up window – they have to have a bypass lane there if people don't want to wait in line and if they want to get out of line.

Mr. Panico added that this is a two-stage thing – the first part is to decide from a traffic point of view whether a drive-in window is appropriate at this location in terms of the ability to service it and deal with it. Then of course, there is the complete site plan review. If they didn't have that drive up window, they wouldn't have had a public hearing. They would of only had a site plan view. The Drive-up window triggered the special exception for the public hearing.

Mr. Panico suggested that they will probably try to roll it all up into one with the presumption that they are going in the right direction with the drive-up window then the whole site plan review will be conducted. Sometimes they get separated though; but this particular one – with everything married together so much, he thinks they should probably yeah or nay it all as one.

Chairman Pogoda indicated that with no further discussion, he would like Staff take a look at the back, take a look the grade as Leon suggested, and the possibility of an entry way to the back.

APPLICATION #09-09, JAMES BLAKEMAN FOR SUBDIVISION APPROVAL (2 LOTS: TWIN LOTS ESTATES), BUDDINGTON RAOD (MAP 62, LOT 12), R-1 DISTRICT – DISCUSSION AND POSSIBLE ACTION

Mr. Schultz indicated that the Commission directed Staff to sit down with the Applicant and redesign the entrance drive on Old King's Highway – one apron. He showed the plans that reflect the changes. Also the Commission wanted to hear from the Applicant's attorney regarding the encroachment of the septic system under the power lines.

Mr. Schultz read the letter dated April 1, 2009 from James Blackman's attorney, Steven Bellis and the Staff Report.

*** See attached letter to R. Schultz from Atty. S. Bellis dated 4/1/09.**

*** See attached P&Z Staff Report dated April 28, 2009.**

Mr. Schultz added that this is a paper street and there is a second driveway that accesses the house that fronts on Buddington. They have a driveway from Buddington and to this paper street. The paper street is gravel, but there is a lot in back that is accessed solely via Old King's Highway – so it is a paper street shown on the official street map for the City of Shelton.

The Commission's concern was that they wanted to take this opportunity to not make any additional curb cuts coming out onto Buddington Road – funnel them all together, and that is exactly what the engineer has done. Staff believes this

is the right design solution based upon the circumstances – because there is a significant curve here.

Chairman Pogoda asked the location for the other house that is located there right now.

Mr. Panico showed him the location on the site plan of the house and the two driveways. Mr. Schultz added that there are two existing homes using that paper street.

Mr. Schultz indicated that the City Engineer believes that the design solution is the best solution in this situation because they have two new additional homes on the other side of the street.

Mr. Panico stated that the ultimate solution would be to have them come in and construct a city street but as soon as that is done then the City inherits all kinds of maintenance responsibilities, like plowing, for a short piece of road. This preserves the driveway status of it and prevents any additional curb cuts.

Mr. Schultz indicated that they would still have the right to go to the BOA and to do a capital improvement design solution. This can be done when you have a paper street -ask the BOA to turn a private driveway into a city maintained street – but that is very rare. (inaudible due to a loud outside traffic)

Mr. Schultz stated that the geometry here is very difficult; they have windy roads in this community but having a common apron serving the two new homes proposed by this application and the two existing homes is the best solution.

Mr. Schultz stated that they have a favorable recommendation from the Fire Chief and the City Engineer.

Comm. Parkins asked Rick to go back to the easement, and asked who wrote the letter about it.

Mr. Schultz responded that Atty. Steve Bellis wrote the letter on behalf of the Applicant.

Comm. Parkins asked if it was the Applicant's attorney saying this – that he has the right to put in the easement? Mr. Schultz responded that was correct.

Comm. Parkins asked who owns the property that the power lines are on.

Mr. Schultz responded that Blakeman owns it and there's an easement over it.

Comm. Parkins commented that he granted an easement to the utility company -

Mr. Panico responded that the property owner back in 1923 granted an easement to the utility companies to run a power line through there.

Comm. Parkins asked if they are paying for an easement, don't they have some say in what else is going to go on their easement.

