

**SHELTON PLANNING AND ZONING COMMISSION      JULY 14, 2009**

The Shelton Planning and Zoning Commission held a regular meeting on July 14, 2009 in the Shelton City Hall, Auditorium, 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 Patrick Lapera  
Commissioner Thomas McGorty  
Commissioner Ruth Parkins  
Commissioner Joseph Sedlock  
Commissioner Leon Sylvester

Staff Present:

Richard Schultz, Administrator  
Anthony Panico, Consultant  
Patricia Gargiulo, Court Stenographer  
Karin Tuke, Recording Secretary

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

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Chairman Pogoda began the meeting at 7:00 p.m. with the Pledge of Allegiance and a roll call.

**PUBLIC HEARING**

**APPLICATION #09-16 CHAVES BAKERY FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: FOOD ESTABLISHMENT), 140 BRIDGEPORT AVENUE (MAP 105, LOT 51), CB-2 DISTRICT**

Chairman Pogoda reviewed the procedures for conducting a public hearing for the audience members. Rick Schultz read the call of the hearing. There was no additional correspondence.

**John Guedes of Guedes Kahn Inc, Project Architects addressed the Commission.** Mr. Guedes added that he is also a partner with Broadbridge Hill Development, the owners of the center. He submitted mailing receipts from notification notices.

Mr. Guedes indicated that he was present on behalf of John Chaves, President of Chaves Bakeries. The Chaves Bakeries have leased two stories at the Center located on 140 Bridgeport Avenue. This Center, which consists of approx. 5,000 square feet, went through its final approvals a few months ago. Chaves will occupy two stores on the first floor comprising 2,550 square feet. This is a retail operation. His main baking business is conducted in his factory on State Street. At this location, he will sell breads and have a small deli. There will be some baking on the premises but it will be limited to pastries. His hours of operation will be between 6 a.m. – 7:00 p.m., Monday through Saturday and on Sunday he will close between 4:00 p.m. and 6:00 p.m. depending upon the traffic.

Mr. Guedes showed a drawing of the site plan and stated that it was very straightforward; he'd be happy to answer any questions the Commissioners had.

Comm. Harger asked him to repeat what the hours of operation would be.

Mr. Guedes responded that it would be between 6:00 in the morning to 7:00 in the evening, Monday through Saturday. On Sunday he would close between 4:00 p.m. and 6:00 p.m. depending upon the traffic.

Chairman Pogoda asked when he would open on Sunday.

Mr. Guedes responded that he would open at 6:00 a.m. on Sunday also. He added that this is in line with his other bakeries in Monroe and Bridgeport.

Comm. Jones asked about the sight line from that location coming out, taking a left or right turn onto Bridgeport Avenue. He added that taking a left turn and going south, there is a lot of vegetation that grows in that area.

Mr. Guedes responded that they have been clearing the entire site and most of that will be cleared out. He recalled that throughout the Application process, the original driveway was moved in on the north side. The Engineer looked at the sight line issues and suggested moving the driveway east to comply with all the requirements. Additionally, this was part of the DOT permit process as well so those issues have been addressed.

Chairman Pogoda asked Mr. Guedes to briefly explain again about the position of dumpsters and the enclosure for the dumpsters.

Mr. Guedes responded that as a result of comments at the previous hearing, they have designed an enclosure which is built into the retaining wall system so that it is hidden from the street. It is located to the left of the bakery. He referenced the landscaping plans to show where there are some green (*inaudible*).

Chairman Pogoda asked how often they would have trash pick-up because the containers are close to the street and if the gates are open, trash might be falling into the street. He asked if they anticipate generating a lot of trash and how regularly would it be picked up – once, twice a week?

Mr. Guedes responded that most of the baking operations will be done on State Street at the factory. There are a limited amount of pastries that will be baked on the site but the trash that is generated from that is minimal based upon the amount at the other bakeries. They generally have an every other day trash pick-up.

Comm. Harger asked if there would be any interior seating.

Mr. Guedes responded that there are only two small tables; this is strictly take-out. Most of their other operations have a table and chairs for people who are waiting for what they are buying.

Chairman Pogoda asked if they will sell coffee or other beverages.

Mr. Guedes responded that they will sell beverages.

Comm. Jones asked about where they would get deliveries.

Mr. Guedes responded that deliveries would take place at the loading and unloading space shown on the plan.

Comm. Jones asked about the time of the deliveries – would anything be delivered at 5:00 a.m.

Mr. Guedes responded that most of the deliveries are the first thing in the morning before the public traffic begins. They do get some baking – some bread comes in at 4:30 p.m. From what he understands, the deliveries are before the bakery opens and every other day they get a delivery late in the afternoon.

Comm. Lopera asked about the nature of the deli sales – he sees three deli cases on the plan.

Mr. Guedes responded that their other bakeries sell cold cuts, Portuguese specialty cheeses, sausage, and meats – it's a Portuguese bakery.

Comm. Lopera asked if the areas marked as "carousels" on the plan were tables – to sit at and eat.

Mr. Guedes responded no they aren't tables – there are some at his other operations. It is not meant to be a sit down place.

Chairman Pogoda asked if they would be preparing sandwiches or grinders to order on the site or are they just selling the cold cuts.

Mr. Guedes responded no, they would probably just have people come in and buy things. He asked them a number of questions as they were going through this process, but not that one. Unfortunately, Mr. Chaves was unable to be here tonight; otherwise, he would have answered all these questions himself.

Comm. Sylvester commented that the big thing here is not so much the business but the ability of the property to handle the business and get the traffic off the road. The traffic on the street – that street is overused – it's incredible as to the amount of traffic it takes right now. It is the main street in and out of Shelton outside of driving down to the Merritt Parkway. People going south to Route 8 are using that street. There are already tie-ups right there with deliveries from another business they allowed to go there. It's a good intention; it interrupts traffic on a daily basis. He added that he doesn't have any expertise to design it but it's got to be such where those deliveries are able to get in and out of that place without stopping and turning there.

Mr. Panico commented that there would be no backing in or maneuvering from the street.

Comm. Sylvester added that it is what they have now and it ties up traffic for a good period of time. As long as they can keep the traffic off the street and onto their property, it's...

Mr. Panico stated that when the Commission reviewed and approved the site plan that was taken into account. The traffic that is on site does its maneuvering and then leaves the site.

Mr. Guedes responded that he wanted to add that all of his deliveries are small vans. He doesn't have tractor trailers coming in.

Comm. Sylvester commented that he isn't familiar with the operation, but he's familiar with his product, which is a terrific product. He's happy to see it come to Shelton. This is a good thing; he is just looking to ensure that the traffic they generate is handled.

Mr. Guedes responded that part of the redesign of the site – and there were various revisions – included a relocation of the driveway and the loading/unloading area right in front of the bakery.

Comm. Sylvester commented that he doesn't recall the other hearings that took place, and he thinks he was probably not present, but as long as it's been looked at...that's his only comment.

Chairman Pogoda asked if any of the Commissioners or audience members had any questions or comments. Since there were no further questions or comments, he asked for a motion to close the public hearing.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application 09-16.**

**APPLICATION #09-20, MERCANTILE DEVELOPMENT, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (BUILDING EXPANSION), 10 WATERVIEW DRIVE (MAP 79, LOTS 10 AND 11), LIP DISTRICT**

Mr. Schultz read the call of the hearing and correspondence from the City Engineer.

**\*See attached correspondence to Richard Schultz from City Engineer, Robert Kulacz dated 7/14/09.**

**Joseph Mingoello, Mingoello & Hayes Architects, 90 Huntington Street, Shelton, CT addressed the Commission.** He indicated that he was here tonight with the president of Mercantile Development Inc., Mr. Alan Fankhanel. Mr. Fankhanel can answer any questions about the daily operations at the facility. Jim Swift, Engineer and Landscape Architect will begin with his presentation about the site development and landscaping.

**Jim Swift, Professional Engineer, Landscape Architect addressed the Commission.** Mr. Swift showed a configuration of the site showing which is a 10 acre piece with a single building in a light industrial park. The adjoiners are residential towards the back, light industrial to the west and vacant/light industrial to the east and Pitney Bowes across the street.

Mr. Swift explained that the building sits on the westerly portion of the site. It is a simple one way traffic pattern with trucks coming in that circle around the back to the loading docks. He showed the location of the loading docks on the site plan. There is minimal parking; this is not a parking intensive use. There have been issues with trucks arriving early in the morning. Presently, the owner has installed locking gates at both driveways even though it is a one way system. They are only opened at a certain time in the morning. He indicated that this plan shows how the site presently looks.

Mr. Swift showed the proposed site plan with the addition of about 54,860 square feet located on one side of the site. He mentioned that there is a reduction of eight parking spaces; however, they found that with the parking lot they have in the front and the 18 spaces on the side, there are spaces that are never used.

The proposed addition puts some of the parking spaces back in the front, but not all of them. This is strictly a warehouse use, so there is nothing in that part of that building addition that would generate any additional parking. There are other places to extend the parking; however, but they don't see the need for it now.

Mr. Swift explained that the landscaping for this site has been extremely well kept – the trees and the lawn are beautiful. They are going to extend that out across the front with the same treatment. In the back, there are some evergreens that are blocking the sight lines from the existing loading docks, and

they plan to do the same for the proposed loading docks in the warehouse section of the property.

Mr. Swift showed the topography of the site indicating, that because of the straight line slope from one side to the other, there is no leakage of drainage off in any direction or into the street.

