

asked if they were going to wait for Mr. Kulacz to come so he can address him directly.

Chair Parkins responded that she did not believe that Mr. Kulacz would be attending.

Atty. Thomas responded that he didn't think so – yes, he got them at 4:07 p.m.

A public attendee, Mark Widomski, interrupted Mr. Thomas to ask Chair Parkins if this was a continuation of his presentation or if it is a public hearing tonight.

Chair Parkins responded that it is a continuation of the public hearing on this Application.

Mr. Widomski commented that he had plenty of time at the last meeting and...

Atty. Thomas stated that at the end of the last meeting, and he doesn't think Mr. Widomski was there, he was going to address the questions and concerns, which is what he is about to do.

Mr. Widomski apologized and sat down.

Atty. Thomas indicated that the first thing he wants to do – it boggles his mind that an individual, first of all, obviously, he's complained enough about it - developers or any applicant should never get a report at 4:07 in the afternoon of -the day. This application was filed in June – in June. The other thing is that he keeps repeating the same thing about Access Road like he was the Energizer Bunny with no brain and nothing else to do. So, he is going to read for the record, even though he presented it, the September 30th 2009 letter.

September 30, 2009

To the Honorable Mark Lauretti, Mayor, City of Shelton
54 Hill Street
Room 202
Shelton, CT 06484

Dear Mayor Lauretti,

Subject: Shelton Land; State Land, Shelton
Release of Deed Restriction
File 126-51-5B

This is to memorialize our telephone conversation of September 25, 2009 regarding the future development of 405-409 Bridgeport Avenue at Access Road and Nells Rock Road in Shelton and the unique circumstances of the property rights associated with Access Road. To summarize, in 1948 the Department of Transportation (Department) granted by quick-claim deed to the City of Shelton (City) for consideration of one dollar, property known as Access Road with the deed restriction that the property be used for "highway purposes." In accordance with the City's desire to enhance the economical development at 405-409, a Developer would like to use a portion of Access Road, the subject property, for a private development. In order to accommodate this request, to which the Department has no objection, the Department must reconcile property rights associated with the subject property; namely, the aforesaid deed restriction for the highway purposes. The Department is prepared to reconcile the deed restriction and assist the City in its economic development in the following manner:

1. The Developer will make application to the local approving authorities and the State Traffic Commission, if required, under the condition that it shall acquire the necessary portion of the subject property from the Department.

2. The Developer will be responsible for producing a release map according to the Department's standards.
3. The Department will value the released parcel at set terms and conditions of sale with the Developer.
4. The City agrees that once all local and the STC approvals are in place, it will release, via quick-claim, the subject property back to the Department.
5. The Department will then sell the subject property to the Developer.

As discussed, the Department will not consider releasing the deed restriction to the City. It is the practice of the Department not to create uneconomic remnant parcels by releasing portions of highway right-of-way that are determined to be in excess of its transportation needs. A release of all rights of the subject property to the City would result in an uneconomic remnant parcel and would disrupt the current access rights to a highway right-of-way currently enjoyed by the owners of 405-409 Bridgeport Avenue.

Additionally, the Department would like ensure that the release value, as determined by the State, is the actual sale price to the Developer. The unique set of circumstances regarding the title to the subject property requires the cooperation of all parties involved. The Department stands prepared to engage in the process at the City's request.

If you have any questions, you can call me directly at the above number.

Very truly yours,

Terrence Daigle
Division Chief, Property Managing Division
Office of Rights of Way
State of Connecticut
Department of Transportation

The Mayor and the BOA on a motion authorized that portion of Access Road to be part of our application and authorized the Mayor to sign or to authorize any applications. Atty. Thomas indicated that he received a call from Rick Schultz that even though the Mayor had signed the previous application, they were having him sign this other application – but that was done by a motion of the BOA.

Atty. Thomas commented that the first issue that the City Engineer talks about, first of all he talks about Access Road like it is the City's property. As he said a year ago, it is not. He is surprised that no one walked from the 2nd floor to the 3rd floor and gave him this letter and gave him the motion and gave him that fact that they've taken care of this. The uniqueness of it is that the City, who does maintain the road right now, doesn't want to assume the responsibility or give up Access Road as a road until this has been approved. So, to resolve it, Mr. Obey took the ability to lay out the procedure. He missed one thing in it – something that Mr. Panico pointed out a year ago and everyone else shakes their head at – and that is, in addition to buying the property, the Developer has to purchase the access; in other words, forgetting about the Access Road, the access through the non-access line.

So it is a truly unique situation, so unique that the Department of Transportation decided, contrary to what we all stand up and tell you about them not talking to us until you approve it, because of the unique issues involved, they met with us. Property rights-of-way, the individual assigned to appraisal, the individual assigned to the transfers, Joseph Jursek from STC and the traffic engineer, Joe Ouilette from Traffic, actually arranged a special meeting so that they could review their plans. They had a two hour meeting to review everything, to review procedurally how things would happen and how it would approach various issues. Atty. Thomas stated that they presented to them some of the traffic concerns presented at the initial public hearing so that they could get their response to it. Access Road is NOT an issue; it has been resolved. It is subject

and conditional upon their getting approval and buying it. If they get all their approvals and their developer can't afford to buy it, then this whole thing falls apart, and they understand it. So there is great risk to the developer.

Atty. Thomas indicated that the other issue that they pointed out, and in response to the e-mail that they got, the cost, the enormous cost of the infrastructure improvements once they get Access Road – realigning the drainage, realigning the other utilities, etc. - it is going to be paid for by the developer. Like something he said before, it has to be something more than a hot dog stand to pay for that.

In the Engineer's letter, his first point is that the storm water plan they submitted in 2009 is acceptable. He talks about the major excavation being proposed; obviously, he wasn't privy and it would be nice if he attended these public hearings, but the last time they had a pretty lengthy discussion about the buffer - what will remain, and what they will give – he'll have Mr. Swift address that issue – again, they are providing a buffer of trees. Right now there are houses there. He asked that they keep in mind that they are applying for a PDD to provide the variety of development options as opposed to the Restricted Business District. As he explained last time, the RBD with its restrictions would be totally uneconomical and certainly wouldn't result in any way, shape or form the restructuring of Access Road and the Nells Rock/Bridgeport Avenue intersection.

In reference to the City Engineer's letter, Atty. Thomas indicates that he talks about, two-dimensionally about, the rear of both buildings will extend back to those former residences. Obviously, and Mr. Swift pointed out, and he will point out again tonight, yes, they will but they will be 40 feet down, a sure cliff (inaudible).

Atty. Thomas reads from the letter that "the existing Buddington Road right-of-way is not sufficient in several locations in front of the residences. At narrow points it is only 32 feet wide. The developer should be required to dedicate additional land required to establish a 50 foot layout and shift the development easterly to retain the buffer of the proposed road."

Atty. Thomas responded that basically what this amounts to is no more than a land (inaudible). They have agreed to dedicate, as is the tradition, 25 feet from the center line. The City needs to take property from the other side - it can't, but apparently what he is saying here is that he wants a 50 foot right-of-way and then he wants more land for a buffer. They are providing sufficient land for a buffer, but Mr. Swift has already provided and will again address it, 25 feet from the center line. He believes that what Mr. Kulacz is saying – and if he were here, they could ask – like they do in other towns. He continued to say that what he believes Mr. Kulacz is saying is that he wants to go to the other side of the road, in which the pavement in most situations goes to the other side in this area and then go 50 feet out which would create some sort of highway (inaudible). First of all, he doesn't think they would find a lot of people wanting that; but what they are providing is the normal procedure of 25 feet from the center line, and in areas that will provide a 50 foot right-of-way. But, again, the road is going to be all the way to the other side and the real benefit to it, as they talked about last time, is that it allows you in some portions, if you want to do it, to widen. Again, this is on an area not – we're giving this land, it's not on their front - it's not any issue that impacts them but they've decided to go ahead and do it.