Mr. Panico stated that the easement was granted for the purpose of running utility lines and it reserves for the property certain rights and privileges (inaudible due to outside traffic).

Comm. Sylvester commented that he thinks, what Ruth is saying, that it is odd that the Applicant's attorney would be deciding that it's OK. It seems more legitimate that the utility company would say that.

Comm. Parkins agreed and asked if they provided a letter of concurrence.

Mr. Schultz responded that they asked that question of the Applicant and they couldn't fulfill that. Staff asked the Applicant to provide a letter from the utility company. Comm. Sylvester responded that's a significant point...

Mr. Schultz responded that they asked the Applicant to provide a letter from the utility company.

Comm. Parkins added that the utility company paid that owner for an easement which gives them rights.

Comm. Sylvester suggested that they could ask Corporation Counsel how that all works. Comm. Parkins agreed that she would feel better doing that.

Mr. Panico commented that this wasn't a unique circumstance. They've had similar circumstances occur before with their easements and people have crossed them with driveways, etc.

Comm. Parkins responded that they may have plans to do --whatever. Mr. Schultz added that it is a missing ingredient – they could table this.

Chairman Pogoda agreed that it is important that it be stated by someone other than the Applicant's attorney.

Comm. Jones asked if the City Engineer has any say about this. Mr. Schultz responded that he has no say about an easement, it's private.

Comm. Sylvester added that he'd be more comfortable if someone besides Mr. Bellis would concur.

Chairman Pogoda stated that they were going to table this application until they get something – a letter stating it or check with Corporation Counsel.

On a motion made by Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to table Application #09-09.

APPLICATION #09-13, JOHN PAUL DEVELOPMENT, LLC FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #61 (STONEWALL/FENCE), COMMERCE DRIVE (MAP 39, LOTS 2,3 AND 4) – DISCUSSION AND POSSIBLE ACTION.

Mr. Schultz advised the Commission that he invited the City Engineer to this meeting, but he declined. So His letters are for the record still and Atty. Thomas will address those issues.

Atty. Dominick Thomas, 315 Main Street, Derby, CT addressed the Commission representing the Applicant. He presented the revised final site development maps and a packet of documents for each Commissioners. He explained that it includes copies of a stream of email generated between Dave Sullivan, the traffic engineer from Malone & MacBroom (formerly Barkin & Mess) and Jim Swift, P.E. in regard to getting the CT DOT to review this situation with the Jersey Barrier.

Atty. Thomas reviewed that at that time, they were told that the reason for the Jersey Barrier was because of an AT&T conduit. The Developer called AT&T to identify the location of the fiber optic wires. AT&T informed the Developer that the conduit goes 14 feet down underneath the storm drain and it's not an issue.

Mr. DiMauro went to the people that engineered Commerce Drive – the Macguire Group. The Macguire Group claimed they didn't put in the Jersey Barrier – that was the City Engineer who said there was a problem with AT&T line so he did a change order.

Atty. Thomas noted that if AT&T had been called then, they would have indicated that it was 14 feet down, they would have been able to put guide rail in.

Atty. Thomas also indicated that the location of the conduit which runs along the curve in the road is actually closer to the guide rail that was installed not where the Jersey Barrier that was installed.

Atty. Thomas expressed his frustration with reports from the City Engineer referencing standards that aren't identified. He reviewed his research and responses to each of the issues raised by the City Engineer regarding this application. He addressed inconsistencies in the City Engineer's comments and proposed actions to be taken by the Developer (the wall, fence, irrigation & maintenance), and he reviewed the reasons for the 8-24 Referral and the need for a licensing agreement.

Atty. Thomas explained that he has spoken to Asst. Corporation Counsel and he has provided this level of detail in order to address Mr. Kulacz's safety concerns. However, there are no safety issues; this is confirmed by traffic reports from Malone & MacBroom. That barrier was put there solely for the AT&T line which is confirmed by the Macguire Group letter. However, after the discovery of the true location of the conduit, 14 feet underground; there was no need for it anyway. It should have been guide rail all the way down there. Atty. Thomas indicated he would answer any questions, as long as they aren't engineering questions, from the Commission.