Mr. Swift explained that they are building the warehouse at the same basic floor elevation as the existing warehouse. The effect that has, as shown from the 3-D model on the table, makes the building seem as though it disappears right into the hillside. He showed a comparison of the grade on the street at one location being about 12 feet higher than another point on the finished floor of the building. At the rear of the site it is even more significant because the existing elevations are about 40 feet higher than the finished floor of the building at the corner. They are really cutting this building down into the hillside and that is going to hide the building from most views, as can be seen on the model.

Mr. Swift explained the dashed blue lines on the drawing indicated that the storm drainage will tie into an existing storm retention pond designed under the original auspices of the original Shelton Heights subdivision. They are not looking at doing storm water retention as the City Engineer suggested because they are tying into the existing retention area that is in place. This storm drainage discharges directly into the pipes on Waterview Drive, down into Constitution Boulevard and directly into Ivy brook. Ivy brook has no drainage problems or issues going straight down into the Housatonic River. Mr. Swift indicated that was why he would question any need for storm water detention but, certainly they will respond to the City Engineer's comments and pursue his requirements with this.

All utilities are on site but sewer, septic and electrical will all tie into the existing building, and Joe will reinforce that this type of a warehouse building does not require a lot of updated utilities. In regard to the Soil Erosion Control Plan, this is a hillside that comes straight down from the parking lot to the building and does not leak off into any residences. He showed the location where they will be putting a temporary sedimentation basin, the trenches and the riser pipes which will be the primary means of controlling the storm water and directing it into the piping system.

Mr. Swift concluded that it was a straightforward design; there's nothing unusual about in respect to all the setbacks. One of the things mentioned in a Staff Meeting was that there was some grading and sloping. The landscape plan shows some evergreens in there, and they'd be happy to extend those out to any disturbed areas they might generate up in that direction. The site layout is fairly simple and straightforward.

Mr. Swift asked, at the suggestion of Staff, if Staff could put together a bond for basic sedimentation control with earthwork so that they could start that process. If the bond could be set, they'd be glad to set that; again, this is all matter of right type of uses. They would like to be able to post that bond and at least get into stripping top soil and getting prepped up for excavation.

**Joe Mingoello, Mingoello & Hayes Architects, addressed the Commission.** Joe Mingoello indicated that as Jim had mentioned, this addition is 54,850 square feet. The architecture is going to match the existing architecture. He showed some photographs depicting the existing architecture, where the addition is going, where the existing docks are and the type of storage they need.

Mr. Mingoello showed photographs from when they first developed the site in 1995, and since then the landscaping has matured and been maintained meticulously. It is a beautiful-looking building and this addition is going to the right side. He showed photos of the existing parking lot where the proposed addition would be. He's never seen more than two cars parked on that side of the site.

Mr. Mingoello used a 3 dimensional model to explain that they will cut into the hill and the extent of excavation will be up to the tree line. He showed a photo of the type of raw goods products, paper rolls 45" – 80" in diameter that would be stacked in the warehouse. They are shown as circles on the floor plan. He showed another photo of the loading dock area and the compactor. He indicated that there are 6 loading docks, five are presently active, and one is used for the compactor. The rear of the facility is meticulously maintained with no trash or empty pallets.

To explain the architecture, he used a model created for their presentation to the BOA and to provide a 3-D depiction of the facility for the neighbors. Mr. Mingoello explained that the gray roofs represent the new addition. He showed the increase in elevation on Waterview Drive, the loop driveway and the drop back down. He indicated that they conducted test borings and they have about 10 – 12 feet of earth and then they hit some rock. The engineer mentioned that he was looking for details on retaining walls and they are hoping they can use all of the rock cut as a retaining wall.

He showed that from the height of the new addition, which matches the existing warehouse on Waterview Drive, it almost buries itself into the grade from the street line. It is about 6-8 feet out of the ground at the high point but as it drops back down it goes down to the 34 foot elevation which is the existing elevation of 306 at the existing facility.

Mr. Mingoello showed the location of the loading docks in the back of the facility, the manufacturing is in the middle and the areas where the warehouse and the office were located. He explained the path that the raw goods would take into the manufacturing area and finished goods area and storage location.

Originally, when the facility was built 15 years ago they did have some problems with trucks coming in the early morning or late at night. Mr. Mingoello indicated that Jim Swift mentioned the location of the gates and the plan for the new entrance to be gated. The gates don't open until 7 a.m. so a truck making deliveries earlier than that will have to wait in the front for the gates to open. The gates close at the end of the work day. There is minimal traffic at this site and the employees park in front. In terms of landscaping, there is a 100 foot dense buffer existing there now and the proposal is to create another dense landscape buffer to divorce the facility from the residential neighborhood. They are hoping that the sound will deaden coming around the corners to the lower elevations, and they will landscape it with white pines. He asked if the Commissioners had any questions about the architecture or the operations.

Comm. Harger asked if deliveries or shipments out of the facility took place five days a week.

**Mr. Alan Fankhanel, 10 Waterview Drive, Shelton addressed the Commission with his response.** He responded that they operate on one shift – five days a week, 8 hours a day, currently.

Comm. Harger asked if they have deliveries and shipping every day. Mr. Fankhanel responded that yes, they do.

Chairman Pogoda asked if there would be any blasting.

Mr. Mingolello responded yes, they have about a 20-foot rock cut and there is about 35,000 cubic yards that needs to be removed. They have some preliminary schedules from a local site contractor and they think there will be about three months of major site excavation to get ready for foundations, then there will be another 6 weeks after that to continue shaping the site. This is probably a four month site project.

Chairman Pogoda asked if this new building would be any closer to the residences than the existing building.

Mr. Mingolello responded no, it would not be. The line for the back of the building is the same.

Are there any homes closer because of the new positioning?

Mr. Mingolello responded that all the residences have a rear yard set back at the same line. Some have an accessory structure or detached shed but they are pretty much all in line.

Chairman Pogoda asked about a structure shown on the site plan near the new addition.

Mr. Mingolello responded that it was a resident's garage.

Comm. Jones asked about the 100 foot buffer that existed and the amount of white pines that would be added as well as how many new loading docks were going in.

Mr. Mingolello responded that they would be adding 4 loading docks for this building.

Comm. Jones asked if the increase in loading docks would increase the amount of trucks showing up at 7 a.m.

Mr. Fankhanel responded that they didn't anticipate doubling their activity by increasing their warehouse and manufacturing space by 50%. Their shipping out patterns will probably remain the same; mostly LTL cargo but the truckloads come in at the rate they can take them which would probably be 2 or 3 trucks in the morning and 2 or 3 in the afternoon. He doesn't see four trucks sitting there idling.

Comm. Jones commented that he was looking to see more white pines planted for more buffers because of the Plaskon Drive residents there.

Mr. Mingolello responded that they invited the neighbors to come an informal presentation. Some of the residents that live right behind the loading dock said that in the beginning there had been a problem but since they gated it, the trucks don't come in until later and that helped out a lot. The 5 a.m. trucks idling were the issue.

Mr. Panico asked if the roof would be fairly clean. Mr. Mingolello responded absolutely, there is only one rooftop unit in the back that handles the whole thing.

Comm. Harger asked if there were any truckers that hang out in the street waiting for the gate to open.

Mr. Mingolello responded that there haven't been any complaints from the police about trucks backing up around the site.

Comm. Sylvester asked what was manufactured there.

Mr. Mingolello responded that they make industrial handi-wipes. Alan can talk about that.

Mr. Fankhanel responded that they make engineering cloths to replace rags, and shop towels. The products are similar to baby wipes but made out of a combination of wood pulp, rayon, and polyester fibers. They buy them in rolls from mills like Georgia Pacific or DuPont. They take the rolls and convert them into rectangles, squares or rolls and they saturate some of them.

They are primarily used for manufacturing applications, food service, janitorial, industrial and automotive purposes. Mr. Fankhanel indicated that his daughter, who is present, could answer any specific questions because she is in charge of sales and marketing. These are products that people don't normally see. They are a grade above regular paper towels.

Comm. Laperera asked about the decrease in parking spaces, how many employees they have, how many new employees for the new warehouse and the number of visitor parking spaces.

Mr. Mingolello responded that there were 35 employees with a few new employees for the new warehouse. He asked Mr. Fankhanel to explain.

Mr. Fankhanel responded that they don't anticipate any major increase in employment except for one or two people in the warehouse. The potential increase would come from the growth in the manufacturing business

Comm. Laperera asked how many parking spaces they were providing.

Mr. Mingolello responded that the total proposed was 42.

Comm. Laperera commented that after they take 8 spaces away, they'll have 42 left for 37 employees spaces and 5 visitor spaces.

Mr. Swift responded that if they have a need for more parking, there is plenty of room for expansion and plenty of places to find spaces.

Mr. Panico asked about any lighting at the rear building besides security lighting that stays on beyond working hours.

Mr. Mingolello responded that they have a wall pack and they did have some low packs and they ended up putting shields over them. Some of the existing wall packs will need to be relocated and they'll have to add a few more to the back – there are no poles or anything like that.

Mr. Panico asked if that lighting was on all night for security purposes.

Mr. Fankhanel responded that they had some complaints from neighbors so they put them on clocks. The lights go off around 9:00 p.m. and come on around 6:00 a.m. and they are directed downward so they don't interfere with neighbors.

Comm. Harger asked if they had other trash removal besides the trash compactor that they mentioned being on one of the loading docks.

Mr. Mingolello responded that their manufacturing waste from this paper product is minimal so they aren't anticipated increases in trash.