Atty. Thomas reads that the next thing is "the traffic impact study does not address the geometric and warranted and necessary improvement needed to both Nells Rock and Buddington Road in the vicinity of their intersection. The deficiencies should be presented to the State Traffic Commission." Atty. Thomas

responded that they did talk to them and at some time, yes, they are going to comment on that. They had a discussion with them about the right-turn-in and the right-turn-out. Frankly, one of the questions they asked was why they don't have a full entrance and exit on Nells Rock Road. They told them that they said "no," there were traffic concerns and concerns expressed by the public and they felt that right-turn-in/right-turn-out – they felt that the design is OK and maybe they needed to address some geometric issues with respect to the trucks coming on and (inaudible). But they'd be glad to sit down with – they've already done that - with the State Traffic Commission.

Atty. Thomas read "the plans depict a widening of Nells Rock Road..." and indicated that he'd leave that point up to Jim Swift. As they know, they are giving additional right-of-way to widen it to three lanes. Initially, when they did this, the initial proposal, it may have made it to the Commission a year ago, was actually to (obviously, when there is no more Access Road) create a three lane Nells Rock – one lane going left, one for right, or something like that. But after looking at it, they widened it to four lanes – one lane going up and three lanes coming down when you get to the bottom (a dedicated right, a dedicated left and a straight). He'll have Jim Swift talk about whether or not they can give you additional right-of-way – he'll explain it.

Atty. Thomas stated that he wanted to briefly mention the DOT. They met with them, and they were very helpful. He won't bore them with the technical aspects of how they are going to accomplish the Access Road transfer, the appraisal – these are things that the Developer is going to have to buy. He showed the non-access line going all the way up to and beyond the intersection of Access Road and Todd Road – but it runs along the whole thing – it runs along the entire area. It is a non-access line. That is what is. What it means is that when the State determined when it gave property – it said "we are not going to allow these properties to access Bridgeport Avenue." One of the interesting comments that were made at the meeting, is that they apparently have been going crazy trying to find out where the opening in the non-access line came from. The one that you go through right now, right now when you go to Center Stage but before when you go there. Where that entrance came from (inaudible) they can't find any documentation. Obviously, what they agreed was that sometime in the middle of the night about 30 years ago someone went out there with a paving machine and just cut through there with plow and that was it. No one ever bothered to ask the State or the City.

Mr. Panico responded that is kind of how it happened.

Atty. Thomas commented that they had no idea – it is supposed to be a non-access line which, you know, they have to pay for. They have to value that access. The STC obviously aren't going to give them any permits and Traffic realizes that they have to provide them with the sufficient warrants that have their access at that point.

Atty. Thomas briefly commented about the right turn in, right turn out, at the end of Access Road that they proposed. He asked Jim Swift to show the turns on the plan. There is a proposal for a right turn in and the plan that they had actually had a little island at the end of Access Road. They said that certainly, the right turn out is out. He called Blanchette's and Jim Simpson because they have been in communication and the State was happy to hear that they had provided for the access of PLR, Blanchette's and Viking Tool into the site coming out to the light. Their basic position, again this is not a permit process, this is their comments to us that they were nice enough to give. They said that they really don't think it is necessary. They don't want it. They have some issues with the island. The island is going. They killed the right turn out – they said

there was no point in a right turn out; they can go to the end of the road and go right. That is not a problem.

Atty. Thomas stated that he won't say that they killed the right turn in but it is on life support.

Mr. Panico asked if he thought that they want a complete dead end.

Atty. Thomas responded yes, right. They talked about the fact that if you did this, who are they going to give the break in the access line to and do they have to charge the City. They said that they wouldn't have to charge the City but it is not opposite their property so they couldn't charge them. They would do that but they were really reluctant to do it. They did say that they liked the idea of those properties accessing through their site and that should be sufficient enough. They can access and egress through the site and they don't really need that. Atty. Thomas indicated that talked about the fact that communicating with the City to see what the City would want. They even talked about if the City wanted some form of a hammerhead or something like that. If they'll notice, the portion of the retained right-of-way for Bridgeport Avenue is kind of thick and the position of the head of Property Rights was that they can give us a hammerhead and extend you out and break through the non-access line because they aren't really accessing Bridgeport Avenue. That wasn't a problem.

Atty. Thomas indicated again that the right-turn-in wasn't totally dead; they said that it has to be tweaked.

Mr. Panico responded and asked what if that right turn in slid southerly a little bit more. If they take out the right turn out that gives you more flexibility on pushing that right turn in further away from your main signalized intersection.

Atty. Thomas stated that is why he said it is on life support; they didn't say no to it.

Mr. Panico indicated that he was uncomfortable with the thing being a total dead end.

Atty. Thomas commented that he had spoken to representatives of Blanchette's and they would like to see the right turn in stay.

Mr. Panico responded that access to those properties coming from the north without that right turn in would be forced to go down to the end of Access Road and come back.

Atty. Thomas indicated that they discussed that.

Mr. Panico stated that he can understand their rationale prohibiting the right turn out because you could just as easily get on Access Road if you're going in that direction.

Atty. Thomas responded that some of the other things that they pointed out with respect to PLR, there aren't talking about customers coming, people are going to go in and out at the traffic light. With respect to Viking they are talking about employees so once they learn, that's it. So they are really only talking about the customers of Blanchette's. They discussed with them the fact that when they do their STC permit, it has got to include these properties because they have to have access to the light; so, they have to include those properties in their computations. One of the points made was regarding signage for Blanchette's, and that it could not be put in the right of way. Atty. Thomas explained to them that there were strict PDD requirements regarding the signage. Other points

brought up included that the access to Blanchette's would be a "T" off the center road coming across. They discussed various options with them and they tried to involve them. They even discussed, and the STC controls this, how they could do the hammerhead so that no portion of the turnaround would impact the Blanchette property.

These were all the issues that they discussed with them; it was a very productive meeting. They still have to address some geometric things that they brought up but with this property –a lot of the traffic and a lot of the entrances, the exits and the geometries are controlled by the STC. So that is why they went up there to meet with them.

Atty. Thomas stated that with respect to some of the questions raised at the last public hearing, there were traffic issues concerning the right turn in and the right turn out. They studied it but it is really going to be STC that is going to have a lot of comments concerning that. They don't believe that there are any issues with respect to vehicles and or traffic coming out of the right turn out and even if they wanted to move over to the left, there is a flow of traffic that comes down in the easterly direction but it is basically in the morning not during the peak time. Yet during their peak time, they believe that there is sufficient spacing for people to get over as they do at other intersections but they do have to address it.

Atty. Thomas indicated that they have to keep in mind when considering the traffic issues that exist, they also need to understand the improvements that are going to be made – the widening of the road and they'll try to address those. He turned the discussion over to Jim Swift to address water sheeting on Nells Rock Road and other issues with respect to right-of-way and traffic. He indicated that Fred Greenberg will address some of the comments made by the State Traffic Commission.

Jim Swift, Landscape Architect and Professional Engineer licensed in the State of Connecticut addressed the Commission.