Atty. Thomas showed the last page of the revised plans indicating the details required by the DOT standards for the metal guide rail.

Chairman Pogoda responded that pretty much everything had been put on the table at the last meeting. He asked the other Commissioners if they had any questions. The reason this was tabled was to give the City Engineer an opportunity to come to the meeting and respond to these issues.

He added that he spoke to Asst. Corporation Counsel, Ray Sous last night too and he indicated that the Macguire Group letter confirms the reason for that barrier. He felt strongly that the letter should be included in the packet.

Comm. Sylvester commented that this is the second time he stood up and asked for the City Engineer to be invited to the Commission before he would support something. For the record, he will never do that again. It's his responsibility to attend and explain his opinions.

End of tape 2A, 9:20 p.m.

Mr. Panico asked about the suggestion for a deceleration lane or a bus stop – that was the last point brought up.

Atty. Thomas indicated that John Paul, the developer is present and he was advised by the engineer, Jim Swift, that the lane was designed into the plan.

Mr. Panico commented that he can see that the wall is kicked back and would accommodate the turn out lane.

Mr. John Paul, developer, John Paul Development LLC addressed the Commission. Mr. Paul pointed out on the site plan the location of a dotted line demarcating the pull off area as it curves in.

Atty. Thomas stated that for the record that their application didn't address that issue because it had been rejected by the City Engineer. When they tried to do it, he rejected it. They have no problem doing it – they have no problem sitting down with the City Engineer and working it out across the table – Jim Swift, Dave Sullivan, Staff to Staff, to just talk about engineering things and discuss that cut off -- because it is something that the Commission wants.

Atty. Thomas stated it was also expressed way back with the initial PPD to provide for it in case of the situation where the school buses have to pick up children – that issue had been raised by Comm. Sylvester.

Chairman Pogoda responded that it wasn't even so much for the bus but for a deceleration lane, especially in the morning, those cars are racing up Commerce Drive so fast.

Atty. Thomas responded that this is a PDD and it's within their range.

Mr. Panico suggested that sounds like it might open up another can of worms with the City Engineer. Maybe they should divorce the two actions, dispose of this and then pick up and go forward with the turn out lane.

Mr. Paul responded that would help him a lot with construction. He would like to get started with the retaining wall at the bottom corner.

Chairman Pogoda asked if the City Engineer gave any reason for not wanting it.

Mr. Paul responded that he's tried to meet with him many times but...
(inaudible).

Atty. Thomas stated that he would appreciate if the Commission would consider waiving the application fee, but obviously, if necessary, if they act on this application, he'll submit, within the next week, another application for Minor Modification of the Final Detailed Development plans for the provision of the turn out lane because some of it is on City right of way and some of it is on the PDD, so they have control over it.

Mr. Panico commented that he thought it would be a better way to do it because DiMauro's letter doesn't address it. He's the final say if they get into loggerheads with the City Engineer. They think it ought to be there and the applicant is willing to put it in.

Comm. Sylvester stated that if at all possible; keep it on the city right of way because he wasn't sure if the buses could go off city roads because of their insurance coverage issues. Mr. Panico noted that would be the case normally, but the City right of way is very narrow there.

Atty Thomas responded that greater than 50% of the bus would have to be sitting on the City right of way.

Mr. Panico stated that if they have a reasonable relationship with the City Engineer's Office and the Street Department, there is a triangle of land that would lie under a portion of it that could be relayed to the City and become a portion of it. These kinds of issues could delay the construction of the wall – but as long as the wall anticipates it, it can be done.

Mr. Paul responded that they plan to put pillars and pavers on the whole front section probably coming in about 100 feet.

Mr. Panico asked if he was going to allow him to do pavers right up to the edge of travel way. Mr. Paul responded that was his next battle but he'd love to do it because he thinks it would look great.

Mr. Panico commented that the pavers in the pull off area would maintain the delineation of the travel way too.

Atty. Thomas stated that they are willing to meet with him and provide expert traffic engineers to address the issue of the pull off area. They would also agree to meet with the City Engineer at a Staff Meeting – he doesn't know what else they could do.