Comm. Parkins asked if anything besides the raw goods was planned to be stored in the warehouse.

Mr. Mingolello responded that it would just be the raw goods in one area and the finished goods in another; presently they are combined. They have rack storage and the raw goods are eating up a lot of space that they need for the finished product. So the existing warehouse will be just for finished goods and the new warehouse will be raw goods and they will be stacked up like a bunch of beer cans.

Comm. Parkins asked if there would be any by-products or anything produced from the manufacturing.

Mr. Mingolello responded that there would not be any.

Comm. Lapera asked if the warehouse would have the same façade as the rest of the building.

Mr. Mingolello responded yes, it would be the same architecture.

Chairman Pogoda asked if there were any other questions from the Commissioners. There were none. He asked for questions or comments from the audience.

**Mrs. Ellen Trabka, 58 Plaskon Drive, Shelton addressed the Commission.** Mrs. Trabka stated that she lives right in back of the Mercantile and there are trucks there all the time at 6:00 a.m. in the morning idling, beeping horns and it wakes her up in the morning. The compactor makes so much noise that they wouldn't believe it - this is not a quiet shop. There are trucks – whenever the gate opens, it is not automatic and it is not at 7:00 a.m. They are there at 6 a.m. idling and they are noisy.

She would like to know who she should call when she hears the trucks come in before 7:00 a.m. like they promised – and like they promised years ago too. She urged the Commissioners to please come up and see the trucks at 6 a.m.

Chairman Pogoda recommended that she call Mr. Fankhanel because he owns the company – and he's right there.

Mrs. Trabka indicated that she didn't want to make this personal, but about 7 years ago her husband was seriously ill and there was a truck idling and the smell of the diesel fuel was terrible. She called and asked to speak to the president or whoever was in charge of the company so she could tell them her husband was very ill and just went through a chemotherapy treatment and their house smelled awful. It was a beautiful day and they wanted to have the windows open but the smell of diesel fuel was terrible.

Mrs. Trabka indicated that whoever came to speak to her on the phone, and she can see that person from her kitchen window because it's so close, had been a well-dressed man who stated that they never wanted them there in the first place, there are no trucks in the back and she was a liar and hung up on her. Eventually that person came out of the shop and told the truck driver to turn the truck off.

Mrs. Trabka reiterated that these people are not friendly neighbors and hopefully she never has to deal with them again. She doesn't know who she spoke to that

day, but the entire incident was very upsetting to her. The compactor makes a lot of noise. Also, they promised a retaining wall and they never put in the retaining wall. They are 100 feet from her backyard; the trucks are there at 6:00 a.m. She's lived in this home for 46 years.

**End of Tape 1A 7:47 p.m.**

Chairman Pogoda asked if she heard the compactor during or after working hours.

Mrs. Trabka responded that it was during the working hours.

Chairman Pogoda asked if the trucks are idling there at 6 a.m.

Mrs. Trabka responded that some of them idle and some beep their horns.

Chairman Pogoda asked if this happened recently or in the past.

Mrs. Trabka responded that it happened a couple weeks ago – there were trucks beeping and workers talking loudly. If the windows are open, because of the nice weather, than she hears everything.

Chairman Pogoda asked if she was hearing this before 7:00 a.m.

Mrs. Trabka responded yes, before 7:00 a.m. She thanked the Commission.

Chairman Pogoda asked if there was anyone else from the audience with questions or comments.

**Bill Purcell, President of the Greater Valley Chamber of Commerce, 900 Bridgeport Avenue, Shelton addressed the Commission.**

Mr. Purcell wanted to make a general statement before commenting on this application. He wanted to make a comment about all the business before this Commission tonight and point out that Shelton was one the few Planning boards in the State that is entertaining four significant real estate development projects. The review by this Board has been perfected by its good guidance. One can only hope that what is being experienced in Shelton will be a harbinger of what will hopefully happen throughout this Valley. He commented that despite the most challenging real estate market, three great developers - Mr. Scinto, Ken Schiable and John Guedes are present tonight making substantial investments in Shelton.

He commented about his experience with Mercantile Development recently in opening up the doors of the company to the neighbors from Plaskon Drive to come in and review the development. It was at the encouragement of Mr. Rick Schultz and John Anglases, and he thinks it was time well spent. He regrets that Mrs. Trabka, who spoke before him was not present. He trusts that her concerns would be listened to by Mr. Fankhanel and his family. He wanted to comment on that evening and credit Joe Mingoello from Mingoello & Hayes and Alan Fankhanel for being so receptive to the concerns that were raised. And there are legitimate concerns because it is close quarters to the residents.

Mr. Purcell commented that he thinks that this company, with the exception just noted by Mrs. Trabka, has been extremely sensitive in their design, the buffer, the exterior lighting, traffic and neighborhood concerns. This is a 60-year old company, a family affair and they are all gathered here in the second row – Alan and his three children. It is a showcase facility - and he thinks the addition will be a welcome addition to the community.

Mr. Purcell urged the owner of the company to ascertain the concerns of the woman who spoke previously and respond.

Additionally, Mr. Purcell thanked the Commission publicly for the infrastructure investment made with the installation of the wonderful sidewalk from Huntington Green up to the Corporate Development along Commerce Drive. It is these types of investments that make this community distinctive, linking communities and knitting neighborhoods together. It allows encourages the public to engage in social interaction and physical exercise.

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

Comm. Sedlock commented that there seems to be a large problem with the idling trucks. If a truck comes in to the company gate and parks, why can't they turn off the engine. He asked if there was a reason that they keep idling if they are there to deliver something or pick it up.

Mr. Fankhanel responded that prior to the increase in diesel fuel costs, it was common practice for truckers to let their engines run whether it was summer or winter. That has changed dramatically due to the cost of fuel. They've implemented a policy where they tell all the drivers to shut down their engines when they come in. Mr. Fankhanel commented that the lady that just spoke – he didn't want to spend a lot of time about what she said - because the bottom line is that if the neighbors complain or have a reason to complain, they are the first ones to step up and make a change or correction. They have done that for the last 15 years. This business about – the comment she made – he was not the person she was speaking to. The gates don't open until 6:30 a.m. or 7:00 a.m. so how can a truck be there at 6:00 a.m. idling – he doesn't know how that could be. He stated that he will give her the name and number of someone she can call who is there at 6:00 a.m. every day.

Chairman Pogoda asked about the time that the gates open – Joe Mingoello mentioned that the gates open at 7 a.m. but you just said 6:30 a.m. He asked what time they open the gates.

Mr. Fankhanel responded that he doesn't get there until 9:00 a.m. so he doesn't know. He asked his son, Ken, what time the gates open; he responded that he thought it was 7:30 a.m. Mr. Fankhanel stated that he did not have the MBI handbook here with him with the exact time but he has a man there at 6:00 a.m., so technically he could be opening the gate at 6:00 a.m. creating the problem this lady mentioned. Mr. Fankhanel added that he will deal with that because they do have the capability of opening or closing those gates.

Mr. Panico commented that now they will have three driveways connections – one to the parking lot and the other two to the service road – so the service road should be kept locked even if people show up to work earlier at 6:00 a.m.

Mr. Fankhanel responded yes, and that it should improve things substantially.

Chairman Pogoda asked what time the plant actually starts working so the trucks can be unloaded. If it isn't 6:00 a.m. then the truck shouldn't be there idling if no one is there to take the goods off the truck.

Mr. Fankhanel responded that they turn on the machines and start manufacturing at 7:00 a.m.

Chairman Pogoda asked if that meant they start unloading trucks at 7:00 a.m.

Mr. Fankhanel responded that was correct.

Chairman Pogoda stated that there is no reason for that truck to be there idling any earlier than 7 a.m. if those gates aren't open.

Mr. Fankhanel responded that they all have to make appointments. They don't allow anybody to come without an appointment.

Chairman Pogoda commented that still – they shouldn't be there at 6:45 a.m. if there is no one there to unload the trucks.

Mr. Fankhanel responded that the gates are closed and they can't get in there but they will be there to try to get at the head of the line.

Mr. Panico commented that the logistics would improve because the parking area will become isolated from the service trucks. So they can be open early for employees to park and still keep trucks off of the premises until 7:00 a.m.

Mr. Fankhanel agreed and said it will be much better for the neighbors.

Comm. Sylvester suggested that this be made part of the approval that trucks don't enter until 7:00 a.m. rather than having everyone worrying about when these trucks show up – make it part of the approval and then this lady won't have to call anybody because they won't be allowed on the property until 7:00 a.m. Also, someone should really look at this compactor; he doesn't know if it is loud but someone has made a legitimate complaint and it is on the table so it should be checked out. This is a complaint from someone living in this neighborhood whose life is interrupted by it; they need to find out if it does exceed community standards. If it does exceed, then it has to be corrected; if it doesn't then they will have to deal with it.

Comm. Jones asked if they could put up a sign instructing them to turn off the engines.

Comm. Sylvester added that they had the same problem with the schools and the buses ran their engines and the diesel fuel smells very unpleasant. Finally, they had to put signs up telling the bus drivers to turn off the buses until the students exited the schools. After that there were no more complaints. It is pretty easy to do if you're willing to do it. That lady who spoke has no way of controlling it, but the company, as a good neighbor could solve this problem easily.

Mr. Fankhanel responded that he doesn't think it is a problem really but they will do everything they can to make this lady in the neighborhood more comfortable. That is all they can do.

With no further questions or comments, Chairman Pogoda asked for a motion to close this public hearing.