Using a site drawing and pointing out Buddington Road, Mr. Swift explained that with the issue of the buffer in the back of the site, typically, the pavement has a certain position inside the right-of-way, and in this case as Bob pointed out, it can be very narrow in spots. What they are doing right now is establishing where the center line of the pavement is right now and then coming 25 feet off from that. In some cases, they are giving 12, 14, 15 feet of additional right-of-way, and in some other cases, it is a lot less. But in any case it is sufficient to widen the road on that part of their site to get something up near a reasonable amount of pavement.

Mr. Swift stated, that as Atty. Thomas pointed out, the question is not if the right-of-way is sufficient, so much as if you want to do any construction up there at all. That is a question for this Commission to be concerned with as they go to the next step which, should they get approval, would be the detailed development plans to find out if there is a feeling from this Commission and the public to whether they want to widen and improve their street or whether they would like to keep the street the same as it is, which frequently happens.

Mr. Swift addressed the issue of buffering and stated that when they design the lower pavement area along the back of the building, they've taken into account the fact that the widening may take place – out to that new line that they are proposing that is 25 feet out from the center line of the right-of-way. All of their grading, plantings and other things are predicated on that movement, so that was taken into account.

Mr. Swift commented about the issue of the expanded right-of-way, and indicated that they are improving the width of the pavement at that location. Currently, the proposed street line is five feet off of the city curb, the new city curb that they'll be building. In looking at the drawing, from the edge of the street pavement out you can go five feet and that would be the new street line. There is some additional distance there to the decorative stone wall that they have proposed for that location and then even more distance, of more landscaping between the top of that wall and the parking lot. Mr. Swift indicated that he felt that was a minor issue. If the requirement from this Board, the City Engineer or anyone else is that it be 10 feet from the outside curb, it will be – it is not a difficult thing.

Mr. Swift addressed a comment from the last meeting about the sheeting flow in a location on Nells Rock Road (he showed the location on the site map). As it exists right now, and he went into this with a little bit of detail at the last meeting, that drainage there is sub-standard. Coming down to the intersection of Nells Rock Road and Bridgeport Avenue there are a couple of catch basins down there. Those catch basins are taking drainage from Nells Rock Road, from the bank building across the street and from uphill areas. Those conduits, those pipes are insufficient in size. They aren't large enough right now.

Mr. Panico asked where the sheeting issue was.

Mr. Swift showed the location on the map and indicated that it must be flowing from this side of the road to the other side of the road because that is the direction of the intersection.

Mr. Panico asked if it was also at the Buddington Road intersection.

Mr. Swift responded that he doesn't know how it could be.

Atty. Thomas interjected that he wanted them to understand that this comment was from a member of the public.

Mr. Panico responded that yes, he read the public hearing meeting minutes and he was having difficulty trying to visualize what part of Nells Rock Road they were concerned with the water sheeting.

Atty. Thomas showed the portion of Nells Rock Road on the map that he believes the comments were made about.

Mr. Panico responded that is in the area where the majority of it is being reconstructed.

Mr. Swift responded that was correct. So, there are two things that are going to happen there. The conduits themselves are going to be updated and made larger so that they can handle the flow. He showed that the other issue was that at this intersection all the way up to this right turn in/right turn out is going to be totally reconstructed. Instead of two lanes there, it will increase to four lanes. When that happens, they'll regrade the road so that the high point, the crown of the road, is on the center line of the traffic passage.

Mr. Panico commented that with proper construction and proper drainage, there should be no sheeting problem.

Mr. Swift responded that is correct.

Comm. Sedlock asked a question about whether or not a particular area (he showed the area on the map) could be closed off - if there was a reason for

right turn in/right turn out in that location and if it was necessary or just for convenience.

Mr. Swift responded that he believes it is necessary. It's not really a life and death issue. They did it for two reasons. He showed that one reason is that any traffic coming from Nells Rock Road there, and Buddington Road there – that is coming down for the purpose of going to the shopping center – if those entrances weren't there, they would have to come down, take their queue at this intersection and then move over and then into the site. They are concerned with pumping as few cars into that intersection as they can so what that right turn in does, is rather than having those cars travel all that way, they can make that right turn in to the subject site without any stoppage or slowing down. It keeps the traffic moving.

Mr. Swift indicated that the second issue was that for the right turn out, they have a specific truck traffic pattern that comes in the main entry. He showed that the back of the building is a one-way system with the trucks coming out this way. He explained that they can come across the front of the building and then out – all the driveway widths are adequate and all the turning radiuses are adequate, so there is no issue with that. It just seemed logical that they also just let them come out right to this intersection and then north to the Route 8 intersection, if they are northbound – that's where they will be going. They are just trying to give people the shortest route to where they are going.

Comm. McGorty commented that the right turn in makes sense but the right turn out kind of defeats the purpose. They are trying to take some burden away from the intersection but letting people out is just going to add to the intersection. The right turn in makes perfect sense though.

Chair Parkins agreed that she thinks it needs some further...

Mr. Swift responded that they'd be contributing to the intersection, but they are just contributing in a different way.

Comm. McGorty commented that they relieve it further up the road but now when it comes to a light, rather than have it back up, you'll have more people down in the funnel.

Mr. Swift responded that they certainly need the traffic engineer to go into more detail. He is just trying to give them an overview. The traffic that comes out of this right turn will get into this leg of the intersection. If that is the sensitive leg of the intersection, than he's correct, it makes more sense to bring it this way into that leg of the intersection.

Chair Parkins asked what the other options were for the trucks because one of her concerns is that by letting them exit out there, especially if they want to go northbound on Bridgeport Avenue, they may be blocking two lanes of traffic as they're queued there waiting for the light. It would kind of create the same situation that exists there now where people either stop at Access Road or come out of Access Road and block the roadway to turn and go northbound. So, what other options do they have for the truck traffic leaving there? She indicated that she knows it is hard to tell what kind of traffic timing-wise until they know who the tenants will be but they can assume that there is going to be some type of grocery store in there so there will be deliveries of produce, etc. What other options are there for the trucks to leave?

Mr. Swift responded that he thinks that the traffic engineer should discuss this in a little more detail. But, as he said, there is no problem with these trucks

coming across and out through the front. It is not unusual and it happens in many shopping centers, there are quite a few of those that have one entryway.

Comm. Flannery commented that she thinks there is a problem with the customers and the foot traffic. That is the problem that she sees – she does not want them coming across at all.

Mr. Swift responded that he assumes that (inaudible). From his experience, as far as the site, he likes the right turn out on Nells Rock Road. He understands that it's (inaudible). He's sure the traffic engineer will get into that as far as how that happens. Most of the truck traffic, especially in a supermarket, is not that much during the day. They tend to start work at night – that's been his experience.

Atty. Thomas stated, although Nells Rock is not a State road, they'll have comments on that. He asked Fred Greenburg to speak about some of the issues with the State.

Fred Greenburg, Traffic Engineer with the BL Companies of Meriden, CT and a registered Professional Engineer in Connecticut addressed the Commission.

Mr. Greenburg indicated that they had a meeting with the State DOT last week with representatives of Rights-of-Way, State Traffic Commission, and Traffic Engineering. The most complicated issues are the right-of-way issues because of the transfers involved and the property owners. But in terms of the traffic type issues that they brought up, for the right turn in/right turn out on Bridgeport Avenue, they don't like the right turn out at all. He thinks there is some agreement because it serves very little in terms of property and they can make that right turn at the other end. They aren't happy about the right turn in, if they have to live with it, then they'll buy it but mentioned that maybe it could be moved further away from the intersection. Grading issues may be controlling that and it something that they have to look at. They don't like the little island they had on Bridgeport Avenue typically

Atty. Thomas stated that they don't have the island on Bridgeport Avenue.