Mr. Panico suggested that if they are going to follow this up with a minor modification application, that they offer up to incorporate the decel lane and dedicate any additional right of way that is necessary so that it can be entirely in the street right of way.

Chairman Pogoda indicated that before they can vote on this Application, they have to vote on the 8-24 Referral for the License Agreement with Aspen Ridge using City property on Commerce Drive which was previously tabled.

On a motion made Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to report favorably on the 8-24 Referral for the License Agreement with Aspen Ridge using City Property on Commerce Drive.

Mr. Schultz read a draft motion for Application #09-13 for with the final revision dated 4/28/09.

On a motion made by Thomas McGorty seconded by Virginia Harger, it was unanimously voted to approve Application #09-13 with the understanding that the applicant will return with a Minor Modification for a deceleration/pull-off traffic lane.

OTHER BUSINESS

MEADOW VIEW CLUSTER DEVELOPMENT (PDD #68): REQUEST FOR 90-DAY EXTENSTION TO RECORD MYLAR MAP

Mr. Schultz indicated that this was for the six single family homes next to Heritage Point on Buddington Road. This is their second 90-day request for an extension.

On a motion made by Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to accept the 2nd request for a 90-day extension for PDD #68 Meadow View Cluster Development to record a Mylar map.

Comm. Sylvester leaves the meeting at 9:40 p.m.

NEW BUSINESS

APPLICATION #09-14, UNITED RECYCLING OF SHELTON, LLC FOR SITE PLAN APPROVAL (FULL PERMIT FOR RECYCLING FACILITY), 90 OLIVER TERRACE (MAP 63, LOT 13) IA-2 DISTRICT – ACCEPT FOR REVIEW

On a motion made by Ruth Parkins seconded by Thomas McGorty, it was unanimously voted to accept for review, without a public hearing, Application #09-14 United Recycling of Shelton, LLC for Site Plan Approval. Comm. Sedlock acted as an alternate for Commissioner Sylvester for this Application.

STAFF REPORT

ZBA Issues

Mr. Schultz indicated that they acted on the April meeting for Montenarro at Huntington Center was denied, so that will probably go to court.

ZONING ENFORCEMENT

31 Lucille Drive

Mr. Schultz reported that Staff has received an affidavit from the homeowner at 31 Lucille Drive confirming that the deck was constructed three years before the complaint was received. That will probably be challenged; however, he wanted it to be challenged in the appropriate setting and that setting is the Zoning Board of Appeals.

The homeowner has also agreed to park his van with metallic sign in the garage at all times. This is a sign that can be removed. Time will tell if it is going to be an on and off situation. Whenever Staff gets a complaint, they will continue to monitor it, and they will deal with repeat violations. It will return to this Board if it gets to a high level again.

Alleged commercial activity within the second accessory structure stopped when that structure was removed. It was brought to his attention that not all the materials associated with that shed had been removed. However, 99.9% have been removed. Staff will continue to work with the homeowner to remove everything.

Staff is now recommending, at this time, that the Commission not take any action at its May 12th meeting and to advise the Complainant to take the affidavit matter to the ZBA, if they so desire. As with all complaints, Staff will continue to work with the Complainants if repeat violations occur.

Mr. Schultz noted that the affidavit was the missing ingredient because he cannot put this Commission in a position of not enforcing the Shelton Zoning Regulations when the homeowner says the deck was up for 3 years.

Mr. Panico asked what Complainant would take to the ZBA.

Mr. Schultz responded that they would take the affidavit material that is submitted. They can challenge that submission of the affidavit being erroneous and then the ZBA will make a determination if the dates are accurate and if it is a legitimate affidavit.

He continued that the way it was left at the March meeting, this Commission would have authorized the ZEO to issue a Cease & Desist order and take it to the court level if needed - if the applicant failed to respond to all issues of the complaint: the removal of the second shed which is 99.9% removed; the parking

of the van with metallic commercial lettering inside the garage; submission of an affidavit confirming that the deck was constructed more than three years from the date the original complaint was made.