**On a motion made by Patrick Lapera seconded by Ruth Parkins, it was unanimously voted to close the public hearing for Application 09-20.**

**APPLICATION 09-21, R.D. SCINTO, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: OFFICE/MANUFACTURING BUILDING) WATERVIEW DRIVE (MAP 80, LOT 1), LIP DISTRICT**

Mr. Schultz read the call of the hearing and one piece of correspondence from the Office of the City Engineer.

**\*See attached letter to Richard Schultz from Robert Kulacz, City Engineer dated 7/14/09.**

Chairman Pogoda indicated that Comm. Sylvester would recuse himself from this application and Comm. Sedlock would act as alternate.

**Mr. Robert Scinto, Builder/Developer, One Corporate Drive, Shelton, CT addressed the Commission.** Mr. Scinto indicated that this is a permitted use for this piece of property. They are 50% under capacity on all the requirements for the building– they could not cover 75% so they are covering 37.5%. They made an attempt to move that building as far as possible away from the condominiums to their right even though it would have been easier to build it to the right without a big cut. He moved it all the way to the left to keep it away from those homes. He is approximately 350 - 550 feet away from the houses.

Mr. Scinto indicated that they met with the Rivendell Association who used his facility for their annual meeting in Shelton. They made a full presentation to them, went up the site, and walked the site with the neighbors. There are some beautiful white pines along the condominiums. They have agreed to supplement any additional white pines between the white pines if any of those homes are ever affected by this project. The way the land goes, the way the topography goes on Waterview, it goes down steeply on an incline so most of those condominium owners will never know that there is anything up above the site, it will be invisible to them, except for possibly those condos which border the property right on the line.

Mr. Scinto called on Jim Swift to go over the entire site plan for the Commission and indicated that he would like to comment on the architectural elements of the building after his presentation.

**Jim Swift, Professional Engineer and Licensed Landscape Architect addressed the Commission.** Mr. Swift stated that this is a 9 ½ acre parcel in a light industrial park zone in the Shelton Heights development. He showed an area map to provide a sense of the site and pointed out the location Hubbell building presently under construction, Waterview Drive, the Rivendell Condominiums, and Coram Road running along the top of the property.

Mr. Swift explained the configuration of the building has a little bit more detail. The office aspect of this building is in the front; it is a two story office building. It is actually the same height as the rest of the building and is about 34,000 square feet. There is a light industrial component of the building which is in the back and that is another 60,000 square feet. They will provide 173 parking spaces to support that office and light industrial aspect. In order to provide access and services to the light industrial they have hidden that behind the projection of the office building. He showed the location of the service area, compactor area and another service dock located on lower Waterview Drive.

Mr. Swift added that as Mr. Scinto pointed out, this is a very light use of the site. On the site plan, he showed the location of the 100 foot buffer and the areas of green space in the front and on the sides of the building. They are a good distance away from the Rivendell Condos. There is about 100 feet from the nearest parking lot to the property line. All the existing vegetation will stay. The landscaping is more indicative of trying to fill in areas that seem thin. It's pretty dense; it's had many years to grow since Shelton Heights has been developed but they show evergreens all up and down the parking lots for screening. There is a lot of natural vegetation that exists in the area as well.

Mr. Swift indicated that they conform to all the applicable standards and they are well below some of the maximum standards allowed for things such as impervious coverage and building coverage.

Mr. Swift explained the grading of the site on the plan and where it runs from at its highest point to its lowest point. He indicated that the drainage is a virtual instant replay of the Hubbell site in which they ran the drainage down to a temporary detention pond. For this site, they have picked up the Hubbell drainage and added this drainage which goes to a final detention pond that is fully designed to take both sites and reduce all the run off rates being generated by both sites.

Mr. Swift didn't want to bore everyone with all the numbers but stated that the 2-100 year storm they will reduce the peak runoff rate and a hundred year storm they will reduce it from 43 cubic feet per second to 39.5 feet per second. In other words, this pond will do a good job of reducing all those discharges.

Mr. Swift added that the discharge does flow into a 30-inch pipe; they have an easement through Rivendell so they don't have to worry about any surface runoff. He showed the location of a swail they are developing; it's a swail which runs down to the ponds. It wasn't strictly necessary but the water does find its way down the hillside to the Rivendell site so since they have the space and the ability, the swail will take care of all the drainage and reduce the amount of water that they are getting right now.

In regard to the storm water detention – they have a full storm drainage report, full hydrograph calculations, performance and everything to do with the retention pond have been submitted. He wasn't sure if the City Engineer received all the drawings but all those calculations and designs including the detail design for the outlet structure have been submitted. That information and other details for orifices are on the drawings. They don't have cross sections through the pond but everything else has been submitted, and they have no problem with any future conditions. They are confident that this pond will meet his requirements. Access to all utilities are at the site – water, city sewer, gas, etc. and are shown on the design and have the capability of supporting this development.

Mr. Swift reiterated and showed on the site plan that there is no disturbance past the lines near the condominiums. There is just a little bit when they have to get next to an existing structure but there are still trees in that location that will not be disturbed.

Also, for the Coram Road section, there is no reason for them to be anywhere near Coram Road. There is only a minor grade where the pond is but it is significant distance away from Coram Road itself.

Lastly, they have a fully developed Soil Erosion Control Plan; everything funnels down to one corner of the site where they have a storm water detention pond. It will be built first and will have provisions in it to provide for temporary storage. He pointed out that not only do they have a permanent swail directly to that pond, but for the purposes of erosion control that swail extends all the way up to Waterview Drive. Mr. Swift indicated that Coram Road is approx. 20 -30 feet below their development and there is also a ridge running through here.

Chairman Pogoda asked if any additional plantings would be placed on the Coram Road.

Mr. Swift responded that they don't think plantings will be needed because there is a drop and it is heavily and naturally wooded. They'll provide some pines for screening of the service areas. They have no objections to putting anything

there but they don't see any of the areas near Coram Road being affected by this. Mr. Swift added that Staff has a standard requirement on all landscape plans for this sort of an application that clearly states that the Commission has the right to require additional buffer planting if necessary.

Comm. Parkins asked what was contained in that jog of the property line above.

Mr. Swift responded that it is a little United Illuminating pad; they still own the property but he does not think there is anything active in there. It is difficult to see driving up and down Coram Road.

Mr. Scinto addressed the Commission regarding the site plan; he indicated that this building was being built for the Farrell Corporation from Ansonia. The Farrell Corporation makes a very expensive piece of equipment used in the rubber business. The equipment they produce takes raw rubber to produce anything from a tire to a rubber mat. They manufacture and ship this equipment all over the world. They have been in business for 148 years in Ansonia. It is a very detailed labor force; there are father-son type factory workers that have gone on for generations. It is a wonderful company to keep in the Valley.

Mr. Scinto commented that the bays are 50 foot bays and have a 33 foot ceiling height. They only have one loading dock and one compactor and one drive in. The truck traffic here is almost non-existing. It only occurs when they take in a piece of equipment or ship out a piece of equipment. This is not like a warehouse where trucks come in and out on a daily basis. This equipment costs about \$1.5M each and they are refurbished. Refurbishing is also part of their business, refurbished equipment is about \$900K. They don't come in and out quickly just once in a while.

The front of the building will be their offices; it will be a two-story office but made so that it sinks down to this elevation. He showed a rendering of the Hubbell Building on Research Drive which has the same precast and color of glass as this Farrell Building will have. Mr. Scinto stated that they are taking that limestone precast and green reflective glass and putting it into the proposed Farrell Building. Normally, these types of buildings are metal; there are a lot of metal buildings up in that Park but they want to make something very special for Farrell.

Mr. Scinto added that they extended the building past the façade so that people driving by can't see any loading docks at all. The other significant thing they've done is made all the windows reflective glass so that no one can see in, but to the neighbors, it will look like a classic office building not a warehouse. Mr. Scinto commented that there was a significant economic decision that he made to make the walls 9 inches thick of concrete with insulation in between. The roof is a special "green building technology" white roof to reflect the heat. It is the most expensive roof that can be put on a building today. He stated that all the equipment that is on this building, because of the way that it sits, is not going to be seen by any of the condominium neighbors due to the angle.

Mr. Scinto indicated that they've also addressed and corrected drainage issues at the condominiums that resulted from a curb cut draining water down to his property and the condominiums from Pitney Bowes.

Additionally, he has been in touch with the Rivendell Condominiums regarding the sight line issue. He has agreed to clean up and straighten out, at his own expense, the Rivendell retaining wall and shrub area on the right of way at the end of Waterview Drive that results in a poor left turn sight line. He added that they will comply with the cross section issues brought out by the City Engineer.

Chairman Pogoda asked how they intended to address the traffic concerns going onto Commerce Drive on both sides of Waterview.

Mr. Scinto responded that Level of Service only dropped a very little on this project. The main thing he wants to point out about that traffic report is that it was done with the understanding that his other building (the 220,000 square foot building with 750 cars) was up and operational. So, when they did the count they took into consideration that this other building was actually there – and it is not actually there yet. He commented that he didn't think they had a serious traffic problem at this point; maybe when that building comes on line, it will change the situation.

Additionally, Mr. Scinto indicated that where they have these approvals, they will participate in the study for a traffic light and if they want to put the traffic light in, he will pay for the cost of the traffic light. He indicated that he had a meeting and the desire on the part of the Town has been not to have that traffic light just for the couple of times during the day that it is difficult to get in and out. The Chief doesn't think it worth stopping traffic all day long.