Mr. Greenburg clarified it was the one they had opposite- the island at the right turn in, right turn out

Mr. Panico commented that you didn't need it if you don't have the right turn in, right turn out, you don't need it.

Mr. Greenburg agreed, and indicated that typically when they have the right turn in, right turn out, the State has been asking for something – more positive control by putting in islands.

Mr. Panico added that it's just like they had at Split Rock.

Mr. Greenburg stated that obviously, if they don't have the right turn out, they don't need the island. He indicated that there was a little triangle island on the corner of Nells Rock, they aren't particularly pleased with that either; they don't like small islands.

In regard to the traffic signal, they have to demonstrate that the signal is warranted, which they can do and that it functions, and that they can make it function with the rest of the signals along Bridgeport Avenue.

Mr. Panico asked what the State's opinions or comments about that basically, truck exit onto Nells Rock.

Mr. Greenburg responded that as Atty. Thomas said, apparently, the first thing that they said was "why don't you have full access on Nells Rock." In that way, people heading back to Nells Rock wouldn't have to come out the main driveway, and turn left, they could just go right out there. He stated that they don't think that is going to fly.

Mr. Panico responded that if that were a better road, he'd be in their corner.

Mr. Greenburg stated that it's still not a very good location to make a left turn; making a right turn in, right turn out is fine but making a left turn in and a left turn out is more problematic.

Mr. Panico stated that the right turn out does have its complications with those cars that do not want to obey it. They don't have the opportunity there to put in a raised island and stop it, because they have traffic coming out of the driveway across the street. They can't impede that.

Mr. Greenburg agreed that you can't impede that. He added that they face this problem everywhere – people just don't like to obey rules, regulations, traffic controls and everything else. They are either distracted or they do what they like to do, but if they get 90% of the people to comply then it is a workable situation.

Mr. Greenburg indicated that they wanted to make sure that they had the corner radii if a truck went over this and that is really a design detail that they'll look at later on. He stated that was basically the crux of the meeting. As Atty. Thomas said, it was a pretty good meeting. Normally when you try to discuss anything with the State Traffic Commission or the DOT before you make your application, they usually sit there with their hands folded but they had a pretty good meeting.

End of Tape 1A, 8:51 p.m.

Mr. Panico asked if there was any discussion on the design team – including all of them – about the alternative to the Nells Rock Road connection to do a second connection on Bridgeport Avenue that was restricted to right turn in, right turn out.

Mr. Greenburg indicated that they actually asked if they could get access on to Buddington also.

Atty. Thomas added that they asked it – what they were looking at – was if there were other accesses.

Mr. Panico stated that would be 45° up in the air.

Atty. Thomas stated that they asked the question about having another full access.

Mr. Panico indicated that it was bothering him too.

Atty. Thomas stated that they asked the question and he was going to remind them that (inaudible). It was not an issue that was really open to discussion. One of the problems with making a second access is that the area along Bridgeport Avenue is supposed to be a nice stone wall with a tree lined look. They did discuss with them and they actually liked the idea that along this area here, the Commission may put in reserve parking. Because, it is what he mentioned the last time, in this new economic way that they face, the PDD

concept or this type of form based zoning is actually perfect for it because they don't have tenants – well, they have prospective tenants – but when they come in with their detail plans they will have more meat on the bones of how certain things are necessary, what geometry it is, what kind of parking issues there are. They liked the idea of more – they asked a lot of questions about what they would be putting there, etc. They didn't want anything going through the right-of-way but they also liked the idea of the possibility of more grass as reserve parking; initially, when they come in with a tenant, a lot of that can be addressed because there doing that at the final site development plans. That is the whole benefit of this – the whole benefit of this process.

Mr. Greenburg commented that another aspect of another access on Bridgeport Avenue, is that you have to break the non-access line a third time. He doesn't think that they would be receptive to that at all.

Chair Parkins asked if they could address the weaving issue a little bit more in terms of (inaudible).

Mr. Greenburg responded that they have a couple hundred feet between that and the intersection. Access Road now, comes right out of the intersection which is a real problem. Their driveway is a couple hundred feet back, they have three lanes...in terms of the truck traffic, they shouldn't get too carried away, it's a couple hundred feet. Even if it is a supermarket, which would be the most in terms of trucking, it still is not going get a constant flow of trucks. Many times, trucks deliver off hours, which has its pros and cons. With tractor trailers coming in there would plenty of room. As far as the delivery trucks, the Fed-Ex trucks and the Coca-Cola trucks, it shouldn't be a problem at all.

Comm. Pogoda asked what the difference was between the egress and the egress to the bank.

Mr. Panico responded that they are almost opposite each other. They have no relationship to each other, other than fighting for the same lane.

Comm. Pogoda commented that he could see that but he wonders how close they are.

Mr. Swift responded that he goes by there a lot and most people coming out of the bank, they are turning right coming up here. It is easier to get of the bank, going in most other directions, to go out the other way.

Comm. Pogoda commented that he lives right up the road, and a lot of people come out of there and take a left and aren't going up – and they aren't taking the back entrance.

Chair Parkins agreed with that, at lunch time a lot of people run to the bank and there is a dentist that's in there and they come out back to Bridgeport Avenue.

Comm. Pogoda added that most people are taking a left, going through the drive-through, park on that little circle right as you come and try to get right back out of there – especially at lunch time. A lot of it is left not going right.

Mr. Swift responded that the STC requires an analysis of that.

Mr. Greenburg added that they can make an analysis of almost anything. They extend their jurisdiction anywhere and again as part of the process, the Town has input the local traffic authority with the Police Chief so any town comments filter through the Chief and he can submit them to the State. The State can ask them to analyze almost anything and everything, which they tend to do.

Atty. Thomas commented that with respect to the issue, people come out of the bank now and they turn left. And people are going to come out of the bank, and they are going to turn left – that is what is going to happen. They are turning left now on a road that is somewhat deficient with a very deficient intersection. After if the development is approved, they are going to turn left on to a road that has been improved with more lanes so there will be less times when there is less queuing all the back up to block them because there are more lanes for people. So, you can look at it both ways – but they are going to come out of the bank and turn left; the bank is not going to close off its entrance and there is really going to be very little. The flow coming out of that exit is not going to be like Commerce Drive with people coming out constantly. The flow coming out of that direction is not really going to be the big issue. The big issue is the flow coming down Nells Rock. It is not going to change – while it is going to go higher at peak times, which are mainly toward the evening hours – they are going to improve the intersection.

Chair Parkins commented that she really thinks that is going to be dependent upon who the tenants are in there. If there is a restaurant in there that is serving lunch, then there is going to be a lunchtime crowd in there – and also with the bank that's there – people are going to be running in there to go to the bank. She doesn't know that they can ever say that it is not going to be...and there are periods...and she is not saying that she is against it, but she thinks it has its problems.

Atty. Thomas responded OK, but the problem is that what you are doing is ignoring the fact that, if there is restaurant somewhere in there, they still have the main entrance. If someone is over on the other side of the lot, there is no reason why they can't go...there's a traffic light here and it has a left turn lane. Sometimes with a lot of issues, you can think of issues that are problems. They have tried to address the majority of them. When they spoke to the State, they asked why you don't have them – they were looking at a two-dimensional picture and they asked "why don't you have a full entrance here..." So, they told them that they can't – the Commission doesn't want it and they don't think that the Traffic Authority would really want it.

Atty. Thomas indicated that the whole purpose of this is, conceptually, once they get it done, there are things that have to be addressed. And they are going to be addressed. They understand it. They are going to be addressed at the tenant level.

Mr. Panico asked about the proposed three lanes eastbound on Nells Rock coming into the intersection and if all three lanes extended past the Webster driveway.