Mr. Schultz indicated that his office is obligated to ensure that all complaints don't resurface – only time will tell. He was asking this Commission, in light of all this new testimony received; the removal of the shed and parking of the van, to rescind their motion, which was to direct the ZEO to issue a Cease & Desist at the May 12th meeting if the property owner failed to comply with the issues just discussed.

Comm. Parkins asked what the ZEO would be Ceasing & Desisting.

Mr. Schultz responded that the ZEO would have issued a Cease & Desist for the owner not taking out a Zoning and Building permit for the construction of the deck because it would have been this Commission's position if they had not gotten the affidavit. The property owner has to provide an affidavit because the Commission doesn't want to be put in the middle saying how old the deck is or conversely, for Staff to have aerial photography that is accurate, and they don't have that.

Chairman Pogoda asked if they should wait on this until the next meeting.

Mr. Schultz responded not at all – he would like this to go to its next step – which is the Zoning Board of Appeals. This Commission doesn't have the time to have a public hearing on an issue of this nature, unless it is clearly a legitimate cease and desist order that has to be fulfilled.

Comm. Parkins asked if the Cease & Desist would be to take the deck down.

Mr. Schultz responded yes or to take out a permit or go to the ZBA.

Comm. Parkins asked about the back-up documentation regarding the purchase of supplies that went along with that affidavit. She asked if the documentation coincides with what the deck is constructed of.

Mr. Schultz responded that he's satisfied with it. He's never going to be able to make a statement that he is 100% certain. It's his job as the Administrator to keep the Commission out of these types of situations and get the ZEO's to do their job.

Mr. Panico asked if he was requesting that the Commission to essentially dismiss the complaint on the strength of the affidavit having been provided indicating that the deck was there in excess of three years.

Mr. Schultz responded yes, and enabling them to still continue exhausting all remedies - which is the ZBA. They can actually have a public hearing.

Chairman Pogoda asked for a motion to dismiss the action of the Commission regarding the enforcement action relative to 31 Lucille Drive.

Comm. Harger asked if this was the only avenue open to them.

Mr. Schultz responded yes, for this Commission. The Complainants still have the avenue of going to ZBA and lower courts.

On a motion made by Joe Sedlock seconded by Thomas McGorty, it was voted (5-1) to dismiss the enforcement action of the Commission relative to 31 Lucille Drive on the strength of the submitted affidavit and other relevant improvements. Comm. Harger voted in opposition.

Mrs. Barbara Luckachina, 48 Long Meadow Road, Shelton, CT addressed the Commission.

Mrs. Luckachina asked why it took almost a year to get an affidavit – they were going through this all last summer.

Mr. Schultz agreed that it is how slowly things work in the Zoning world. These are the checks and balances. He explained that she has an option to go to the ZBA to discredit that affidavit. This Commission does not take these matters lightly.

Mrs. Luckachina expressed her frustrations and concerns to the Commission regarding her difficulties with her neighbor and the obstacles she has been experiencing in regard to obtaining any satisfaction about these complaints. She gave the Commissioners more detail as to other issues not brought out by Atty. Herbst at the 3/24/09 P&Z Meeting and to the distress this situation has caused her over the past year.

Mr. Schultz assured her that, as with all complaints, Staff will continue to work with the Complainants and monitor that compliance with Shelton Zoning Regulations is being maintained by the homeowner at Lucille Drive.

Mrs. Luckachina expressed her dissatisfaction with Mr. Dingle's response to her issues. Mr. Schultz informed her that issues with Mr. Dingle are separate, personnel issues that should be submitted in writing to this Commission.

Comm. Parkins thanked Mrs. Luckachina for her patience in waiting to address the Commission. She suggested that taking this to the ZBA and proving the validity of the affidavit might be the best thing for her to do at this point.

Mr. Schultz summarized for the Commissioners that this has been a very intense issue with these neighbors. His office will continue to monitor and address complaints regarding the situation.

On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to adjourn the meeting at 10:02 p.m.

Respectfully submitted,

Kevin Tuke

Recording Secretary, Planning & Zoning Commission