**Bill McGuire, President of the Rivendell Condominium Association, Shelton, addressed the Commission.** Mr. McGuire indicated that Rivendell has 126 units. Three buildings border the property where Mr. Scinto has proposed to put up his new building. He is present tonight with several members of their Board of Directors to speak in favor of and support of the construction as proposed by Mr. Scinto. Mr. McGuire indicated that the Scintos have been extremely gracious to them; on two occasions they met with the Rivendell Board of Directors and unit owners to explain the plans for the new building. They believe that the construction of the building and bringing in another business into Shelton is a benefit for all the taxpayers and they support this project.

Mr. McGuire indicated that the Scintos have offered to remove and plant trees as needed along the property lines. They have assured them that they will handle the blind spot on the corner of Waterview Drive and Constitution Boulevard South which exists even without any increase in traffic. They are very pleased with their communication and relationship with them. Throughout the construction of the Hubbell building, Mr. Scinto has assured them that he will maintain the integrity of the property and they have no reason to doubt that.

However, as much as they are in favor of the project, they have one major concern. Over the years, they have had a drainage and water flow issues from that piece of property. Recently, in November 2008, they had water flowing from that property onto their complex causing some flooding. They contacted Mr. Scinto and he immediately got involved to fix the problem and it was corrected in less than one hour.

Mr. McGuire stated that the only request they have is that the City Engineer take into consideration and address any changes with the drainage and the water flow as it pertains to their property. They have addressed these concerns with the Scintos and they have indicated that the design should not affect them.

He reiterated that they are in full support of the project. The residents in this community trust and respect the Scintos and any projects that they do in Shelton. They are very happy that they are the ones constructing the new building. He thanked Mr. Scinto for being so open and considerate and thanked the Commission for the opportunity to speak.

**Ms. Ann Walsh, 189 Coram Road addressed the Commission.** She had a couple of questions about the sight line from Coram Road and the building – she

asked how far back the building would be from Coram Road. She knows that Mr. Scinto makes beautiful buildings and they have no complaints. They had an issue before 7 a.m. workers which Mr. Scinto immediately corrected.

Ms. Walsh had concerns about the buffer. She knows that Rivendell is going to get trees and would like it if some plantings were added to the back of building along Coram and Belmont.

Mr. Scinto responded to Ms. Walsh that it would be 200 feet to her house.

Ms. Walsh commented that if it is that close to her house, she would like to ask about the lighting.

Mr. Scinto responded that the lighting is all going to be down lighting. He will meet with any neighbors on that street once the building is up and wherever he can plant white pines across the street, he'll densely plant them so they have no effect on the neighbors. He will go house by house on Coram Road and plant trees for anyone affected.

**End of Tape 1B 8:37 p.m.**

Mr. Scinto requested that the Commission please have a vote on this tonight subject to him satisfying the City Engineer's Report; he would appreciate it because then he can stand a chance of getting the deal. He has put a lot into this – the plans, the renderings, the studies, but he has no lease or anything yet. He just has a "maybe", so any help they could be tonight he would appreciate it.

Comm. Parkins asked if it was correct that this building would not be built if this client does not choose this building.

Mr. Scinto responded that was correct.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application 09-21.**

**APPLICATION #09-22, SCHIABLE REALTY, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: RESTAURANT/PUB ESTABLISHMENT), 475 HOWE AVENUE (MAP 129, LOT 33), CA-3 DISTRICT**

Mr. Schultz read the call of the hearing and one piece of correspondence addressed to the P&Z Commission.

**\*See attached correspondence dated 7/14/09 from Richard Wydomski to the P&Z Commission.**

**John Ruffalo, John Ruffalo Architects, 415 Howe Avenue, Shelton addressed the Commission.** Mr. Ruffalo indicated that he was present with Ken Schiabe Jr. to go over the plan for the existing Mayflower building.

Mr. Ruffalo stated that they are trying to develop a two-level restaurant where the Howe Avenue restaurant will be a little bit more upscale. It will be street level with an open patio area tucked underneath the building. He showed the location of the patio area on a schematic of the Howe Avenue layout. It is approx. 4000 square feet; he showed the location of the patio which can be enclosed in order to winterize. It will have sliding glass type doors that will open to the street that can be closed during inclement weather.

Mr. Ruffalo indicated that the entrance to this will be an 8 foot wide entrance off Howe Avenue directly into the main portion of the upper restaurant. He showed

the detail and location of the bar area, main kitchen (on Howe Ave), restrooms and the area in the back for general dining.

He showed the location of a stairway that will lead down to the lower level as well as a side exit into an existing lobby area that has an existing elevator; so, there are two means of ingress and egress for this building as well as a separate exit for the kitchen where there will be access to a trash disposal area.

He showed how the lower area is connected from the Howe Avenue side with an interior stair from the inside and added that there would also be an entrance to the lower level from White Street. The lower area is going to include the microbrewery function which deals with brewing, fermentation and a 10 barrel system. There will be a consultant involved with the design of this microbrewery area. They are trying to have storage, a bar and dining area, and hopefully, the future patio on the White Street side to enhance that corner of White Street and connect the existing parking area.

Mr. Ruffalo explained that patrons entering the Howe Avenue entrance and going downstairs will pass through the exposed brewery area behind glass panels so the brewing process can be seen. It won't really function in terms of brewing at the time of dining; that will occur at other times of the day, twice a week. They are trying to make this educational for patrons as to the how the microbrewery process works.

On the Howe Avenue entrance patio side, they could have approx. 35 people, 45-50 in the dining area, approx. 50 in the bar area sitting/standing. In the lower area, the bar and dining area are combined and could seat approx. 50 -60 people. The existing lower area is approx. 3,000 square feet there is an existing stone foundation approx. 4 feet in thickness that tapers upward about 3 feet. They are going to leave the brick wall exposed and try to work the interiors into that as well as on the upper Howe Avenue level where there is brick. They want to create an antique industrial type interior.

The main kitchen is on the Howe Avenue floor and will serve the lower level thru a dumb-waiter system with a large wait station below. There will be a computer system that will communicate with the kitchen and vice versa.

He added that on the second floor of the existing building where there are offices, they plan to put some gooseneck lighting that can shine downward on the sidewalk area. Additionally, they plan to have some decorative scroll features on the windows but that detail is undetermined at this time.

He showed where the proposed signage would be located for this building with a canopy in the front.

He showed a rendering of the White Street side to show that this is really a three-story building. He pointed out the Howe Avenue restaurant level and the lower level. On the lower level there is an existing door to the lobby of an adjacent building. They plan to open up that area up with glass, window treatments, and gooseneck lighting. He showed the location of proposed signage in the back of the building. They are treating the lower level as a possible future patio area with landscaping. He asked if the Commissioners had any questions or comments.

Comm. McGorty asked if the entire occupancy for everything would be about 180 or what would be the maximum?

Mr. Ruffalo responded that the maximum would be around 200 to possibly 225.

**Mr. Ken Schiable, Schiable Realty, 431 Howe Avenue, Shelton**

**addressed the Commission.** Mr. Schiable stated that on June 5<sup>th</sup>, they made a presentation of this application to the Downtown Subcommittee for a brew/pub/restaurant in the building at 475 Howe Avenue and also facing White Street. In that presentation, they had an extensive discussion regarding the parking in the surrounding area.

Mr. Schiable stated that he wanted to clarify some things about the parking. He showed a map of the Downtown area. He had highlighted the green areas to show the non-restricted, on the street parking spots – he clarified that this is not handicapped parking and it is not one hour parking. He showed the orange highlighted areas as City Lots and the Yellow Lots as the property that the Schiables own.

He showed a 300 foot line around the proposed project and another line showing an area 500 feet out from the proposed project.

Mr. Schiable stated that he took a one week study from May 18<sup>th</sup> to May 23<sup>rd</sup>. He noted that on Thursday, Friday and Saturday evening hours which are the prime business time for the other businesses in the area that generate the most traffic – i.e. Downtown Danny O's, Porky's, Puffy's and Anna's Place. He showed on the map that when those establishments are very busy, the patrons tend to migrate their traffic within two specific city blocks – specifically, his lot, and two other City Lots. He added that there is very little overflow to the Downtown.

Mr. Schiable indicated that the week that he chose for this study was also the weekend of St. Joseph's Carnival on Thursday, Friday and Saturday night when there were a lot of people parking downtown and walking up to the carnival. He added that he didn't know of any other time when this area would be more saturated, except for perhaps, the 4<sup>th</sup> of July Fireworks which is very short term.

Mr. Schiable stated that in looking at this parking study, Mr. Wydomski mentioned in his correspondence that they had 95 parking spots - and that is within 100 feet of their door. However, they are allowed to consider all parking spots within 300 feet of their building. That total is 265, excluding the Webster Bank Lot, which is on the other side and has 40 parking spots.

Mr. Schiable indicated that of those parking spaces, during the Thursday, Friday and Saturday night period at 6:00 p.m., 8:00 p.m. and 10:00 p.m. – there was no more than 50% utilization of the parking, excluding Webster Bank, in the area surrounding their building within 300 feet.

He concluded that what he had to say about the downtown parking is that he believes that they do have the parking that they need. The existing businesses saturate one area without overflowing to the other parking areas.

Comm. Parkins asked about the main level access to the lobby and if that lobby was locked at night.

Mr. Schiable responded that was just the emergency exit with doors that open from the inside so that people could get out.

Chairman Pogoda asked where the exit from the kitchen would go to.