Mr. Swift responded yes.

Mr. Panico continued to ask if a car exiting the Webster driveway has his choice of three lanes to the left. He is not confined to the one.

Mr. Swift responded yes.

Comm. Pogoda added that yes, but he has to cross traffic.

Chair Parkins added that it is more gradual (inaudible)

Mr. Swift commented that lanes end just about at the end of the Webster Bank. So they are just about at the same distance.

Mr. Panico indicated that right now exiting Webster Bank, you have one lane available to you, and you have to make sure that nobody is coming down the hill that wants that lane. That should be relieved somewhat by the three lanes going in that direction so that even if someone is coming down the hill, they've got two other lanes and you only need one of them.

Comm. Sedlock responded that they'd have to cross over those two lanes to take a right hand turn coming out of the bank.

Chair Parkins agreed because you'd be across the road at that point.

Mr. Panico commented that going to the left, if you are coming out of the Webster Bank driveway onto Nells Rock Road, and you want to go left, then you only have one lane on the left available to you. The other lane is coming up the hill.

Comm. Pogoda responded that what he is saying is that – with three lanes now and you want to go to the right hand lane, you'd have to cross two lanes of traffic. In essence if you have people heading (inaudible)

Mr. Panico commented that you wouldn't do that instantaneously. You'd get out there and weave to the right-hand shoulder.

Comm. Pogoda disagreed that you wouldn't.

Comm. Sedlock added that if someone is coming down the other way that wants to go left (inaudible).

Mr. Panico indicated that is what a merging distance is for – to allow those maneuvers to take place.

Chair Parkins added that is where courtesy comes in.

Consensus of inaudible laughter....

Comm. Sedlock added that there is also a hill there – that road is not flat.

Mr. Panico agreed yes, and sometimes visibility can sometimes be an issue.

Comm. Sedlock stated that he also has a problem with entering from the top there too – with buses and in the wintertime and he has a hard time visualizing the distance from Buddington to that entranceway there. And not only that, he has an issue with making it more palpable for more people to come down Buddington Road – more cars on Buddington Road because Buddington Road has problems right now with nothing there. He added that there are spots on Buddington Road that have a hard time getting two cars through and a bus and a car, and it is going to exacerbate that situation farther on down the road on Buddington Road.

Chair Parkins asked why he would say that though.

Comm. Sedlock responded because there are spots of Buddington Road that are very narrow – they saw pictures – a gentleman sent some pictures in here with a bus and a car going off the road and now they are going to add more cars.

Chair Parkins asked if he was assuming that more cars are going to be (inaudible).

Comm. Sedlock responded that they are going to come down Buddington from Huntington unless they are going to go over on top of the hill and (inaudible).

Comm. Pogoda said what other way would they come down ... from Bridgeport Avenue (inaudible)...

Chair Parkins stated what about Commerce ...(inaudible)

Comm. Sedlock added that is another reason for leaving that island there – so that it doesn't make it easy to come down Buddington Road either.

Someone asked what island? Mr. Panico responded Jim's island.

Mr. Panico agreed that they need to have a long discussion about the pros and cons – he has mixed emotions about it. He doesn't like seeing a big development with only one way out of it.

Mr. Swift indicated that this is not- if this had to disappear, if that was Commission's choice – it is not fatal to what they are trying to do.

Chair Parkins asked if the "out" could disappear, the "in" could stay, the (inaudible)

Mr. Swift responded that they have options.

Mr. Panico asked about the main entrance/exit driveway to the complex, how many lanes they have on the exiting side.

Mr. Swift responded two – there are only two ways to go – right or left.

Chair Parkins commented that was similar to exiting the Stop & Shop.

Atty. Thomas added that for their information, the Buddington Road peak hour, the Friday 4 – 5 p.m. and Saturday at the peak hour – the Buddington Road traffic is 80 vehicles per hour – that is post development. So, again, there is some increase over it, there is some increase over the allocated because it has to be allocated but that is what the number is there. They aren't talking about an increase similar to like what Bridgeport Avenue is going to experience. Plus the fact, they have to keep in mind that again, in order to make their numbers extremely conservative, they took a pass-by figure of 10%. When in fact, when looking at this area, the estimated pass-by is 35% - but they took 10%. By the pass-by that means what you already did.

Mr. Panico indicated that he wanted to look at the reverse. He asked what they assigned to that exiting lane onto Nells Rock Road – 2%, 1%, 5%.

Mr. Greenburg responded 8%.

Mr. Panico asked if there is going to be any major consequences to their other intersection design if that 8% traffic is not there and has to be put on the main exit and entrance.

Mr. Greenburg responded that he would have to go through the numbers because he wasn't sure. Over there it always good to have a second point of egress. They face this fairly often when they have a project on the corner of where one of the roads is a State road and the other is a town road. People say that when you put a driveway on the town road, you'll get more traffic on the town road. He's not sure if anyone can demonstrate that is true, but people are going to come down and take the path that they like whether they have an exit there or not. It is hard to say.

Chair Parkins commented that it is one of the major thoroughfares from one section of town to another- so there is no doubt about that.

Mr. Panico stated that until they build Constitution Boulevard, it will be.

Mr. Greenburg responded that he understands that – this is a major thoroughfare and whether they have a driveway there or not, he's not sure if it would make a difference or not – probably not.

Atty. Thomas stated that he thinks that point he is trying to make is that in this situation where they have – there's an intersection at the corner of a State road and City road, and the experience has been that they tend to go out the main entrance, which is why he has allocated 8% which is higher than Tony thought, just to say that they are allocating more to it. What they also have to be realistic about here –is what the numbers are. What they are talking about – the amount of traffic, it is not something where they are going to stand there and watch a steady flow of traffic. There will be cars coming out, there will be cars coming down, there are times when there is a peak-peak but most of the time it will be off-peak peak. But he's allocated something and what he is saying is, that it's based upon experience. Obviously, they will have a lot better picture when they are in for the final site development plans. What they are saying is this is workable. The other thing that will happen when they get to the final site development plans, is the final comments of STC will be in there. And they are going to comment about it and they will battle some issues. There is a tremendous battle in Derby over the exit onto Sodom Lane from Starbucks. They wanted to close it. The individual lost the tenant and finally it had to be determined that the STC did not have jurisdiction over that because they went back into the history. It was a complex thing so they will comment about things off-site.

Atty. Thomas added that STC could trump them. What he always cites to people is Wal-Mart - the Inland Wetlands Commission wanted two ponds in front of Wal-Mart with aerators. The DEP shot that down before they got the plans out on the table. He summarized that is what they have to deal with in multi-jurisdictional cases. They were nice enough to have this meeting. He believes that when they are in that hybrid period between the initial concept plans and final site development plans, he believes given this circumstance and uniqueness, they will be willing to sit down with them contrary to the normal procedure and have some discussions, and have some input.

Chair Parkins responded that she'd like to ensure that happens and (inaudible)

Comm. Flannery indicated that she had a couple of questions. She asked about the drop from Buddington is 40 feet down – how tall are the buildings in the development. Will they be looking at the tops of the roofs or will the roofs be sticking up?

Atty. Thomas responded that the first thing he wanted to do was have Mr. Swift explain to them what the drop was along the back – he used 40 feet at one point but he'd like Jim to explain what the drop is and Pat can comment on the buildings versus the cut away (inaudible).

Comm. Flannery added that she is concerned about what the neighbors will be looking at. She had that problem with Wells Hollow when they told her that they won't see anything because the buildings will be dropped – but she sees plenty.