Mr. Schiable responded that they are going to open that out to the parking lot that they own there; then they can get all the deliveries in through the back area and also the trash receptacle would be located right by the kitchen.

Chairman Pogoda asked if he would be using the trash receptacle out there right now.

Mr. Schiable responded that they would be getting rid of that one and replacing it with another one for everything.

Chairman Pogoda asked if there was a provision there for the trash receptacle to be enclosed.

Mr. Schiable responded that yes there was.

Chairman Pogoda asked if the trash enclosure would obstruct any parking that is presently there.

Mr. Schiable indicated that it would not.

Comm. Harger asked if he had any expectation as to when deliveries would be made for the brewery supplies.

Mr. Schiable responded that he could speak to the distributors. Typically, deliveries begin at about 7:00 a.m. in the morning and hopefully, are done by around 10:00 a.m. because they don't want to have deliveries in the middle of the day.

Chairman Pogoda asked if the deliveries would take place on Howe Avenue.

Mr. Schiable responded that deliveries would be taken within their parking lot straight into the kitchen.

Chairman Pogoda asked about the patio doors and if they would be glass or collapsible.

Mr. Ruffalo responded that they would be foldable, Nano-system doors that pull back against the wall – about 30 x 3 feet wide.

Comm. Jones asked how they determined the occupancy.

Mr. Ruffalo responded that it is based upon 75 square feet of patron area in (inaudible).

Comm. Harger asked about the supplies for the downstairs area that don't need to be uploaded from the rear lower level.

Mr. Schiable responded that they would be bringing the brewery supplies in through White Street and that would be a smaller truck.

Comm. McGorty asked if this included a combination retail for the public to buy beer from the brewery.

Mr. Schiable responded that at this time they don't anticipate doing that.

**Mr. Jim Oram, 181 Division Avenue, Shelton, CT addressed the Commission.** Mr. Oram stated that he serves as the Chairperson for the Citizen's Advisory Board, and that he was here tonight to share his thoughts about this project. He indicated that he has been involved in some of the Downtown revitalization for about 23 years and one of things they would like to say is that they want to Shelton as a balanced community; a community that includes housing, recreation, and places like this restaurant/pub. He added that

with the 600 housing units coming down along the River, he thinks it makes sense to add this kind of business component to the equation.

Mr. Oram indicated that what is happening and what they want to have happen to Downtown Shelton is what is now being called a new urban community – a place where people work, where people live, where they can walk to work and entertainment or take public transportation. He added that he thinks this is an important piece in balancing out the Downtown area and rebuilding it.

**Ken Beardsley, 276 Leavenworth Road, Shelton, CT addressed the Commission.** Mr. Beardsley stated that he was very much in favor of this project. He is familiar with the mini brewery in Willimantic which was a tremendous success; it put downtown Willimantic on the map. He believes this project will do the same thing in Shelton.

He is excited about the restaurant because of the tremendous influx of people that will be coming to Canal Street. It will be within walking distance and that will be of tremendous assistance.

Comm. Sylvester commented that he mentioned this at the DSC that Ken Schiabe Jr. presents a nice piece of information for them to retain regarding the parking usage downtown and strategies to make it work. It is an eye-opener to see that there really is parking and some of the parking, used by others, is being provided by the Schiabe family openly free of charge.

He grew up downtown and his parent's business was downtown. If there is a good business that people want to go to, they will find a place to park. He thinks it is up to the City to provide some municipal parking and an infrastructure that can handle the traffic. He complimented Ken's approach to the parking situation.

Chairman Pogoda asked if there were any more questions or comments before asking for a motion to close the public hearing. There were no further comments.

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously voted to close the public hearing for Application 09-22.**

**PROPOSAL OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND THE ZONING REGULATIONS AND BUILDING ZONE MAP BY AMENDING SECTION 21: (DISTRICTS), SUBSECTION 21.1 BY ADDING AQUIFER PROTECTION AREA, ADDING A NEW SUBSECTION 21.8 DEFINING AQUIFER PROTECTION AREAS AND BY DELINEATING THE DERBY WELL FIELD (APA3) ON THE BUILDING ZONE MAP).**

Mr. Schultz read the call of the hearing and indicated that back in February of this year the City of Shelton was directed by the Department of Environmental Protection to implement Shelton's third Aquifer Protection Area. He read correspondence from the DEP stating that they have approved Aquifer Protection Area mapping for the South Central Regional Water Authorities Derby Well Field. The map was prepared by ? and approved by the DEP on 2/11/09.

The Planning & Zoning Commission shall delineate the Aquifer Protection Area Boundary Map on the Town Zoning Map by July 2009 within four months of DEP's notice of mapping overall.

Mr. Schultz indicated that he's provided all the Commissioners with a copy of the municipal regulations dealing with Aquifer Protection Areas last month. This is a document that is enforced by the Inlands Wetlands Commission. He read under

Section 3 Delineation of Aquifer Protection Area Boundaries, the P&Z Commission shall delineate the Aquifer Protection Area on the City of Shelton Zoning District Map. Such delineations shall consist of the combined areas of contribution and recharge areas on Level A maps approved and prepared by the Commission and provided to the City of Shelton.

Such boundaries shall be delineated within 120 days of being notified by the Commissioner that an Aquifer Protection Area is located partially or entirely through the City of Shelton. Mr. Schultz indicated that this 3<sup>rd</sup> such Aquifer Protection Area and he showed the Commissioners the Map that already delineates two APA and this 3<sup>rd</sup> final APA.

On the map, he showed the location of APA3 running from Soundview Avenue at the intersection of Meadow Street southerly to Williams and easterly to the Housatonic River. He also showed the location of APA2 in White Hills and APA1 owned by the former Bridgeport Hydraulic – now Aquarion. He added that APA2 and APA3 were the Derby Well System.

Mr. Schultz stated that the State of Connecticut requires this Commission to delineate on the official zoning map. He explained that the State of Connecticut requires all commercial type users in these three locations to register with the State of Connecticut. These generally mean commercial type businesses that have underground storage tanks or discharging that could conceivably affect the Aquifer Protection Area.

Mr. Schultz added that Shelton is blessed in that it is all residential open space area – APA1 Upper White Hills is low density residential preserved open space; APA2 same location; APA3 encompasses low density and moderate density residential. There may be some pre-existing non-conforming establishments that may have some underground utilities but they haven't been an issue. In most of these areas, public water is provided to the homes. He concluded that they are lucky that these areas have no commercial establishments that would have to be registered with the State of Connecticut because those uses are scrutinized at a high level for obvious reasons.

Mr. Schultz indicated that John Cook, the Wetlands Coordinator deals with that and he's contacted the State to tell them that all these areas are open space or low/moderate density residential. The State would like this Commission to adopt it so he has prepared a resolution under Old Business. Tonight they will be identifying the third area and also amending the zoning regulations by identifying this district.

Comm. Parkins asked if Inland Wetlands would regulate the use.

Mr. Schultz responded yes, the Inland Wetlands Coordinator would regulate it.

Chairman Pogoda asked if any of the Commissioners or anyone from the audience had questions or comments. There were none.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to close the public hearing for the P&Z Proposal to Amend the Zoning Regs and Building Zone Map (Sections 21, Subsection 21.1 and Subsection 21.8 regarding Aquifer Protection Areas.**

**10 Minute Recess at 9:20 p.m.**

Chairman Pogoda resumed the meeting by reading a letter to the P&Z Commission concerning intervention action by Irving Steiner referring to Cranberry Hill Estates tree cutting in an open space wetlands buffer.

**\*See attached letter from Harlow, Adams & Friedman PC, Atty. Joseph A. Kubic**

Chairman Pogoda indicated that he would ask Staff to direct this letter to Corporation Counsel to find out what this will entail.

**End of Tape 2A 9:32 p.m.**

### **OLD BUSINESS**

#### **Applications for Certificates of Zoning Compliance**

#### **SEPARATE #4516 PARACO GAS, 425 RIVER ROAD, 36 UNIT CAGE FOR 20 PROPANE TANKS**

Mr. Schultz indicated that the first two Separates are for 425 River Road. They have unoccupied floor space. He commented that most businesses are trying to find ways to bring in more revenue. This Commission is seeing more requests for these propane tank cages. The applicant is proposing to put that cage to the right side of the masonry dumpster enclosure which is located to the rear left of the property. He consulted with the Fire Marshal and he likes that location because it is out of the way and not seen from the road.

Mr. Schultz added that these cages do need to be monitored so the proposed location appears to be the safest and most practical. Staff recommends approval at the location next to the dumpster enclosure and subject to final approval by the Fire Marshal.

Comm. Sylvester asked if Lia's Pizza was selling this gas.

Mr. Schultz responded that they are renting that space to dispense it – like they did in White Hills at the convenience store.

Comm. Parkins commented that at least White Hills is a convenience store where people are stopping for other things. This is, perhaps, the 4<sup>th</sup> application that they have received for these propane tanks this summer.

Mr. Schultz responded yes, that's correct - Cumberland Farms, White Hills...

Comm. Parkins indicated that she thinks that the City is going to start being dotted with these storage tanks all over the place. She thinks that they need to give some consideration to that fact.

Chairman Pogoda commented that it was up to the Commission members. There are no safety factors because the locations are governed by standards from the Fire Marshal. As long as they are maintained, locked up and not a mess and safely positioned...

Comm. Jones stated that he didn't think there were that many locations in the south end of River Road though.

Chairman Pogoda responded that they seem strategically placed – Stop & Shop, White Hills #110, Wal-Mart.

Comm. Parkins commented that it was just an opinion and an observation that there seems to be more and more of them.

**On a motion made by Virginia Harger seconded by Chris Jones, it was unanimously voted to approve Separate #4516.**

**SEPARATE #4522 EMILIO LIA, 425 RIVER ROAD, BUSINESS**

Mr. Schultz stated that this is 950 square foot store front that they are proposing for a Power Equipment Consignment Shop – this is used equipment. Staff had an opportunity to go there and the owner is having difficulty leasing the space.

There has been a problem with some teenagers congregating near that vacant spot there with music and they filed a complaint with the police to stop that.

Mr. Schultz added that the conditions for approval should be subject to Fire Marshal approval and conditions that there be no outside sidewalk displays, sales or repairs due to the limited sidewalk space.

**On a motion made by Leon Sylvester seconded by Patrick Lapera, it was unanimously voted to approve Separate #4522 with stipulations.**

**SEPARATE #4502 GEORGE GRAY, 95 CENTER STREET, BUSINESS**

Mr. Schultz indicated that this was for the Joe's Confectionary side of Center Street, a 400 square foot vacant building. Dave Simonetti is the owner and the proposal is for a retail skateboard store sales and repairs. Staff recommends approval.

Comm. Harger asked the hours of operation.

Mr. Schultz responded that it 12 noon – 8 p.m., Monday through Saturday, one employee.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted to approve Separate #4502.**

**SEPARATE #4517 GRANATO CATERING, 70 WOOSTER STREET, BUSINESS**

Mr. Schultz indicated that the Wooster Street Market has always provided catering; they have a back room in their facility. This is going to be leased to Louis Granato and he is going to maintain the catering side of the business there. He employs himself and one other individual; hours of operation 8 a.m. to 11 p.m.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted to approve Separate #4517.**

**SEPARATE #4864, FAMILY & CHILDREN'S AID, 25 BROOK STREET, BUSINESS**

Mr. Schultz indicated that this is the Schiable property on Brook Street and they are occupying 1,614 square feet. They will provide social services and they are licensed by the Department of Children and Family Services. Hours of Operation Monday – Friday 9:00 a.m. – 5:00 p.m. Staff recommends approval.

**On a motion made by Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to approve Separate #4864.**

**SEPARATE #4493 SMERGALINO'S CAFÉ, 2 ENTERPRISE DRIVE, BUSINESS**

Mr. Schultz indicated that this is in one of Scinto's buildings. The Commission will be seeing a rash of changes in operators for these cafeteria businesses. The area of the cafeteria is 2,400 square feet and hours of operation are 7:00 a.m. – 3:00 p.m. Monday – Friday. This is a change of ownership only.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously voted to approve Separate #4493.**

**SEPARATE #6655 OOLEE CAFÉ, 702 BRIDGEPORT AVENUE, BUSINESS**

Mr. Schultz indicated that this is located in Split Rock and it's one of the last occupants going up there. It is 2,099 square feet; hours of operation 11:00 a.m. to 8:00 p.m. This is a take-out restaurant with bakery. There are 10-15 parking spaces assigned for this particular operation. They will probably have one delivery vehicle and restaurant equipment will be used inside.

Comm. Sylvester asked for more of a description of what they provide.

Mr. Schultz responded that they have everything from kid's meals, salads, pizza. The applicant is present to address the Commission.

**Drew Allen, 23 Peachtree Hill Road, Shelton, CT addressed the Commission.** He indicated that the location of the store was right underneath the Asian Bistro – the one with all the windows on the end. He added that this will be a gourmet take-out place – the type of place to go if someone doesn't want Chinese food or Pizza – it provides another alternative. It is very high quality food and mostly take-out; however, they will have sofa and a couple of café tables. This is an Internet business; people can order online from work and hopefully provide a credit card. He will hand them their package and they don't even have to get out their car.

Mr. Allen stated that if customers don't order online, they can come in. Everything on the menu cooks basically in five minutes.

Comm. Harger asked if he was utilizing that back driveway.

Mr. Allen responded no.

Comm. Parkins asked if it was a drive-through pick-up.

Mr. Allen responded that they are going to put an extra door on the side and walk the orders out to people.

Chairman Pogoda asked if it would all be prepared at this location.

Mr. Allen responded yes everything is prepared there - most of that space is just for a commercial kitchen.

Chairman Pogoda asked about the hours.

Mr. Allen responded that pick-ups are going to be between 11:00 a.m. and 2:30 p.m. Then, he would be cooking again until about 4:00 – 8:00 p.m. He'll be open 6 days a week.

Comm. Harger asked if they would be baking on site or just selling baked goods.

Mr. Allen responded that he would be baking on site – the menu includes many desserts. He mentioned some of the items on his menu.

**On a motion made by Leon Sylvester seconded by Ruth Parkins, it was unanimously voted to approve Separate #6655 for the business and wall signage.**

**SEPARATE #4498 PT. JORGE GARCIA, 472 RIVER ROAD, TENT REVIVAL**

Mr. Schultz indicated that this would take place August 1<sup>st</sup> – 16<sup>th</sup>.

**On a motion made by Virginia Harger seconded Leon Sylvester, it was unanimously voted to approve Separate #4498.**

**APPLICATION #09-09, JAMES BLAKEMAN FOR SUBDIVISION APPROVAL (2 LOTS: TWIN LOTS ESTATES), BUDDINGTON ROAD (MAP 62, LOT 12), R-1 DISTRICT – REQUEST FOR WITHDRAWAL (APPLICANT INITIATED).**

Mr. Schultz updated the Commission and read a letter dated 7/9/09 from Atty. Steven Bellis representing the Applicant indicating that they are withdrawing their application without prejudice in order to obtain approval for the septic system within the Northeast Utility right of way. Mr. Schultz added that this has taken a lot longer than they expected so a motion is in order for a withdrawal without prejudice.

**On a motion made by Patrick Lapera seconded by Virginia Harger, it was unanimously voted to approve the request for withdrawal without prejudice for Application #09-09.**

**APPLICATION #09-16, CHAVES BAKERY FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: FOOD ESTABLISHMENT), 140 BRIDGEPORT AVENUE (MAP 105, LOT 51), CB-2 DISTRICT.**

Chairman Pogoda indicated that this would be tabled until the August 11<sup>th</sup> meeting.

**APPLICATION #09-19, DOMINICK THOMAS FOR MINOR MODIFICATION OF DETAILED DEVELOPMENT PLANS FOR PDD #61 (ASPEN RIDGE: TURNING LANE), COMMERCE DRIVE (MAP 39, LOTS 2, 3 AND 4)**

Mr. Schultz read correspondence from the City Engineer and the Applicant just received regarding the creation of a fifth traffic lane on Commerce Drive.

**\*See attached letter dated 7/15/09 from Robert Kulacz, City Engineer addressed to R. Schultz.**

**Atty. Dominick Thomas, Cohen & Thomas, 315 Main Street, Derby, CT for the Applicant addressed the Commission.** Atty. Thomas commented that when personal opposition to a project influences professional judgment, this is what you get.

Atty. Thomas indicated that they went through this with the concrete barrier. The City Engineer continues to maintain that this is a safety thing; however, the Commission has the letters from Macguire Group, from traffic engineers and the State DOT and there is no safety measure. The AT&T conduit is 14 feet down so there is no need to put anything there. They are still battling, believe it or not, to get the license agreement signed.

Atty. Thomas stated that there is an ordinance in this City that says certain things that can and cannot be done in right of ways. One of which indicates that trees, bushes, shrubs, walls, earth material or fill can not be installed in right of ways. He noted that in the City Engineer's April 14<sup>th</sup> letter, he says "installing a wall would be in violation." Now, they are doing so with the permission of the BOA and the permission of the license agreement; but, he would like to point out to Corporation Counsel that if in fact, the City Engineer's opinion that you cannot do things in the right of way – such as putting fill in the right of way – then no one, including this Commission would have no authority to order anyone to improve any road in front of their project.

Atty. Thomas stated that his client is prepared to do it. He has been told that the BOE is going to do a Bridgeport Avenue pick-up. He suggested having Staff speak to the Police Department and Traffic Unit to see what they say. He reiterated that there absolutely no truth about clearing and excavation in the right of way. The work and clearing being done is the for wall on his client's property that this Commission approved. There is nothing in the right of way.

As far as the AT&T wire – they went and checked, the City Engineer didn't – and it is 14 feet down. There is no issue there.

Chairman Pogoda commented that the Commission discussed the safety issue about coming up that road. He believes that the Commission initiated this with the Applicant the possibility of putting in that turn out lane. He was not aware, as Comm. Sylvester says, that the Board of Education would not permit the bus to stop there.

Comm. Sylvester responded that it isn't the BOE, it is the bus company that will not enter private property because it effects their insurance coverage.

Comm. Harger commented that it is City of Shelton property not private property.

Mr. Panico recalled that the intent was to dedicate that additional piece of right of way to the City.

Atty. Thomas stated that the Applicant would layout the turning lane and deed to the City the required property for the turn off lane. The BOE can choose not use it anyway simply because it already has a bus going down Bridgeport Avenue.

Comm. Sylvester added that there is also that issue of the willingness of the bus company to leave public property.

Atty. Thomas agreed that the bus company would want to stay on public property and they were going to provide that to the City. What the Engineer is referring could be a legitimate statement by the BOE and the bus company that they already have a route going up Bridgeport Avenue so they would not turn up Commerce for a pick up.