Mr. Swift responded that he isn't going to tell her that she isn't going to see anything. There is about 30 – 35 feet and the other issue is that these houses are also higher than that. So the general tendency id looking out is that they are

probably 50 feet plus above the tops of the roofs. That is a good news and a bad news type of a thing where they are not looking directly into the back of these buildings because not only are you higher but there is this type of vertical wall right here that kind of (inaudible).

Comm. Flannery asked if there was going to be a stone wall there.

Mr. Swift responded a rock cut – there is going to be a rock cut for some distance. So that is the good news that you're not looking at that but you are higher so you will be able to look down. These houses will be higher than the tops of the roofs and he thinks that Pat can concur with that. The important thing there is that the buffer can be installed.

Atty. Thomas asked Jim Swift to turn the page on the easel to the landscaping plan and he asked Pat Rose to comment on that.

Patrick Rose, Rose Tiso & Co., licensed architect and architect for the applicant addressed the Commission.

Mr. Rose explained that the buildings are going to have a couple of different elevations depending upon what they end of being. If they have a supermarket, it could possibly be 30 feet high and there will be some rooftop equipment on top of that facility which will be screened. But in certain areas the rock cut and the building roof will be at the same elevation. These people behind here are higher than that and there is vegetation that can screen that. So what they will be looking over the top of vegetation or down through the vegetation on a roof. But for the most part they'd be looking through an evergreen screen. There will be other buildings which will be shorter than that – some buildings will be 24 feet high or 20 feet high depending upon how large they are and what is going in them. They will be below well below the rock cut and really won't be seeing the roof.

Comm. Harger asked what the distance was from the rear of the houses to the screening and beyond that to the buildings is what?

Atty. Thomas asked if she meant the flat distance.

Comm. Harger responded yes.

Mr. Swift responded that it sort of varies and the houses are anywhere from 25 to 50 feet back from the Buddington Road right-of-way so that's 50 feet. Another 50 feet or so to the back – so it is anywhere from 125 to 175 feet. It is not that great a distance.

Comm. Flannery asked if now that they are going 25 feet from the center – that means 9 more feet is being taken away. So are they taking away from the trees to widen the road – because she's sure that the residents want the road widened. That's what they said at the last public hearing that they want the road widened. So she doesn't know why that was a doubt.

Mr. Swift responded that as he said before, they accounted for the issue of granting some right-of-way.

Comm. Flannery commented that 9 feet in – how much of the trees is that going to take away.

Mr. Swift responded that it is not 9 feet everywhere – you can see that in some places it is ...

Comm. Flannery indicated that she was saying that if they are going to go 25 feet from the center of the road then that is 9 feet that you are going to have to give up.

Mr. Swift responded no.

Comm. Flannery stated that if the road right now is 32 feet and you want 50 feet.

Mr. Swift responded that the road is not 32 feet.

Atty. Thomas added that Bob Kulacz said the road, in his letter he said that " in some parts it is as narrow as 32 feet" – that is what he said.

Comm. Flannery stated right – half of 32 is 16; 25 less 16 is 9 feet.

Chair Parkins commented that it might not necessarily be right there that he...

Mr. Panico stated that he was exploring different right-of-ways (inaudible).

Atty. Thomas agreed that he was not referring to the pavement, but the right-of-way. It had nothing to do with the issue of the pavement.

Comm. Flannery commented that she wants to know how that effects the landscape.

Mr. Swift indicated that the distances are all over the map. Referring to the site drawing, he explained that the heavier line is the existing street line; the slightly wider line is the proposed street line. In some cases the existing street line is mere feet from the pavement. So in this case, the supposed street line is some distance off of the road. The point he is trying to make is that they did account for the fact that the road could be widened, that there was a movement of the street line. Secondly, they concur, agree, state that the buffer is important. The grade change, in and of itself is not sufficient to separate these two pieces.

Comm. Flannery asked what the width of the buffer of the trees. Is it a skinny three feet like at Wells Hollow. At Wells Hollow they gave them a little buffer of three feet that you can see right through – and they die and you can see right through them.

Mr. Swift responded no, that's not true

Atty. Thomas commented that they aren't talking about Wells Hollow.

Chair Parkins indicated that some of the reason that she thinks that these residents asked for it to be wider was to be provided parking, and if that is not going to be allowed by the City because they aren't going to accept the liability for plowing, etc. then it is going to be a moot point because they aren't going to want to just widen the road so that cars can go faster.

Atty. Thomas responded that there is also two other points. They have taken into account, the buffer inside of the street line. Secondly, now that the City has a wider street line, they aren't going to pave to their new property line because they need a snow shovel. Because then they would be pushing the snow onto the buffer that they are going to have to build, along with the natural buffer that is there – so they have taken that into account. If the buffer ranges from ...

Mr. Swift added that he would say about 20 feet to the top.

Atty. Thomas commented that they have plenty of room to do plantings. What the City wants to do with the extra space that they are getting, they have accounted for it. If the City wishes to pave to their property line, and have the plows plow out three feet - they have the right within their right-of-way. But the City normally likes unpaved land in their right-of-way. They have taken all of that into account so they can do their buffer no matter what.

Chair Parkins asked what type of buffer.

Atty. Thomas asked Jim Swift to put up the landscaping plan.

Mr. Panico asked if they could provide them with a supplementary strip map of Buddington Road so that they can see at a greater scale the pavement lines, the existing property lines, the proposed property lines, and the proposed buffers. And where the edge of the cut is going to end of being and if they can get out that far, to where the closest edge of the new buildings would be. He knows that all the information is on there Jim, but he thinks that if they could segregate it into a strip map that they could just focus on that it would help.

Mr. Swift responded that the short answer is yes; the longer and more correct answer – they are going to need to do soil testing back there to know exactly what is firm ground, what is rock and what isn't rock. They have assumed somewhere in the neighborhood of six feet of over burden to provide their grading back there. That is a pretty good estimate – in some places it will be more and in some places it will be less. The process of designing a very specific buffer back there is going to fall to the detailed development plans. At that point, once they know that they have a project, they will be able to do borings, and testing back there. They will be able to know where the soil depths are back there and they will be able to know exactly what they've got back there – exactly where this rock will be.

Mr. Panico indicated that they need to be comfortable enough to set the parameters because the parameters have to be set right now. Even though they don't know the specifics of it, they have to set the parameters.

Mr. Swift reiterated that the short answer of it, yes, they can provide that.

Chair Parkins asked if any other Commissioners had any other questions.

Atty. Thomas indicated that he wanted to state for the record on that request because it is very important that they state that they are providing them nothing more than what they have already provided them with except it is on a larger scale. They don't believe there is any reason to keep the public hearing open to address all of these things.

Mr. Panico agreed that they might just be pulling the information from other drawings onto one drawing.

Atty. Thomas stated that everything that they will be pulling from, every bit of information has already been presented. It is only on a larger scale. They can either give you that or a giant magnifying glass.

Chair Parkins asked if everyone from the public who wishes to speak had signed in on the sign-in sheet. She began the public comments by calling Mr. Arnold Sapiro.

Mr. Arnold Sapiro, 49 Basking Brook Lane, Shelton, CT addressed the Commission. Mr. Sapiro indicated that his primary concern was with the egress issue on Nells Rock Road. He thinks that the right turn in looks OK. He sees no

problem with that, but the right turn out onto Nells Rock is going to create a traffic nightmare. Mr. Sapiro stated that the nightmare he was talking about was that the people coming out of the shopping center onto Nells Rock are going to block traffic coming down Nells Rock and Buddington Road. It is going to create a lot of angry drivers. It is going to anger customers, anger all the people on Buddington and Nells Rock and there are approximately 600-700 plus families living on those two roads. Most of them are on Nells Rock.