Chairman Pogoda indicated that they've discussed the safety issue and the concern about the cars driving up there so quickly and the likelihood of an accident if anyone tries to turn in there. If the Developer is willing, at his own cost to do that – he said he would even plow over there. He stated that he thinks this is a plus for the City and anyone living in that development. He knows that this goes against the City Engineer's recommendation, so he asked if the Commissioners had any comments. However, he noted that they also went against his recommendation when they approved the wall with the fencing on top.

Chairman Pogoda noted that the fencing and this as well, is OK with Paul DiMauro if we agree to it.

Atty. Thomas commented that this letter from the City Engineer contains a threat that he will not issue a permit. He is concerned because he has gone through the license agreement. He asked Rick Schultz about the time constraints for getting this permit.

Chairman Pogoda responded that he was overruled by Paul DiMauro last time so if he refuses to sign it then they will have to go to his boss again.

Mr. Panico suggested making the action of approving the modification subject to the appropriate endorsement by the BOA and the terms of the license agreement with respect to the right of way. If those conditions can't be fulfilled then it can not be installed.

Comm. Sylvester recalled that there was another incidence where the City Engineer refused and some else has signed it – on Meadow Street with the driveways.

Mr. Panico stated that it is unfortunate that they have to get into this confrontational situation without the other party being present to intelligently discuss the issue.

Chairman Pogoda asked for a motion to approve this Application with the endorsement predicated by Public Works, the approval of the BOA and with respect to the acquisition of the additional right of way.

**On a motion made by Ruth Parkins seconded by Virginia Harger, it was unanimously voted to approve Application #09-19 with the endorsement predicated by Public Works, the approval of the BOA and with respect to the acquisition of the additional right of way.**

**APPLICATION #09-20, MERCANTILE DEVELOPMENT, INC. FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL(BUILDING EXPANSION), 10 WATERVIEW DRIVE (MAP 79, LOTS 10 AND 11), LIP DISTRICT**

Chairman Pogoda stated that they are going to need authorization for Staff to establish a site bond which was requested by Jim Swift on the Mercantile Development.

Mr. Panico asked if the Sediment Erosion Control been reviewed and considered satisfactory.

Mr. Schultz responded that yes it was.

Mr. Panico stated that if the Sediment Erosion Control Plan is approvable then as long as a bond is posted then the Commission would be free to authorize additional site work.

Chairman Pogoda asked for the Commissioners thoughts on this Application.

Comm. Sylvester responded that personally he would not approve this unless he knows it will be in writing that their gate will not be open until 7:00 a.m. and that compactor is going to be evaluate for noise levels. He added that lady had a right to say what she was saying and his attitude toward her was not appropriate.

Comm. Parkins agreed. Comm. Sylvester reiterated that it really bothered him – the way he responded to her. He thinks it should be a condition of approval.

Chairman Pogoda indicated that they would want written confirmation from whoever is in charge – the owner stating that the gate will not be open until 7:00 a.m. under any circumstance for truck access on the service road.

Comm. Sylvester added that if the truck is there waiting to do business then they need to turn the engine off. He knows that is something that occurs with the trucks and truckers don't care about how loud it is. He commented that is unacceptable when a place of business is so close to people who have been living there all their lives in the homes they have invested in – it is not right to treat people like that.

Chairman Pogoda commented that it was more than one issue – the motors idling, the diesel fumes, especially in the summer time. He stated that they would need a letter from the Applicant stating no earlier than 7:00 a.m. opening of service gates and no running of the truck engines.

Comm. Sylvester asked Rick to check out the compactor – if it is legal than it's fine – but if it isn't, they should be forced to mitigate it.

Chairman Pogoda asked if he had consensus from the Commission to authorize the bond with the stipulation that they receive something in writing regarding the trucks.

Mr. Panico added that it is only going to allow them to get started on site work – that's it.

Comm. McGorty asked if the gates are locked but the trucks start lining up out front, then that could be a problem as well.

Mr. Panico commented that the owner stated that they only get a couple of trucks at a time.

Comm. McGorty responded that the owner also said that he doesn't arrive there until 9:00 a.m.

Comm. Parkins added that by 7:30 a.m. the trucks are probably in cue – so whoever gets there first, gets unloaded first and can get on their way. So there is an incentive for them to get there first.

Chairman Pogoda noted that their parking would be on Waterview Drive and at that point it would be up to the Police Department to address any complaints because there are no other homes on that street – it is basically commercial.

Comm. Sylvester suggested putting up no parking signs out there.

Mr. Panico added that the important thing was to isolate the truck service road from any type of use until after 7:00 a.m.

Comm. Harger asked if they had to address any concerns in regard to the end of the workday – for operations to stop at 6:00 p.m.

Mr. Panico agreed that he did say hours of operation were 7:00 a.m. to 6:00 p.m. so that should be enforced and stipulated in respect to the gates on the service road. He has the middle driveway for employee and visitor parking that will be open and available.

Comm. Harger commented that he also said that the trucks arrive by appointments to deliver. She commented about him being a good neighbor and relayed that when she worked at Philips Medical they had an interior loading dock so that trucks could back in and all that noise couldn't be heard.

Mr. Panico responded that the site doesn't really lend itself to that but it could be done on the addition portion of it. It can be discussed further because this doesn't approve the site plan. In order to authorize the site grading they only need enough satisfaction and control to know that those operational characteristics are going to be adhered to.

Chairman Pogoda asked for a motion with stipulations to authorize Staff to establish a bond for site grading and preparation.

**On a motion made by Ruth Parkins seconded by Patrick Lapera, it was unanimously voted to authorize Staff to establish a Site Bond for site preparation/grading only with the stipulations discussed at the Public Hearing for Application #09-20.**

**APPLICATION #09-21 R.D. SCINTO INC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: OFFICE MANUFACTURING BUILDING), WATERVIEW DRIVE (MAP 80, LOT 1), LIP DISTRICT.**

Chairman Pogoda commented that they've listened to the presentation and the comments from the public in which there was nothing negative. Mr. Scinto has pretty much alleviated any concerns of the residents at the Rivendell Condos. He also mentioned he would help anyone on Coram Road regarding additional plantings. He has expressed concern about losing the Farrell Corporation for this building if he can't get a Commission consensus.

**End of Tape 2B 10:17 p.m.**

**On a motion made by Chris Jones seconded by Ruth Parkins, it was unanimously roll call voted (6-0) to approve Application #09-21. Comm. Sylvester recused himself from voting and Comm. Sedlock voted as an alternate.**

**APPLICATION 09-22 SCHIABLE REALTY, LLC FOR SPECIAL EXCEPTION/SITE PLAN APPROVAL (HIGH TRAFFIC GENERATOR: RESTAURANT/PUB ESTABLISHMENT) 475 HOW AVENUE (MAP 129, LOT 33), CA-3 DISTRICT**

Chairman Pogoda asked Rick if they were going to table this until August 11<sup>th</sup>. He asked what the other Commissioners thought about the parking issues and the presentation.

Comm. Parkins commented that she thinks it is a good project.

Comm. Sylvester commented that it is difficult to tell a guy who has let everyone use his parking that can't qualify to use his own parking.

Chairman Pogoda stated that if everyone had a favorable consensus and feels comfortable about this project then he'd like to request a motion to approve.

Comm. Sylvester indicated that he thinks it should be on the record -from Ginny that Downtown Subcommittee met regarding this application, did a site walk and had a consensus at that meeting. He is concerned that this will be looked upon as being fast tracked but due diligence has been done here.

Comm. Harger responded that the DSC had a good meeting with a lot of detail from the applicant. He took them to his to the site and showed them everything and answered any questions asked.

Mr. Panico commented that the project works with or without that lower level patio – which will require action from the BOA.

Chairman Pogoda indicated that there is nothing that is on City property here. Nothing is being done without the BOA; that is something to be looked at a later time. Mr. Schiabe has the benefit of having some of his own parking. If there is no other discussion he'd like a motion to approve.

**On a motion made by Virginia Harger seconded by Ruth Parkins, it was unanimously roll call voted (6-0) to approve Application #09-22.**

**PROPOSAL OF THE SHELTON PLANNING AND ZONING COMMISSION TO AMEND THE ZONING REGULATIONS AND BUILDING ZONE MAP BY AMENDING SECTION 21: (DISTRICTS), SUBSECTION 21.1 BY ADDING AQUIFER PROTECTION AREA, ADDING A NEW SUBSECTION 21.8 DEFINING AQUIFER PROTECTION AREAS AND BY DELINEATING THE DERBY WELL FIELD (APA3) ON THE BUILDING ZONE MAP).**

Mr. Schultz read the draft resolution dated 7/14/09.

Comm. Harger asked if the Regional Planning Commission sent any correspondence regarding this because it had been discussed at that meeting.

Mr. Schultz responded no this is a DEP directive. It was probably mentioned at the Regional Meeting because of the Derby Well Field.

**On a motion made by Leon Sylvester seconded by Chris Jones, it was unanimously roll call voted (6-0) to approve the Proposal of the Shelton Planning & Zoning Commission to amend the Zoning Regulations and Building Zone Map by amending Section 21: (Districts), Subsection 21.1 by adding Aquifer Protection Area, adding a new Subsection 21.8 defining Aquifer Protection Areas and by delineating the Derby Well Field (APA3) on the Building Zone Map.**

**On a motion made by Patrick Lopera seconded by Virginia Harger, it was unanimously voted to adjourn at 10:30 p.m.**

Respectfully submitted,

*Karin Tuke*

Recording Secretary, Planning & Zoning Commission