Mr. Sapiro stated that traffic exiting the shopping center, trying to turn left to go up Nells Rock will find it dangerous, if not next to impossible. He thinks that it will be an accident waiting to happen. The egress, instead of turning right on Nells Rock, should be next to the entrance off of Bridgeport Avenue.

Mr. Sapiro referenced the Shop Rite Center in Derby where trucks enter and come in front of the shopping center and leave the same way. They leave that shopping center coming in front where customers have to cross and there have been no problems there. Therefore, he doesn't see a problem about the trucks having to come around in front of the shopping center and exiting onto Bridgeport Avenue. There is another shopping center with that same problem in Norwalk. It is a Shop Rite Center on the Post Road – the entrance and the egress is onto the Post Road – either right or left. Accomplishing that would involve a little more complication in the way of traffic lights but it is doable and it is being done right now at the Derby Shop Rite and Shop Rite in Norwalk.

Mr. Sapiro stated that other than that, he knows that there is going to be a plaza built there, it is just a matter of the details. He thinks that the egress is the main issue that has to be addressed. He thanked the Commission.

David Hill, 11 Buddington Road, Shelton, CT addressed the Commission. Mr. Hill indicated that he had submitted his statement in writing at the last public hearing on September 22nd. He indicated that it explained all his concerns about this project and it was supposed to be entered into the record.

Chair Parkins asked if he gave it to Rick Schultz.

Mr. Hill indicated that he handed it in to Planning & Zoning a couple of weeks ago, and they received it for the record.

Chair Parkins indicated that it probably was but they just haven't received it yet with the other correspondence. They will make sure that the Commissioners receive copies as soon as possible.

Mr. Hill commented that it was fairly extensive and he wanted to submit some photos of the property that he took on Saturday regarding the trees on Buddington Road. One of the things mentioned at the last hearing was that the trees would be left in the buffer zone. His photos show them being removed on a Sunday when City Hall was closed. It also shows how few trees are actually in the buffer area and how close they are to the street. All these houses are slated for removal. It gives a better depiction of how close, how frightfully close, this project is to Buddington Road.

Mr. Hill mentioned how fast cars drive down that street and they lose control in the snow. They are going to end up going down 30 feet into this. He heard tonight that this is 125 – 150 feet. According the proposal he received, he has a number of 26 feet from the corner of the building to the edge of the parking and this looks like 36 feet from the property line back there. He does not know where this 125 feet is because he doesn't see it on the map.

Mr. Hill mentioned again that he submitted numerous comments regarding this project and he would ask that they all read that and consider his comments before making a decision.

Chair Parkins asked Mr. Hill if he had a copy. He did not have one with him. Chair Parkins assured Mr. Hill that all the Commissioners would receive a copy of his comments. He thanked the Commission.

Mr. Mark Wodonski, 55 Long Meadow Road, Shelton, CT addressed the Commission. Mr. Wodonski wanted to first remind the Commission that this plan was nothing more than a concept; a dream, a fantasy, a means to get a PDD to increase the real estate value so that it could be a precursor to the sale of the property. This plan in today's economic downturn will most likely never bear any fruit for the City of Shelton.

Mr. Wodonski indicated that he also has this letter that he submitted to Corporation Counsel's Tom Welch today. He read his letter to Atty. Welch.

Dear Mr. Welch,

I have been instructed by members of the Planning & Zoning Commission and the Staff to contact you in regard to the zone change at 405-407 Bridgeport Avenue, the former Crabtree property.

I have some concerns pertaining to the legality of the current application for a zone change on the former Crabtree property. I have reviewed the application numerous times, the minutes from previous Planning & Zoning meetings, the BOA Meetings, correspondence between the DOT and the City of Shelton, and correspondence between the DOT and myself.

I am sure you are aware of the facts of this application but I will summarize them. On March 19, 2009, 714 LLC submitted an application to the P&Z Commission for a zone change at 405-407 Bridgeport Avenue and the surrounding parcels. The application listed the owner of record as 714, LLC and was signed by the attorney for the applicant/owner. During the time period between the application being submitted and the denial on June 30, 2009, a legal opinion from the Shelton Corporation Counsel was sought by this very Commission. On June 16, 2009, Atty. Raymond Sous rendered an opinion based upon Regulation #34.5, which states the application must be signed by all property owners within the proposed district. In this memo, Atty. Sous further stated that as a result of this single signature of the applicant that failed to include the other owners, the application was therefore incomplete and should be withdrawn or rejected. The application was not withdrawn and the Commission voted to deny the application without prejudice.

Other owners of record for this recent application are PLR Enterprises, LLC and the City of Shelton. However, as you are aware there are specific deed restrictions placed upon a portion of the property by the City of Shelton. The restrictions specifically state that this property is currently under the control of the City and can only be used for highway use. Any other use of this property would be a violation of the deeded restriction. The only way for this property to be used in the manner other than highway use would be for the City to quick-claim the property back to the State DOT. The DOT and only the DOT are in the position to sell the property outright per the deed restrictions. The City of Shelton received a letter from the State DOT dated September 30, 2009 detailing the process to be followed in order for the property to be sold to the applicant. The letter states that the Developer needs to seek approval from the local approving authority and the State Traffic Commission. Nowhere in this letter does the DOT authorize the zone change for the parcel in question.

On October 8, 2009, the BOA moved to authorize the release via quick claim deed a portion of Access Road to the State of Connecticut. Further terms of the letter dated September 30, 2009 further authorized Mayor Mark A. Lauretti to execute any and

all documents to effectuate the same including any applications to the local approving authorities. The motion carried.

For the record, per a correspondence received from Terrence Obey dated October 25, 2010, the State has not received a quick-claim deed for this parcel or a portion thereof.

On June 15, 2010, a set application was filed by the applicant. This application listed the owner of record as 714, LLC; the City of Shelton; and PLR Enterprises. The application has an affidavit from PLR Enterprises authorizing permission to seek a zone change. The application contained no affidavit from the City of Shelton.

I raised this question of Rick Schultz, the Zoning Administrator and the Corporation Counsel via numerous e-mails during the past three weeks as to why the P&Z was moving forward on an application that was incomplete as per Atty. Sous and Regulation 34.5. I was told that the Commission was moving forward based upon a letter dated September 30, 2009 from Terrence Obey.

I then contacted Terrence Obey via e-mail inquiring about this letter of September 30, 2009. On September 29, 2010, Mr. Obey replied via e-mail. His e-mail stated that the property in question is "currently under the control of the town and can only be used for highway purposes." The letter further stated the property "is currently part of the highway right-of-way and does not have a zone classification." Mr. Obey further stated that "the DOT is not a party to a zone change for the adjacent property and the DOT is neutral in this matter and further stated that a zone change is not required by the DOT for the sale of this property." Mr. Obey also stated that if the City does not quick-claim the property back to the DOT, the area will remain under the control of the city for highway purposes only.

Based upon this information received from Mr. Obey, it appears the City of Shelton and the Mayor do not have the authority to effect a zone change on this property. A zone change effectively changes the use of the property from a deeded highway use only to a zone piece of tangible property by changing the current non-zoned parcel to tangible property, the use is being changed which the City is not authorized to do. It appears that the City may be violating the deed restriction. The only authority it does appear to have is to accept a plan that requires no zone change, approves said plan, and quick-claims the property back to the DOT allowing the State to make the determination to sell the property.

On October 15, I was informed that the Mayor signed the Crabtree application based upon the authority given to him at the October 2009 BOA meeting. I retrieved a copy of this amended application from the P&Z Commission. The amended application has a signature of Mark A. Lauretti. There is no title prior to his name. It is not dated and does not contain any type of identifier of the signer as a City representative. If the Mayor and the City are indeed not authorized to effect a zone change on this property than the added signature on the application could be improper. If the amended application is improper, then they are again back to the legal opinion of Atty Sous and Regulation 34.5.

That being the case, this Commission is legally bound to deny this application for being incomplete again or before the application can be withdrawn. Based upon the correspondence that I have received, the only legal way to effect the sale of the parcel in question is for the applicant to submit a plan based upon the current zone designation, get approval from this Commission, have the Mayor complete the quick-claim deed he was authorized to complete back in October of 2009 and then purchase the parcel from the State. The Applicant now being the owner of record, along with PLR Enterprises, can then seek the zone change.

I implore this Shelton Corporation Counsel Office to direct the Shelton Planning & Zoning Commission to deny this application without prejudice until the legal uncertainties that have been raised can be fully researched and legally supporting documentation can be submitted as part of the file. Thank you.

End of Tape 1B, 8:39 p.m.

Chair Parkins thanked Mr. Wodonski for his comments.

Mr. Wodonski asked if they can get a copy of that from Corporation Counsel to attach to their files.

Chair Parkins responded that yes, having you read it into the record - it just came in.

Mr. Wodonski submitted a copy of the most recent application. There was some confusion as to where the document came from and which one was the most recent. Chair Parkins indicated that both documents came from P&Z – one has Mark Lauretti's signature and one does not. Since he got them both from P&Z, then they are on file already.

Chair Parkins asked if there was anyone else wishing to address the Commission.

John Bisset, 5 Buddington Road, addressed the Commission. Mr. Bisset indicated that he was concerned about the buffer zone. The trees there aren't as tall as they claim that they are. They are saying that there are only a few houses that live up on the hill, but Dave (Hill) and I live level to the road. Another thing that he is concerned about is that they are going to blast. He has a well and a septic system so are they going to guarantee to him that they aren't going to sink his well or crack his septic system? He wants something in writing that they are going to be responsible.

Mr. Bisset agreed that something needs to go in there but not at the expense of their property being devalued and all that. It is fear. He invested his money and he has paid taxes in this town for 30 years. He has as much right to live his life as they have a right to build their shopping center.

Mr. Bisset commented that no one addressed that the trucks from the transfer station are supposedly going to put 100 trucks a day, 7 days a week on the road to coincide with all this traffic. Somebody needs to draw the line here as to what goes in there. From the way that they are talking, they don't even know what is going to go in there. It is the same plan as they had last year – a supermarket, they have enough of them; a donut shop, they have enough of them too.

Mr. Bisset commented that he lives right across the street and he has seen a school bus get hit by a car right there at the traffic light by the bank. They have to be concerned about things like that. He agrees that something needs to go there, but this project he doesn't think it should.

Chair Parkins asked Atty. Thomas for clarification that the Recycling Center traffic was included in the Traffic Study.

Atty. Thomas responded yes, that was mentioned at the last public hearing.

Chair Parkins added that the blasting was also addressed at the last session of this public hearing, correct?

Atty. Thomas responded yes, it was addressed. Obviously, just to address the comments regarding right turn in/right turn out, their position is that, as Jim said, they can address many issues. He recalled that there was a very astute comment that the person made about the Shop Rite in Derby – the trucks do go along the front. There aren't that many trucks that it interferes with things. It impacts both, he's saying that, given the circumstances here, obviously they are

asking for an approval within that approval at the initial concept stage, he thinks they still retain the authority to decide further on that at the final site development stage when they come in with tenants.

Atty. Thomas commented that in regard to the letter that was not produced, he doesn't think that it is something that he needs to address but obviously, he would need to get a copy of it – the letter that was delivered to P&Z but he obviously never saw a copy of it.

Atty. Thomas added that he doesn't really need to respond to Mr. Wodonski's letter because he did (inaudible) of Mr. Obey's letter. If you want to cherry pick things, you can cherry pick things, but the bottom line is that they are following the proper procedure. The reason that the Mayor did not sign is because he felt that, personally, between the letter and the motion, there was no need to have the property owner sign. As you are aware, very often they come before them as a contract purchaser and as long as they represent to your Staff that they have permission, that is sufficient enough. Asst. Corporation Counsel Sous indicated that he would prefer that the Mayor sign, so he signed he had the Mayor sign on October 15th and that issue has gone away. And obviously a road use is not a zone use, it is a public use.

Atty. Thomas commented with respect to the buffer, again that is really - the actual the numbers of how many trees are going to be retained and how many are going to be planted – is a situation for the detailed plans as they get to the point of the over burden and all the stuff that Mr. Swift said.

But the bottom line is that whatever gaps there – and he is looking at the photographs and they will make sure they get them back. They want to make sure that someone didn't go up there and cut those trees. It certainly wasn't authorized by their client to cut down any trees on his property. There is going to have to be plantings and whatever plantings are required, they are going to do them. He concluded that it is unfortunate that a school bus and a car got into an accident at the intersection of Nells Rock Road and Bridgeport Avenue but they are going to make improvements there. And that is the whole point – to avoid that. He thanked the Commission.

Atty. Thomas commented that they just got an answer to this – apparently these properties were given to the Fire Department to burn down and they didn't realize that they were going to cut trees down. That is what they think might have taken place because those houses were given to the Fire Department.

Chair Parkins asked Atty. Thomas if he was comfortable in light of the fact that he didn't get the letters and correspondence until 4:00 o'clock today that he's addressed them – that he had fair time.

Atty. Thomas responded that as he stated, there was really nothing of substance in those letters. His addressing Access Road; he just doesn't understand why he took the time but with respect to the other issues, he even says in the letter, that some of them are STC issues. They have already had discussions with the STC. In regard to the right-of-way, again that is an issue - the width – that is a final site plan development issue.

Mr. Wodonski indicated that he wanted to make a comment. Chair Parkins responded that she would give him the courtesy of making a statement if it is short and not something that has already been stated. She will not allow bantering back and forth between him and Atty. Thomas.

Mr. Wodonski commented that Atty. Thomas said he addressed the issue with Corporation Counsel – he doesn't know if Corporation Counsel has the

information that he has from Mr. Obey. He does have the backup available from Mr. Obey himself and the State DOT backing up what he said tonight regarding that uncertainty. He doesn't have the paperwork with him tonight. He doesn't know if the Commission is going to need it but if they do they can let him know.

Atty. Thomas stated that he wants to make it clear that last Thursday, Mr. Obey was sitting across the table from him discussing these plans. He doesn't think that there was any confusion on his part.

Chair Parkins responded that they can certainly consult with their attorney without having to keep the public hearing open. She added that they will need to get that one correspondence from Mr. Hill that they did not receive. She asked if there was a consensus to close this public hearing.

Comm. Pogoda stated that they can get any information that they need from Staff.

Mr. Panico added that they have gotten everything that they are going to get. They've asked for a mechanical reproduction of material that they already have in one place on a larger scale.

Atty. Thomas stated for the record that they only giving the Commission stuff that they already have on record – just in a larger scale.

On a motion made by Anthony Pogoda seconded by Virginia Harger, it was unanimously voted to close the public hearing for Application #10-16.

ADJOURNMENT

On a motion made by Anthony Pogoda seconded by Thomas McGorty, it was unanimously voted to adjourn at 8:52 p.m.

Respectfully submitted,

Karin Tuke
Recording Secretary, Planning & Zoning Commission